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Deciphering the DOJ's Stance on Data Retention

The DOJ's revised Corporate Enforcement Policy provides guidance on the compliance policies companies should have in place to best position them to receive remediation credit in an FCPA enforcement action. It presents some themes the DOJ has emphasized for some time, such as affording [sufficient authority to the compliance function](#) and [disciplining complicit supervisory employees](#).

Surprisingly for many companies, however, the policy prohibits “employees from using software that generates but does not appropriately retain business records or communication.” This requirement has engendered some confusion as to its scope – and it may raise technical and operational challenges as companies try to determine whether and how to adapt their programs to restrict the growing use of software that does not preserve communications, such as the popular WhatsApp.

Nicole Di Schino [wrote about how companies should approach the issue earlier this year](#), and this Friday, October 26, 2018, from 12:00 p.m. to 1:00 p.m. EDT, Megan Zwiebel, who has written extensively on the [Corporate Enforcement Policy](#), will be moderating a complimentary webinar delving into the DOJ's data retention requirement, including the purpose of the requirement, the types of records it covers, how companies can meet it and how to perform a risk assessment to determine what type of data retention policy is optimal.

James Koukios, a former Senior Deputy Chief of the Fraud Section and current partner at Morrison Foerster, will offer his perspective, and Jennifer Joyce, a data governance specialist at EY, will speak to practical considerations for companies.

We hope you can join us. Registration information is [here](#).

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