

DOJ Announces Safe Harbor for Self-Disclosures in M&A Context

Date: 10/12/23

On October 4, 2023, the U.S. Department of Justice (“DOJ”) announced its Mergers & Acquisitions Safe Harbor Policy (the “Safe Harbor”), a new department-wide policy aimed at promoting voluntary self-disclosures of criminal misconduct in the M&A context. Speaking before the Society of Corporate Compliance and Ethics, Deputy Attorney General Lisa Monaco stated that acquirers who self-report criminal misconduct at an acquired company within six months of a deal closing will receive the presumption of a declination, i.e., a formal decision not to prosecute, in connection with such violations. It does not matter whether the misconduct was discovered during pre-acquisition diligence, or after closing, as long as it is disclosed in the six-month window.

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