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DOJ Issues First-Ever Department-Wide Corporate Enforcement Policy, Superseding Component-Specific Programs

Client Alerts

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On March 10, 2026, the Department of Justice (DOJ) announced its first-ever Department-wide Corporate Enforcement and Voluntary Self-Disclosure Policy (CEP) for criminal matters, superseding all component-specific and US Attorney's Office-specific corporate enforcement policies currently in effect. The new policy extends the framework the Criminal Division previously introduced in May 2025 to all DOJ components that handle corporate criminal matters, with the exception of antitrust violations under 15 U.S.C. §§ 1 –38. Of particular note, the new policy effectively voids the Corporate Enforcement and Voluntary Self-Disclosure Program for Financial Crimes recently issued by the Southern District of New York on February 24, 2026.

While the core three-part architecture of the prior Criminal Division CEP is preserved, the new policy introduces several changes that companies and their counsel should carefully consider.

Three-Part Framework Overview:

The CEP continues to organize potential outcomes into three tiers:

- **Part I – Declination:** Available to companies that voluntarily self-disclose, fully cooperate, timely and appropriately remediate, and face no aggravating circumstances. Under the CEP, voluntary self-disclosure requires a company to promptly report to the appropriate DOJ Criminal Component misconduct that was previously unknown to the Department, that the company had no prior obligation to disclose, and that the Department was unlikely to discover through other means. A company can obtain a declination even if a whistleblower first makes a submission to DOJ, so long as the company self-reports as soon as reasonably practicable but no later than 120 days after receiving an internal report from the whistleblower, and the company satisfies the other requirements for a declination.

Although companies that voluntarily self-disclose "will" get a declination, prosecutors retain discretion to recommend a CEP declination even where aggravating circumstances exist, based on the weight of those circumstances against the quality of the company's cooperation and

remediation. Declinations require disgorgement/forfeiture and full restitution/victim compensation payments, and will be made public.

- **Part II – Non-Prosecution Agreement (NPA)**: Available where a company fell just short of full voluntary self-disclosure ("near miss") or faces aggravating circumstances warranting a criminal resolution but otherwise cooperated fully and remediated appropriately. The NPA carries a term of fewer than three years, no independent monitor, and a fine reduction of 50 to 75 percent off the low end of the US Sentencing Guidelines (USSG) range.

- **Part III – Prosecutorial Discretion**: In all other cases, prosecutors maintain discretion to determine form, term length, compliance obligations, and penalty. With respect to the monetary penalty, fine reductions are capped at 50 percent off the USSG range.

Key Changes from Prior Component Policies:

- **Department-Wide Scope**: The CEP now governs all DOJ corporate criminal matters—not just Criminal Division cases. US Attorney's Offices, which previously operated under a separate voluntary self-disclosure framework, are now bound by the same three-part structure, cooperation standards, and remediation definitions. For companies weighing a self-disclosure decision, the component-specific distinctions that previously informed that analysis no longer apply. The CEP does not channel disclosures to any particular component; a company may self-report to any appropriate DOJ component, and a good-faith disclosure to one component that is subsequently handled by another will still qualify. A good-faith disclosure to a federal regulatory agency or other non-DOJ entity may also qualify depending on the circumstances, at the Department's discretion.

- **SDNY Financial Crimes Program Superseded**: The SDNY's February 24, 2026 Corporate Enforcement and Voluntary Self-Disclosure Program for Financial Crimes—announced just two weeks before the new DOJ-wide CEP—is no longer operative. The SDNY program offered several greater benefits to companies that self-report financial frauds than the DOJ's prior policies, including a narrower definition of aggravating circumstances, the waiver of fines and forfeiture in declination scenarios provided the company made "reasonable best efforts" to provide prompt and full victim restitution, a method to obtain a declination even following press reporting on the illegal activity, and a more favorable declination timeline. Most significantly, unlike the CEP, which offers a guaranteed declination of prosecution to qualifying companies only at the conclusion of the government's investigation, the SDNY program provided a conditional declination within weeks of a self-report and a clear, agreed-upon path to resolution at the outset. The press release announcing the new CEP expressly stated that the CEP supersedes "all component-specific or US Attorney's Office-specific corporate enforcement policies currently in effect." Companies that were evaluating self-disclosure to SDNY based on that program's terms should reassess their options under the new Department-wide framework.

Additional Changes from Prior Component Policies:

While the new CEP largely tracks the language of the prior Criminal Division CEP issued in May of 2025, there are some minor changes in the new CEP. These changes include the following:

- **Part II – Fine Reduction Range Narrowed**: Under the prior Criminal Division CEP, companies eligible for Part II treatment received a flat 75 percent reduction off the low end of the USSG fine range. The new Department-wide CEP replaces that fixed rate with a range of 50 to 75 percent, leaving companies with less certainty about the financial outcome when evaluating a potential self-disclosure.

- **Recidivism Standard Broadened**: The new policy expands the recidivism standard beyond the five-year window that applied under the prior Criminal Division CEP to include "criminal adjudication or resolution *either* within the last five years *or otherwise* based on similar misconduct by the entity engaged in the current misconduct." This may allow prosecutors to consider prior criminal resolutions involving similar misconduct regardless of when they occurred.

- **Push For Clarity More Quickly**: The new policy adds new language expressly stating that "[t]o minimize uncertainty for companies that self-report, prosecutors must endeavor to obtain relevant facts and circumstances about the disclosure in order to make a determination as to eligibility for Part I and Part II of this Policy, and, where appropriate, are encouraged to inform the company as soon as practicable." This new provision is consistent with the Department's expressed interest in resolving its corporate investigations more quickly.

- **Cooperation Credit Assessment Adjusted for Company Size**: The new CEP explicitly instructs the Department to account for "the size, sophistication, and financial condition of the cooperating company" when assessing the scope, quantity, quality, impact, and timing of cooperation. For smaller companies or those with constrained resources, this may provide additional flexibility in how cooperation is evaluated.

- **De-Confliction Protections Clarified**: The new policy adds an express provision clarifying that companies are not prohibited from taking actions they are otherwise legally obligated to take, even during a de-confliction period, but must notify the Department in advance with sufficient time for the Department to take reasonable steps in response. This is a practical protection for companies facing competing legal obligations while cooperating with a government investigation.

Implications for Companies:

The new Department-wide CEP preserves the core framework that has governed Criminal Division cases since 2025 and extends it consistently across the Department. For companies facing the decision whether to self-report misconduct and how best to cooperate with the government's investigation, the uniform policy means those decisions must now be evaluated against a single set

of rules. The importance of making those decisions promptly and with a full understanding of the available incentives—in consultation with experienced counsel—remains as critical as ever.

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