

# DOJ Launches Program Offering Financial Awards to White-Collar Whistleblowers

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On August 1, 2024, the Department of Justice (“DOJ”) launched its Corporate Whistleblower Awards Pilot Program (the “Program”) for a three-year trial. Under the Program—which Deputy Attorney General Lisa Monaco [previewed in March](#)—a whistleblower who provides DOJ with original information about corporate misconduct may be eligible for a financial award. As discussed below, there are several conditions to obtaining an award, including that (1) the information must relate to certain specified crimes, (2) the information must result in DOJ successfully obtaining forfeiture, and (3) the whistleblower cannot have “meaningfully participated” in the criminal conduct.

DOJ unveiled the Program and a comprehensive [website](#), including detailed guidance, a fact sheet, and a set of Frequently Asked Questions.

## IMPACT ON CORPORATE COMPLIANCE PROGRAMS

For companies, the Program includes a notable provision: If a whistleblower makes both an internal report to the company and a whistleblower submission to DOJ, the company can still qualify for a presumption of a declination. To do so, the company must self-report to DOJ within 120 days of receiving the whistleblower’s report and otherwise satisfy the requirements of the Criminal Division’s Corporate Enforcement and Voluntary Self-Disclosure Policy.

DOJ apparently included this provision in response to wide criticism, raised after the Program was previewed in March, that the Program could undermine companies’ internal compliance programs. Although this provision addresses these concerns to some extent, it may be less useful as a practical matter. DOJ specifies that a company will be eligible for a presumption of a declination only “if it reports to the Department *before* the Department contacts the company.” Accordingly, if a whistleblower reports to both DOJ and the company, the company will have *either* 120 days *or* until DOJ contacts the company—whichever happens first—to self-disclose and obtain a presumption of a declination.

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The Program is therefore designed not only to incentivize individuals to report corporate wrongdoing to DOJ, but also to further incentivize companies to self-report to the Department—and to do so as quickly as possible. To balance these goals with the Department’s other oft-stated aim of empowering companies to develop and invest in their internal compliance programs, DOJ specifies that it may (i) increase a whistleblower’s award if the individual also reported the conduct to the company, and (ii) reduce the award if the whistleblower interfered with or sought to undermine the company’s internal compliance program.

### THE PROGRAM’S REQUIREMENTS

**Forfeiture.** The Program is rooted in the U.S. Attorney General’s statutory authority to pay “awards for information or assistance leading to a civil or criminal forfeiture.”<sup>1</sup> A whistleblower award will be available only if the information leads to more than \$1 million in forfeited “net proceeds.” The forfeiture can be criminal, civil, or administrative in nature.

**Eligibility.** To be eligible, a whistleblower must, among other things:

- be an individual (not an entity);
- be innocent or have had, at most, a “minimal” role in the misconduct—i.e., not have “meaningfully participated” in the allegedly criminal activity at issue, “including by directing, planning, initiating, or knowingly profiting from” it;
- be truthful and complete in their submission to DOJ;
- not qualify for an award under a whistleblower program administered by another U.S. agency based on the same information;
- not be an employee of DOJ or a law enforcement organization; and
- not be a foreign government official.

**“Original information.”** To be considered “original,” the information reported by the whistleblower must, among other things:

- be derived from the whistleblower’s “independent knowledge” or “independent analysis”;

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<sup>1</sup> 28 U.S.C. § 524(c).

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- be non-public; and
  - be unknown to the Department prior to the report (it is acceptable to provide information that “materially adds to the information that the Department already possesses”).

**Subject areas.** For now, the Program is available only to whistleblowers with information pertaining to the following types of crimes:

- *Financial institution-related crime*, including money laundering, financial fraud, obstructing or defrauding financial regulators, and failing to register a money transmitting business (possibly including certain cryptocurrency firms);
- *Foreign corruption involving companies*, including violations of the Foreign Corrupt Practices Act (excluding by issuers of U.S. securities) or Foreign Extortion Prevention Act;
- *Domestic corruption involving companies*, including payment of bribes or kickbacks to federal, state, or local officials; and
- *Federal health care offenses*, provided they are not covered by the Federal False Claims Act.

**Voluntariness.** The whistleblower must submit information voluntarily, meaning (i) before DOJ requests it, (ii) not pursuant to an obligation to report, and (iii) before there is a threat of the information being “imminent[ly]” disclosed to the government or the public.

**Cooperation.** The whistleblower must cooperate with DOJ, including not only by testifying but also “if requested, working in a proactive manner” to assist the Department.

## AMOUNT OF AN AWARD

Even when a whistleblower satisfies all the requirements, “whether an individual is eligible for an award and the amount of an award is in the sole discretion of the Department.” DOJ specified that an award may be increased based on (i) the significance of the information, (ii) the degree of assistance provided by the whistleblower, and (iii) the whistleblower’s participation in the company’s internal compliance program.<sup>2</sup>

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<sup>2</sup> After an individual reports information internally to a company, he or she has 120 days to file a whistleblower report with the Department.

An award may be decreased if the whistleblower interferes with, or “undermine[s] the integrity” of, a company’s internal compliance program.

An award also may be decreased or denied if a whistleblower held a management role and/or had oversight of the functions and personnel involved in the misconduct.

## CONCLUSION

DOJ and other law enforcement agencies have promulgated numerous policies in recent years seeking to incentivize companies to self-report misconduct soon after it is discovered. The Program continues this trend and increases the pressure on companies by offering potentially large awards to individuals who report original information to the Department.



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