

# Corporate Criminal Enforcement Policy: U.S. Department of Justice Memorandum Announcing Revisions



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The United States Department of Justice (“DOJ”) issued a September 15th memorandum titled:

*Further Revisions to Corporate Criminal Enforcement Policies Following Discussions with Corporate Crime Advisory Group (“Memorandum”)*

The *Memorandum* is transmitted from Deputy Attorney Lisa Monaco to the Director for the Federal Bureau of Investigation and Senior Officials at DOJ along with all United States Attorneys.

The policies discussed in the *Memorandum* are relevant to environmental enforcement since the federal statutes implementing those programs contain criminal penalties.

DOJ’s Environment and Natural Resources Division mission includes the enforcement of United States criminal environmental laws such as the Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act. This work is undertaken by DOJ’s Environmental Crimes Section and attorneys in the various United States Attorneys’ Offices around the nation.

The *Memorandum* is a follow-up to a document issued by DOJ on October 28, 2021, titled:

*Corporate Crime Advisory Group and Initial Revisions to Corporate Environmental Enforcement Policies*

DOJ simultaneously established what it denominated the Corporate Crime Advisory Group to evaluate and recommend further guidance and consider revisions/reforms to address the following objectives:

- Enhance the approach to corporate crime
- Provide additional clarity on what constitutes cooperation by a corporation
- Strengthen the tools DOJ attorneys have to prosecute responsible individuals and companies

Deputy Attorney General Monaco’s Memorandum indicates that views were subsequently solicited from a variety of groups and individuals on these issues. With the benefit of this input, DOJ developed the additional revisions described in the Memorandum addressing corporate criminal enforcement policies and practices.

The *Memorandum* is stated to provide guidance on how prosecutors should ensure individual and corporate accountability through evaluation of the following:

- A corporation’s history of misconduct
- Self-disclosure and cooperation provided by a corporation
- Strength of a corporation’s existing compliance program
- Use of monitors

- Selection of monitors
- Appropriate scope of a monitor’s work

Also addressed is what is described as the “importance of transparency in corporate criminal enforcement.”

The components of the *Memorandum* include:

- Guidance on Individual Accountability
- Timely Disclosures and Prioritization of Individual Investigations
- Foreign Prosecution of Individuals Responsible for Corporate Crime
- Guidance on Corporate Accountability
- Evaluating a Corporation’s History of Misconduct
- Voluntary Self-Disclosure by Corporations
- Evaluation of Cooperation by Corporations
- Evaluation of a Corporation’s Compliance Program
- Compensation Structures that Promote Compliance
- Use of Personal Devices and Third-Party Applications
- Independent Compliance Monitorships
- Factors to Consider When Evaluating Whether a Monitor is Appropriate
- Selection of Monitors
- Continued Review of Monitorships

A copy of the *Memorandum* can be downloaded [here](#).