

The ACR Brief

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More Compliance Clarity From the DOJ

Last December, we [declared](#) 2018 the “Year of the Policy,” but 2019 appears to be nipping at its heels. First, in March, the DOJ [released](#) substantive changes to the Corporate Enforcement Policy. Then, last week, it announced updates to “The Evaluation of Corporate Compliance Programs” (the ECCP), a document first published in February 2017. The ECCP was originally designed to provide companies with some clarity about how the government was approaching the task of evaluating a program’s effectiveness.

The expanded guidance appears to be serving the slightly different purpose of assisting prosecutors with “making informed decisions” about the effectiveness of a program at the time of an offense and at the time of a resolution. Despite that shift in focus, the insight into how the DOJ views compliance programs is certainly helpful for companies. Although most, if not all, of the topics covered by the ECCP will be familiar to compliance professionals, the themes emphasized by the DOJ serve as important reminders of the government’s priorities and should not be quickly dismissed.

I found the Department’s focus on how companies are assessing the effectiveness of compliance programs particularly interesting. While most people seem to understand that collecting information about how their programs are performing is important, our editorial team has observed that even the most experience compliance professionals are still wrestling with how to isolate and use this information or are focusing on the wrong type of information. Many, for instance, record the number of people they train, but don’t have any metrics that measure the effectiveness of that training. The “[Continuous Monitoring](#)” section of our archives contains a wealth of information for anyone interested in this topic. A great place to start is Senior Editor Megan Zwiebel’s [Quick Guide to Getting Started With Compliance Program Metrics](#) and you may also enjoy reading about [Hui Chen’s suggestion](#) that companies focus on ethics and metrics.

We will have a much deeper look at the new guidance in our upcoming issues, including a feature piece with views from a wide variety of practitioners and a side-by-side comparison of the actual language contained in both versions of the policy. We are also interested in hearing from you – how do you think the new guidance will impact your compliance program? Do you anticipate advising your clients to shift their practices as a result of the DOJ’s latest pronouncement? What aspects of the updates are most relevant to your practice?

Warmly,

Nicole Di Schino
Editor-in-Chief