CLIENT ALERTS & INSIGHTS

Department of Justice Announces New Whistleblower Rewards Program

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During this month's ABA National Institute on White Collar Crime, Deputy Attorney General Lisa Monaco announced that the DOJ will implement a whistleblower rewards program within the next 90 days. While the DOJ has yet to announce the specifics of the program, we can expect it to be similar to the programs successfully used by other federal agencies.

DOJ has long had the authority to offer rewards for information in civil and criminal investigations. However, as Deputy AG Monaco noted, this authority has never been used as part of a systematic program. But, heartened by the SEC's and CFTC's successful reward programs, Deputy AG Monaco proclaimed "now's the time to expand our use of this tool in corporate misconduct cases and apply it to reward whistleblowing."

The broad strokes of the program are similar to those employed by the SEC and CFTC. If an individual voluntarily provides information on "significant corporate or financial misconduct" that was previously unknown to DOJ, that individual could receive a portion of any resulting forfeiture. These awards will only be available, however, (1) after victims are properly compensated; (2) to those who submitted truthful information not known to the government; (3) to those not involved in the criminal conduct at issue; and (4) in cases without an existing incentive like a *qui tam* statute or existing federal whistleblower program.

Deputy AG Monaco also hinted at what types of conduct DOJ hopes to target with this new rewards program, advising potential whistleblowers to look out for "criminal abuses of the U.S. Financial System; foreign corruption cases outside of the jurisdiction of the SEC; and domestic corruption cases, especially involving illegal corporate payments to government officials."

Considerations for our Clients:

- Employees will now have a significant incentive to take concerns directly to DOJ rather than using internal reporting mechanisms. Our clients must ensure that their compliance programs are rigorous and well known to employees and that accessible reporting avenues exist internally to counteract this incentive.

- Companies will need to move more quickly to decide whether to voluntarily self-report. Companies receive the full benefits of self-reporting only if they report conduct of which DOJ was unaware, but under the new program, employees faced with the increased incentive to report misconduct may be faster to do so. Companies will need to ensure that their internal decision-making is efficient and that they consult with experienced counsel in a timely manner.

This new program could increase companies' risk by creating a new avenue for garnering unwarranted DOJ scrutiny. As always, companies should regularly assess, monitor and update their compliance practices and contact us for skilled assistance in these areas. As more details emerge about this new initiative, Benesch's White Collar Group will be ready to assist with any questions you may have.

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