



During a [keynote speech](#) on March 7, 2024 at the American Bar Association's National Institute on White Collar Crime, Deputy Attorney General Lisa Monaco announced that the Department of Justice (DOJ) will launch a pilot program offering financial incentives for individual whistleblowers to report corporate wrongdoing to the DOJ.

According to DAG Monaco, the pilot program intends to use "carrots to wield larger sticks" on a full range of corporate misconduct and reinforces the DOJ's commitment to implementing policies aimed at promoting cultures of corporate compliance. While DAG Monaco's announcement invoked past images of law enforcement incentivizing reporters with "Wanted" posters, the anticipated pilot program will have significant ramifications on the future of companies' existing internal compliance reporting channels.

## Key Highlights

DAG Monaco's announcement and subsequent remarks by Acting Assistant General Nicole Argentieri outlined several key aspects of the pilot program, which will be rolled out later this year following a 90-day "policy sprint" to develop the program.

- The goal of the program is to "fill gaps" in existing whistleblower programs and provide a direct channel for whistleblowers to report misconduct that is not already subject to a whistleblower reward program offered by another agency. Areas where this program may encourage activity include reporting on violations of the Foreign Corrupt Practices Act (FCPA) and the recently enacted Foreign Extortion Prevention Act (FEPA), but it is expected to apply broadly to all types of crimes prosecuted by the DOJ.
- Absent a new statute or regulation, the program's ability to reward whistleblowers is tied to the DOJ's forfeiture of assets that facilitated or are proceeds of the crime: "if an individual helps DOJ discover significant corporate or financial misconduct ... then the individual could qualify to receive a portion of the resulting forfeiture."
- The program will have "basic guardrails," or preconditions, before a whistleblower can be paid: (i) the provided information must be truthful and not previously known to the DOJ, (ii) the whistleblower cannot be involved in the misconduct, and (iii) there are no other existing financial incentives to disclose, such as through a qui tam action or under another federal whistleblower program. In addition, all victims must be properly compensated before forfeiture funds can be distributed to a whistleblower
- The DOJ's Money Laundering and Asset Recovery Section will develop and administer the program given that the statutory authority for the program is tied to the DOJ's forfeiture program.
- There are additional details yet to be worked out, but the new program could set up a race to report between employees and their employer, due to the first-in-the-door requirements of both the anticipated whistleblower program and the already existing DOJ voluntary disclosure program.

## Takeaways

Clearly, corporate criminal enforcement continues to be a priority for the DOJ. While the specifics of the DOJ's anticipated whistleblower program are yet to be seen, the program presents a new, potentially enormous financial incentive to report corporate misconduct to the DOJ. Conversely, offering potentially lucrative incentives for those who are first in the door could increase the number of investigations based on imperfect or speculative information and could disrupt corporate efforts to promote effective internal reporting.

In light of DAG Monaco's admonition to "knock on our door before we knock on yours," and with would-be whistleblowers more incentivized than ever before, corporations should evaluate their compliance programs to ensure that they have put themselves in the best position possible to quickly identify and address any alleged wrongdoing. Companies also should meticulously investigate and assess allegations of corporate misconduct so they are prepared to respond to the DOJ should a whistleblower take those allegations to the government.

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