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Voluntary Disclosures and Whistleblowers Remain Vital to Fueling Enforcement

January 5, 2026

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In 2025, the DOJ attempted to provide more incentives to companies to voluntarily disclose misconduct and broadened its **Corporate Whistleblower Awards Pilot Program** (Whistleblower Program) to help detect potential misconduct. In May 2025, then-Acting Assistant Attorney General of the Criminal Division Matthew R. Galeotti also announced a revised **Corporate Enforcement and Voluntary Self-Disclosure Policy** (CEP) to further incentivize companies to voluntarily self-disclose. The revised CEP states that a company *will* receive a declination (rather than the *presumption* of a declination) if the company voluntarily self-discloses, fully cooperates, and timely and appropriately remediates the misconduct, and there are no aggravating circumstances. The revised CEP also introduces a "Near Miss" category with reduced consequences—including a non-prosecution agreement, shorter than a three-year term, and no monitor—for companies that have aggravating circumstances or that acted in good faith by self-disclosing but do not meet the DOJ's definition of voluntary self-disclosure.

Subsequently, the DOJ announced three CEP declinations, touting the benefits a corporation can receive from voluntary self-disclosure and cooperation.

In August, the DOJ announced **a declination** for Liberty Mutual Insurance Company (Liberty Mutual), stemming from alleged bribes paid by an Indian subsidiary to state-owned banks to secure customers. In explaining the rationale for its decision to decline prosecution, the DOJ emphasized, *inter alia*, Liberty Mutual's (i) timely and voluntary self-disclosure of misconduct identified during an internal investigation, which was still ongoing at the time of the disclosure; (ii) full and proactive cooperation; (iii) timely and appropriate remediation; and (iv) disgorgement of related gains.

In September, the DOJ announced its **decision not to prosecute** Bank of America Securities (BoAS) in connection with schemes carried out by two former employees to manipulate the secondaries and futures markets by entering more than 1,000 spoof orders. The DOJ explained that the declination was based on, *inter alia*, BoAS's (i) timely and voluntary self-disclosure of misconduct when it first became aware of the suspicious trades from a third party; (ii) full and proactive cooperation, and its agreement to continue to cooperate, with government investigations; (iii) timely and appropriate remediation, including an internal review of all traders on its U.S. Treasuries desk, a root-cause analysis, and external testing of its internal controls; and (iv) disgorgement of $1.96 million in related gains and contribution of $3.6 million to a victims compensation fund.

In December, the DOJ announced it had declined to prosecute **MGI International** and its subsidiaries Global Plastics LLC and Marco Polo International LLC (together, MGI), in connection with allegations that MGI falsified country of origin declarations to evade duties on Chinese goods. The DOJ noted, among other factors, MGI's (i) timely and voluntary self-disclosure; (ii) full and proactive cooperation; (iii) the nature and seriousness of the offense, including the absence of aggravating factors; (iv) timely and appropriate remediation, including termination and disciplinary actions

against the employees involved in the scheme and an internal review of its compliance program and internal controls; and (v) repayment of the allegedly evaded tariffs.

Consistent with the DOJ's focus on voluntary self-disclosure, and based on remarks by the Deputy Attorney General at the ACI Conference, we anticipate a forthcoming CEP update aimed at standardizing enforcement policies across the DOJ to further incentivize self-disclosure, corporate cooperation, and voluntary remediation and accountability measures.

Moreover, in May 2025, the DOJ Criminal Division expanded its **Whistleblower Program**, yet another method to fuel enforcement consistent with the Criminal Division's priority interests. The expanded Whistleblower Program now includes (i) violations related to cartels and TCOs; (ii) violations of federal immigration law; (iii) material support of terrorism; (iv) sanctions offenses; (v) trade, tariff, and customs fraud; and (vi) procurement fraud. At the ACI Conference last month, the DOJ reported that it has received 1,100 tips through the Whistleblower Program since 2024. The DOJ further reported that it referred approximately 80% of the whistleblower tips received since May to prosecutors for investigation.

As we move into 2026, companies can expect the DOJ to continue looking favorably upon voluntary self-disclosure and cooperation. Compliance officers and counsel should also consider areas of risk for potential whistleblower reports. Promoting internal measures, such as ethics hotlines, investigations and remediation, could help companies preempt more severe government enforcement actions. Positive corporate conduct could assist a company during a government investigation and, if necessary, when negotiating a resolution with the DOJ to avoid more severe penalties.