

Criminal Division Announces Publication of Guidance on Evaluating Corporate Compliance Programs

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The Criminal Division announced today the release of a guidance document for white-collar prosecutors on the evaluation of corporate compliance programs. The document, entitled "*The Evaluation of Corporate Compliance Programs*," updates a prior version issued by the Division's Fraud Section in February 2017. It seeks to better harmonize the guidance with other Department guidance and standards while providing additional context to the multifactor analysis of a company's compliance program.

"Effective compliance programs play a critical role in preventing misconduct, facilitating investigations, and informing fair resolutions," Assistant Attorney General Brian A. Benczkowski said. "Today's guidance document is part of our broader efforts in training, hiring, and enforcement to help promote corporate behaviors that benefit the American public and ensure that prosecutors evaluate the effectiveness of compliance in a rigorous and transparent manner."

The guidance document sets forth topics that the Criminal Division has frequently found relevant in evaluating a corporate compliance program, organizing them around three overarching questions that prosecutors ask in evaluating compliance programs: First, is the program well-designed? Second, is the program effectively implemented? And, third, does the compliance program actually work in practice?

To that end, Part I of the document discusses various hallmarks of a well-designed compliance program relating to risk assessment, company policies and procedures, training and communications, confidential reporting structure and investigation process, third-party management, and mergers and acquisitions. Part II details features of effective implementation of a compliance program, including commitment by senior and middle management, autonomy and resources, and incentives and disciplinary measures. Finally, Part III discusses metrics of whether a compliance program is in fact operating effectively, exploring a program's capacity for continuous improvement, periodic testing, and review, investigation of misconduct, and analysis and remediation of underlying misconduct.

The document was compiled with the input of components across the Division, including attorneys from the Office of the Assistant Attorney General, Fraud Section, and the Money Laundering and Asset Recovery Section. For the full guidance document, [click here](#).