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Will the DOJ's New Corporate Enforcement Policy Bring the Promised Uniformity?

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Sep 21, 2026

Much has been written about the U.S. Department of Justice's (DOJ) [new Corporate Enforcement and Voluntary Self-Disclosure Policy](#) announced in March 2026. Understandably so. It is the first department-wide policy of its kind and supersedes all other corporate-enforcement policies except the [Antitrust Division's Leniency Policy](#). It reaffirms that self-disclosure, timely remediation, and full cooperation are essential to securing corporate leniency. And it seeks to clarify expectations by resolving differences among all (but one) of the competing Justice Department frameworks. Because of this, many commentators expect that the near-universal policy will bring greater uniformity and predictability to corporate-enforcement outcomes.

But will it? We're not so sure. For one thing, the new policy is a near word-for-word adoption of the Criminal Division's 2025 policy, which itself largely resembled prior policies. And prosecutors and defense lawyers have historically consulted the Criminal Division's policy even when it did not technically apply. Further, the new department-wide policy puts greater emphasis on prosecutorial discretion than prior Criminal Division policies. All that adds up to a policy that preserves the existing landscape, including office-by-office, prosecutor-by-prosecutor discretion, and the resulting case-by-case variability.

That is not to say that the new policy is unimportant. Here's what practitioners need to know.

The Previous Landscape

The department's various corporate-enforcement policies and guidance go back decades and have evolved over time. But these various policies have reflected common principles. Each policy has conditioned leniency on prompt and voluntary disclosure of misconduct before any threat of prosecution arose. A given company has had to cooperate in any resulting

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investigation and remediate the misconduct and any related harm. Finally, to qualify for leniency, the company has had to establish no (or very few) aggravating circumstances.

DOJ Criminal Division Policies

In 2015, Deputy Attorney General Sally Yates issued a [memo](#) that encouraged the prosecution of *individuals* for corporate wrongdoing. The memo set a high bar for leniency based on cooperation: To be eligible for any credit, a corporation was required to provide all relevant facts relating to individual misconduct.

Then, in 2018, the Criminal Division enacted a new [policy](#) that pushed in the opposite direction, establishing a *presumption* that the department would *decline criminal charges entirely* when the corporation made a timely disclosure, cooperated fully with government investigators, and took steps to address the misconduct. But if there were aggravating circumstances, such as high-level executive involvement or repeat offenses, the leniency was limited to a recommendation of a 50 percent reduction in the minimum sanction under the U.S. Sentencing Guidelines.

Deputy Attorney General Lisa Monaco significantly revised the Criminal Division's policy in 2022. Turning the focus back to *individual misconduct*, that [policy](#) emphasized timely disclosure of relevant facts about any individual misconduct as a condition for leniency and warned that prosecutors would also consider a company's prior misconduct and compliance program and culture before extending leniency to the corporation.

In 2025, the Criminal Division issued a revised corporate-enforcement and voluntary-self-disclosure [policy](#) that was intended to provide companies with more certainty about the outcomes of self-disclosure. To that end, the 2025 policy stated that the division *would affirmatively decline to criminally prosecute a corporation once it made a proper disclosure*, as opposed to the prior presumption of declination. It set out three tiers of leniency, based on the party's disclosure.

- **Tier 1:** The first tier covered declinations. It stated that prosecutors “will” decline to prosecute a company for criminal conduct if: (1) the company “voluntarily self-disclosed” the misconduct to the appropriate department criminal component; (2) the company “fully cooperated” with the department’s investigation; (3) the company “timely and appropriately” remedied the misconduct; and (4) there are no “aggravating circumstances” involving recidivism, egregious or pervasive misconduct, or the scale of the harm.

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- **Tier 2:** The second tier was for “near miss” cases—those where a company missed qualifying for a declination because its self-disclosure was not “voluntary” or there was an aggravating factor. For those cases, it directed that prosecutors “shall” provide a non-prosecution agreement with a term of “fewer than three years” and without an independent monitor. The department would also provide a 50–75 percent reduction off the “low end” of the Sentencing Guidelines’ fine range.
- **Tier 3:** All other cases fell under the last tier. For these cases, the policy stated, “prosecutors maintain discretion to determine the appropriate resolution” but may not provide more than a 50 percent reduction from the Sentencing Guidelines’ fine. For companies that “fully cooperate[d] and appropriately remediate[d]” the misconduct, there was a presumption that any fine reduction would be taken from the low end of the Guidelines’ range.

Other DOJ Policies

Prior to 2026, other sections and divisions within DOJ adopted their own corporate-enforcement policies with slightly varying structures. For instance, the Environmental Crimes Section had a voluntary-disclosure [policy](#), wherein the section would not seek a guilty plea, absent aggravating circumstances, if a company voluntarily self-reported, promptly remediated the misconduct, and cooperated fully in the investigation. The National Security Division also maintained a similar [policy](#).

The most notable section-specific policy is the still-in-force [Antitrust Division Leniency Policy](#), which sets out two types of corporate leniency. *Type A leniency* is available when an organization *reports its misconduct before the division learns of it some other way*. Companies must also self-report promptly after discovery, cooperate promptly and completely, and remediate the harm. Even then, leniency is unavailable if the company coerced others to participate in, led, or started the misconduct. For those that qualify, the policy promises that “current directors, officers, and employees will not be charged criminally for the illegal activity if they provide timely, truthful, continuing, and complete cooperation to the Division.”

Type B leniency, available for those that do not qualify for Type A leniency, is available when an applicant *reports conduct of which the division is already aware*, but there is not yet evidence to sustain a conviction against the applicant. Companies that report illegal conduct promptly, make restitution, and are the first to seek leniency for the relevant conduct may qualify for a non-prosecution agreement absent aggravating circumstances.

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U.S. Attorney's Office Policy

At least one U.S. Attorney's Office has issued its own corporate-enforcement policy. In February 2026, the U.S. Attorney's Office for the Southern District of New York released [enforcement guidance](#) for the prosecution of financial crimes and fraud. This guidance offered companies a "*speedy*" conditional declination if they voluntarily disclosed the illegal activity, cooperated fully, remediated harm, and committed to ongoing reporting for a three-year period. The guidance also threatened *enhanced penalties for companies who did not self-report* criminal conduct and would presume that a declination is inappropriate for non-disclosing companies. It is [not clear](#) whether this policy might remain in effect.

The New Policy

The [March 2026 department-wide policy](#) touts its benefits of "promoting uniformity, predictability, and fairness" in the Justice Department's approach to prosecuting corporate crime through a (mostly) department-wide approach. Commentators likewise have highlighted the potential uniformity and consistency benefits.

But the policy does not reinvent the wheel. Rather, it mostly implements the Criminal Division's 2025 policy, which itself strongly resembled older policies. The Criminal Division's three-tiered structure for declinations, non-prosecution agreements, and penalty reductions at sentencing, for example, remains the same, as does the substance.

And closer examination suggests that the latest policy might not fully deliver on its promise to deliver uniformity. After all, it still turns on subjective conclusions such as whether a company "fully cooperated" or "timely and appropriately remediated the misconduct." And the definitions of those subjective conclusions incorporate non-exhaustive and often imprecise factors like the "effectiveness" of the company's compliance and ethics program.

Office-by-office, case-by-case, and even prosecutor-by-prosecutor variation is inevitable. What is "effective" or "timely" or "full" depends on context and varies by person. That was true when there were multiple policies, and as long as the department-wide version relies on subjective considerations (as any policy of its kind must), that variability will remain. Recent declinations illustrate the point.

- **Balt SAS.** In March 2026, the Fraud Section declined to press charges under the Foreign Corrupt Practices Act against Balt SAS. Based on the March 2026 department-wide policy, [the letter](#) listed

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seven considerations relevant to the declination, including Balt’s “timely and voluntary” self-disclosure and “full and proactive cooperation,” as well as the lack of specific aggravating factors. Yet it offered essentially no explanation for why Balt’s conduct fit those definitions.

- **Robert Bosch GmbH.** Similarly, in June 2026, the National Security Division issued a declination to Robert Bosch GmbH for sanctions evasion. The [declination letter](#) noted that Bosch had “timely and voluntarily” disclosed the misconduct, for example, but it offered no insight into what made Bosch’s disclosure “timely” or “voluntary.” Part of one sentence described why Bosch’s remediation was “timely and appropriate”—it had added 66 trade-compliance employees and expanded U.S.-trade-compliance resources, among other unspecified acts. And the letter mentioned nothing at all about the other March 2026 policy factors, such as the nature and seriousness of the offense, severity of harm, or prior misconduct.

Each letter seemingly adopts an “I know it when I see it” standard for the various subjective considerations like “timely and voluntary” self-disclosure or “full” cooperation. More interestingly, the two letters recite different considerations without explaining or even recognizing the divergence. At least so far, then, the new department-wide policy seems not to be adding any observable consistency or predictability over the prior patchwork of policies.

Takeaways

Though the new policy may not completely reconcile the differences in application and interpretation across or even within offices, it does promote some uniformity and predictability:

By formalizing the three-tiered structure, and promoting resolution under Tiers 1 or 2, the policy offers big-picture guidance on what cooperation looks like for corporations.

The policy also instructs corporations to whom they must make a disclosure for it to count, and it encourages conversations centered around a common vocabulary for voluntary self-disclosure, cooperation, and timely and appropriate remediation.

Also, though the new policy largely mirrors the 2025 Criminal Division policy (and the other policies within the Department), there are a few differences:

The policy now advises parties that, to qualify, a company must disclose *to the department first*—rather than to federal regulatory agencies, state and local government, or civil enforcement agencies.

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The policy also tweaks the outcomes for “near miss” cases. The Criminal Division’s prior policy instructed prosecutors to give such companies a 75 percent reduction off the low end of the applicable U.S. Sentencing Guidelines’ range for corporate fines. The revised policy is less generous, instructing prosecutors to reduce fines for near-miss companies by at least 50 percent—but no more than 75 percent—off the low end of the Guidelines’ range.

All told, the new Corporate Enforcement Policy reaffirms what has long been true in corporate criminal investigations. Self-disclosure, prompt remediation, and full cooperation are essential to securing any form of leniency from the department. The new policy eliminates differences in terminology from the prior patchwork, giving counsel a framework in which to advocate for a client. Those developments alone warrant attention—even if the policy falls short of its aim of delivering greater uniformity or consistency across the entire department.