

# "Please Pay No Attention to the Microphone:" DOJ Announces New Program Offering Protections to Criminal Whistleblowers

On April 15, 2024, the Criminal Division of the U.S. Department of Justice ("DOJ") released new guidance relating to a [Pilot Program on Voluntary Self-Disclosures for Individuals](#), promising to offer protection from criminal prosecution in the form of non-prosecution agreements ("NPAs") to insiders who voluntarily disclose corporate criminal misconduct to DOJ's Criminal Division.

The nationwide Pilot Program applies to individuals who voluntarily disclose "original" information—meaning non-public information, not previously known to any component of DOJ—relating to offenses by corporations and corporate insiders involving fraud and other white-collar schemes, including health care fraud. Under the program, reporting individuals will receive an NPA if they meet the following conditions:

- The disclosure must be truthful and complete, including the complete extent of the individual's role in misconduct.
- The reporting individual must agree to fully cooperate with and provide substantial assistance to DOJ in its investigation and prosecution and return any ill-gotten profits.
- The reporting individual must not have engaged in criminal conduct involving violence, use of force, substantial patient harm, terrorism, or any sex offenses involving fraud, force, or a minor.
- The reporting individual must not be (1) the chief executive officer or chief financial officer (or equivalent) of any company; (2) the organizer or leader of the scheme; (3) elected or appointed as a foreign government official; (4) a domestic government official; or (5) have any prior convictions involving fraud or dishonesty.

Taking effect immediately, the Pilot Program comes as the Criminal Division is in the midst of drafting a separate policy that will provide additional reporting incentives to individuals. Indeed, a "DOJ-run whistleblower rewards program" was [announced](#) by Deputy Attorney General Lisa Monaco just last month at the American Bar Association's 39<sup>th</sup> National Institute on White Collar Crime. Unlike the Pilot Program, which is pitched to those who have a "role in the misconduct," the whistleblower rewards program is intended to encourage individuals who are "not involved in the criminal activity itself" to report corporate misconduct and potentially receive a portion of the resulting forfeiture.

These programs add to the steady stream of DOJ guidance in recent years focused on incentivizing corporate compliance through self-disclosure, including the September 2022

“Monaco Memo,” which provided that DOJ will not seek a guilty plea where the corporation voluntarily self-disclosed, provided full cooperation and timely remediated the criminal conduct.

DOJ continues to focus on corporate fraud and identifying corporate misconduct through self-disclosure, and the new Pilot Program represents another important government tool in uncovering potential white-collar crimes. But, just as importantly, the new program is designed to affect the risk calculation companies face if they forego self-disclosure or compliance, knowing that corporate insiders may take matters into their own hands and make that decision for the business and ultimately be rewarded by the government for doing so.

It is now more important than ever to ensure that corporate compliance programs are robust and internal reporting mechanisms are thoroughly reviewed to maximize the ability to detect, deter, and respond to potential misconduct. Polsinelli’s government investigations attorneys have extensive experience with corporate criminal investigations and are prepared to assist with compliance or any potential enforcement action.