



US Department of Justice releases updated guidance on evaluating corporate compliance programmes

TLT picks out the key points you shouldn't miss...

10 October 2024

What's this about?

The US Department of Justice (**DOJ**) has released updated guidance regarding how corporate compliance programmes are evaluated. Whilst the guidance is intended for prosecutors use in the US, the guidance also offers a framework for assessing corporate compliance programmes and emphasises the need for such programmes to be well designed, practical and diligently implemented.

Our Head of Economic Crime Compliance, Ben Cooper says...

"The DOJ guidance provides a useful benchmark for firms to assess the adequacy of their compliance programmes. Firms should take note as, whilst the guidance is not directly applicable to the UK, it serves as an indication of best practice for compliance programmes which can be applied globally."

The points not to miss...

Commitment from senior management is key

Compliance programmes should be lead from the top down and senior management must demonstrate a strong commitment to compliance. This could be demonstrated by promoting a culture of compliance throughout a firm.

Compliance programmes need to be adequately resourced

The best designed compliance programmes will ultimately fail if they are under-resourced. Programmes will be assessed on whether the compliance team have sufficient qualifications, seniority and stature (both actual and perceived) within the organisation, are sufficiently staffed and have autonomy from management.

Firms should assess the risks associated with emerging technology

In addition to regularly assessing their financial crime risks, firms should evaluate and assess the risks related to the use of new and emerging technologies such as the use of AI within their compliance

programmes. As part of this assessment, firms should evaluate how quickly they can detect, and correct decisions made by AI.

Firms should establish clear policies and procedures

Firms should ensure they have clear policies and procedures that set out detailed compliance requirements. Support should be in place to ensure the policies are understood and enforced by all employees. Policies should be living documents which are reviewed and updated to reflect changes to firms' exposure to risk as well as to reflect changes to firms' businesses more generally.

Effective training programmes are critical

Training programmes are a critical aspect to implementing compliance programmes. The guidance emphasises that it is essential for employees to understand the compliance policies and the importance of following them.

Firms must have robust systems in place for employees to report misconduct and for the reports to be investigated

Firms must have robust systems in place so that employees are able to report misconduct anonymously or confidentially. Hotlines or whistleblower programmes should be supported by clear policies. Firms should also ensure that any reported issues are thoroughly investigated, and that findings and corrective actions are documented.

Firms should continuously test, review and improve compliance programmes

The guidance makes it clear that a hallmark of an effective compliance programme is its ability to improve and evolve. Firms need to adjust their compliance programmes to any changes to their businesses. Firms may wish to undertake internal audits as well as establish metrics to measure the success of their compliance programmes.

At a glance...

Publication link	<u>US Department of Justice Criminal Division Evaluation of Corporate Compliance Programs</u>
Published date	September 2024
Who has published it?	US Department of Justice
Publication type	Guidance
What's it relevant to?	<ul style="list-style-type: none">• Compliance• Financial crime• Fraud• Corporate governance• Senior managers