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CLIENT ALERT

One Size Fits All: DOJ's First Department-Wide Corporate Enforcement Policy

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On March 10, 2026, the U.S. Department of Justice ("DOJ" or "Department") announced a new Department-wide Corporate Enforcement and Voluntary Self-Disclosure Policy ("CEP").[1] For the first time, the new CEP establishes a consistent approach to the Department's handling of all corporate criminal matters, across every DOJ component and U.S. Attorney's Office.[2]

Significantly, the CEP supersedes a growing patchwork of component- and district-specific corporate enforcement policies, including, among others, those promulgated by the Criminal Division, National Security Division, and

[1] Available here: https://www.justice.gov/dag/media/1430731/dl.

[2] Antitrust violations are the sole exception for which the Antitrust Division's separate corporate leniency program continues to govern.

Environmental and Natural Resources Division, and the self-reporting policy for financial crimes that the U.S. Attorney's Office for the Southern District of New York released only last month.[3]

While a notable expansion in scope alone, in substance the new CEP closely mirrors the Criminal Division's Corporate Enforcement Policy, which was last updated on May 12, 2025.[4] The CEP, as with all prior iterations of the Criminal Division's predecessor, reflects the Department's continued focus on incentivizing companies to promptly report misconduct, fully cooperate with government investigations, and remediate underlying misconduct and compliance failures, by attempting to provide clear and more predictable outcomes for companies that do so. Notwithstanding this welcome step, however, self-disclosure continues to pose material risks that require fact-intensive analysis, and this latest iteration of DOJ policy, like its predecessors, omits any guarantees.

A redline of the newly released CEP against the earlier May 2025 version is available here (graphics omitted): https://communications.willkie.com/150/3318/uploads/compare----cep-policies-(without-graphic).pdf.

A Pilot Program Made Whole

DOJ has long promoted, and since 2016 increasingly worked to formalize, the benefits of voluntary disclosure, full cooperation, and timely and appropriate remediation in resolving corporate criminal misconduct. What grew into the CEP began in 2016 as a narrow pilot program providing a path to declination for companies that voluntarily self-disclosed Foreign Corrupt Practices Act ("FCPA") violations to the Criminal Division's Fraud Section.

By 2018, the Criminal Division had formalized and expanded the pilot program to cover all corporate criminal enforcement cases prosecuted across the Division. In September 2022, then-Deputy Attorney General Lisa Monaco directed all DOJ components that had yet to adopt a formal voluntary self-disclosure policy to do so.

Many component-level policies developed both before and after this directive closely resemble the overarching themes and structure of the Criminal Division's first formal CEP. Nevertheless, while the overarching framework (focused on prompt disclosure, cooperation, and remediation) has remained largely consistent, the applicable criteria and potential benefits increasingly varied. Corporate investigations often involve multiple DOJ components, adding uncertainty for companies and their counsel assessing whether and, if so, where to disclose.

Key Components Remain Unchanged with a Few Exceptions

The CEP retains all of the Criminal Division's extant policy, largely untouched. The strongest incentive for corporate self-reporting and cooperation under the CEP now applies across DOJ: the Department will decline to prosecute a company that voluntarily and promptly self-discloses criminal misconduct, fully cooperates, and timely and

[3] Although the revised CEP itself is silent on its interaction with any pre-existing corporate enforcement policies, the press release announcing the new policy stated that it would supersede all existing U.S. Attorney's Office-specific corporate enforcement policies. *See*: https://www.justice.gov/opa/pr/department-justice-releases-first-ever-corporate-enforcement-policy-all-criminal-cases.

[4] *See* our prior client alert on the release of this version, available: https://www.willkie.com/-/media/files/publications/2025/05/doj-announces-white-collar-enforcement-priorities-and-policy-revisions.pdf.

appropriately remediates—absent disqualifying aggravating factors. Companies receiving a declination may still have to pay disgorgement, restitution, or forfeiture. Like the May 2025 Criminal Division policy, the new CEP also outlines a path to a non-prosecution agreement with reduced fines in a "near miss" situation, where a company has met all other criteria but issues with the disclosure or the presence of aggravating factors disqualifies it from a declination under the policy.

That said, there are a few key differences that companies should note when comparing the new CEP to the Criminal Division's most recent prior version:

- **Disclosures must now be made to the "appropriate" component of DOJ.** With a new Department-wide policy, companies making disclosures under the CEP must disclose to the "appropriate Department criminal component." A good-faith disclosure to one component will also qualify where another component later takes over the investigation. Disclosures made only to federal regulatory agencies, state or local governments, or civil enforcement agencies will only qualify if the Department agrees, on a case-by-case basis, that doing so was appropriate. Such disclosures may still be considered as part of a company's cooperation and remediation.

- **Recidivism assessment for prior criminal history extended beyond five years for "similar conduct."** Aggravating factors include circumstances related to the nature and seriousness of the offense, egregiousness or pervasiveness of the misconduct, severity of harm caused by the misconduct, and corporate recidivism. The CEP expands the time period that corporate recidivism may be considered an aggravating factor. Where the Criminal Division's earlier policy considered only a "criminal adjudication or resolution within the last five years based on similar misconduct," the CEP counts as corporate recidivism "a criminal adjudication or resolution either within the last five years or otherwise based on similar misconduct," (i.e., even if the case was adjudicated or resolved more than five years ago). The CEP does not comment on whether prosecutors should accord less weight to older conduct.

- **Increased fine range will apply in "near miss" cases.** "Near miss" disclosures occur where a company self-reports in good faith, but the Department is already aware of underlying conduct or the Department concludes that aggravating circumstances warrant a criminal resolution. The Criminal Division's prior version had provided a fixed 75% fine reduction off the low end of the U.S. Sentencing Guidelines for such "near miss" cases that did not qualify for a declination. Under the CEP, fine reductions will now fall within a discretionary range of 50-75%, potentially reducing benefits available to self-disclosing companies.

- **Deconfliction expectations added to updated cooperation definition.** Unlike the Criminal Division's previous iteration, the new CEP expressly addresses potential conflicts between deconfliction requests and other corporate obligations. The definition of "Full Cooperation" includes a new provision stating that, in the event a company is required by law or regulation to take an action that may be in conflict with the Department's investigation or other requests of the company, the company is expected to notify the Department prior to taking such action and allow it sufficient time to take reasonable steps in its discretion.

Looking Ahead: Implications for Corporate Self-Disclosure Decisions

Beyond the relatively modest line edits, the CEP's most significant change is clearly its scope. The single, uniform policy should bring a welcome degree of consistency to the Department's administration of the well-established set of benefits for voluntary self-disclosure, cooperation, and remediation. There is also nothing new about the approval process set out in the CEP prior to resolution (including coordination with the Office of the Deputy Attorney General). As a practical matter, however, a centralized policy may further increase oversight from senior leadership at Main Justice while the Department works to ensure consistent application of the new framework.

Even so, companies facing potential criminal exposure will still need to undertake a difficult and highly fact-dependent analysis prior to making any disclosure decision. Significant areas of uncertainty remain in these decisions where DOJ maintains discretion over what will be considered an aggravating circumstance, and how to measure a company's level of cooperation and the quality of its voluntary disclosure.[5] Beyond DOJ, companies also still need to weigh potential overlapping disclosures to regulatory agencies such as the SEC, and components of DOJ that focus on civil claims such as False Claims Act enforcement that do not fall under the CEP. Maintaining a robust compliance program appropriately tailored to a company's risk profile and effective internal reporting mechanisms remain essential to ensure companies are best positioned when facing complex disclosure decisions.

[5] For example, DOJ required the chemical manufacturer Albemarle Corporation to enter into what turned out to be the largest FCPA resolution of 2023. DOJ required that resolution even though it acknowledged that Albermarle voluntarily self-disclosed the conduct because DOJ retrospectively deemed the disclosure not to be reasonably prompt, as we explained in our client alert here: https://complianceconcourse.willkie.com/articles/chemical-manufacturer-settles-fcpa-investigation-for-218-million/.

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