



U. S. Department of Justice

Office of the Deputy Attorney General

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The Deputy Attorney General

Washington, D.C. 20530

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TO: Heads of Department Components  
United States Attorneys

CC: DOJ Working Group on Corporate Enforcement & Accountability

FROM: Rod J. Rosenstein   
Deputy Attorney General

SUBJECT: **Policy on Coordination of Corporate Resolution Penalties**

Corporate enforcement, like other criminal and civil enforcement, must be guided by the rule of law. In reaching corporate resolutions, the Department should consider the totality of fines, penalties, and/or forfeiture imposed by all Department components as well as other law enforcement agencies and regulators in an effort to achieve an equitable result.

Attached for your attention are new provisions to be incorporated in the U.S. Attorneys' Manual. These provisions recognize the Department's commitment to fairness, as well as the strength of our partnerships with law enforcement agencies and regulators in the United States and abroad.

We are committed to rooting out and punishing corporate offenders, including through coordinated investigations and resolutions that fully vindicate the public interest. The Department also recognizes the value of corporate voluntary disclosures of misconduct and cooperation by responsible corporate actors. In appropriate cases, coordination and balancing of corporate resolution penalties furthers those aims.

Thank you for sharing your helpful suggestions on this matter, and for your dedicated work to serve the American people.

## **New Section in USAM Title 1**

### **1-12.100 - Coordination of Corporate Resolution Penalties in Parallel and/or Joint Investigations and Proceedings Arising from the Same Misconduct**

In parallel and/or joint corporate investigations and proceedings involving multiple Department components and/or other federal, state, or local enforcement authorities, Department attorneys should remain mindful of their ethical obligation not to use criminal enforcement authority unfairly to extract, or to attempt to extract, additional civil or administrative monetary payments.

In addition, in resolving a case with a company that multiple Department components are investigating for the same misconduct, Department attorneys should coordinate with one another to avoid the unnecessary imposition of duplicative fines, penalties, and/or forfeiture against the company. Specifically, Department attorneys from each component should consider the amount and apportionment of fines, penalties, and/or forfeiture paid to the other components that are or will be resolving with the company for the same misconduct, with the goal of achieving an equitable result.

The Department should also endeavor, as appropriate, to coordinate with and consider the amount of fines, penalties, and/or forfeiture paid to other federal, state, local, or foreign enforcement authorities that are seeking to resolve a case with a company for the same misconduct.

The Department should consider all relevant factors in determining whether coordination and apportionment between Department components and with other enforcement authorities allows the interests of justice to be fully vindicated. Relevant factors may include, for instance, the egregiousness of a company's misconduct; statutory mandates regarding penalties, fines, and/or forfeitures; the risk of unwarranted delay in achieving a final resolution; and the adequacy and timeliness of a company's disclosures and its cooperation with the Department, separate from any such disclosures and cooperation with other relevant enforcement authorities.

This provision does not prevent Department attorneys from considering additional remedies in appropriate circumstances, such as where those remedies are designed to recover the government's money lost due to the misconduct or to provide restitution to victims.

**New Cross-Reference in USAM Title 9 [indicated in gray]**

9-28.1200 - Civil or Regulatory Alternatives

A. General Principle: Prosecutors should consider whether non-criminal alternatives would adequately deter, punish, and rehabilitate a corporation that has engaged in wrongful conduct. In evaluating the adequacy of non-criminal alternatives to prosecution—*e.g.*, civil or regulatory enforcement actions—the prosecutor should consider all relevant factors, including:

1. the sanctions available under the alternative means of disposition;
2. the likelihood that an effective sanction will be imposed; and
3. the effect of non-criminal disposition on federal law enforcement interests.

See also USAM 1-12.100 - Coordination of Corporate Resolution Penalties in Parallel and/or Joint Investigations and Proceedings Arising from the Same Misconduct.