

Assistant Attorney General Urges Companies To Cooperate And Conduct Thorough Internal Investigations Of FCPA Violations

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In remarks prepared for the American Conference Institute's 31st International Conference on the Foreign Corrupt Practices Act on Nov. 19, 2014, Assistant Attorney General Leslie R. Caldwell emphasized the DOJ's recent successful prosecutions under the FCPA and urged companies to cooperate and conduct thorough internal investigations of FCPA violations. Caldwell emphasized the DOJ's aggressive prosecution of individuals and companies, citing more than 50 convictions of individuals since 2009 (25 of those since 2013) and resolution of cases against more than 50 companies with penalties in forfeiture of approximately \$3 billion. While the DOJ is more aggressively developing and prosecuting cases, Caldwell still called on companies to self-disclose and cooperate. Caldwell emphasized that she meant a full and timely cooperation, saying, "We do not expect you to boil the ocean in conducting your investigation but in order to receive full credit for cooperation, we do expect you to conduct a thorough, appropriately tailored investigation of the misconduct." Caldwell defined cooperation to include an explanation of "not just what happened, but who did what, when, and where." Cooperation also includes providing documents "in a timely fashion, even if those documents are located overseas" without hiding behind other countries' privacy laws. In the question and answer session following her remarks, Caldwell left little guidance to companies on how to balance self-disclosure with the risk of prosecution in other jurisdictions, saying that "the fact that you did not disclose to us because you were afraid of what might happen in China is not going to help you." These remarks suggest that while the DOJ will continue their international emphasis, they will give little weight to companies invoking foreign laws to limit disclosure to the DOJ. We have [previously addressed](#) how difficult it can be to determine how much credit will be given for cooperation, and these remarks provide little insight into the DOJ's practices.

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