

# Monaco Memo

*White Paper*

Monaco Memo is a pivotal refinement of the Department of Justice's (DOJ) approach to Foreign Corrupt Practices Act (FCPA) enforcement and the evaluation of corporate compliance programs. This memo, complemented by speeches from high-ranking DOJ officials, collectively forms the "Monaco Doctrine."





## Understanding the Monaco Memo's Core Themes:

The Monaco Memo unveils a paradigm shift in the DOJ's strategies for FCPA enforcement, focusing on self-disclosure, cooperation, and compliance program efficacy. These themes mirror a more comprehensive and holistic approach compared to previous guidelines.

### 1. THE IMPORTANCE OF SWIFT SELF-DISCLOSURE:

One of the central tenets of the memo is the significance of rapid self-disclosure. The DOJ emphasizes that self-disclosure must occur without delay, allowing for effective investigations and potential prosecution of implicated individuals. The memo highlights the company's responsibility to provide pertinent information promptly. This mandate compels organizations to swiftly triage and escalate reports of misconduct.

### 2. EMPHASIS ON COOPERATION AND COMPLIANCE PROGRAM EVALUATION:

Cooperation during investigations continues to be pivotal and can lead to reduced penalties. The memo accentuates the DOJ's commitment to evaluating the efficacy of compliance programs. Core aspects of this evaluation include rigorous compliance program testing and the integration of compensation clawback provisions.

### 3. FACTORS INFORMING MONITOR SELECTION:

An innovative addition is the comprehensive 10-factor test for determining the need for an independent compliance monitor. These factors consider diverse aspects, including voluntary self-disclosure, the sufficiency of compliance programs, involvement of compliance personnel, and more. This section of the memo underscores the DOJ's intention to ensure thorough oversight and accountability.

### 4. CERTIFICATION BY CHIEF COMPLIANCE OFFICERS AND CEOS:

A significant development is the requirement for Chief Compliance Officers (CCOs) and Chief Executive Officers (CEOs) to sign certifications at the conclusion of resolutions. These certifications affirm the compliance program's effectiveness and its capability to prevent violations. The DOJ aims to empower compliance professionals by introducing this requirement, fostering transparency and responsibility.

### 5. IMPACT AND IMPLICATIONS OF THE MONACO MEMO:

The paper underscores the profound implications of these changes and their potential influence on compliance professionals' roles and responsibilities.

## Empowerment and Accountability:

The DOJ's approach, as delineated in the Monaco Memo, aims to empower companies to embrace ethical corporate practices and promptly address misconduct. Entities that proactively adopt these principles are likely to benefit from the updated guidance.

## Proactive Compliance Measures:

The new requirements necessitate a proactive approach from compliance professionals. The emphasis on prompt self-disclosure and timely evidence submission heightens the urgency to investigate and escalate reports of misconduct. Companies are compelled to address compliance gaps proactively before they come under scrutiny.

## Compensation Clawbacks and Incentive Structures:

The inclusion of compensation clawback provisions underscores the DOJ's intent to hold individuals accountable for their actions. The memo encourages companies to structure compensation plans that incentivize ethical conduct and compliance. This emphasis reflects the DOJ's focus on fostering a culture of compliance within organizations.

## Challenges and Responsibilities for Compliance teams:

Compliance teams face substantial challenges due to the elevated expectations outlined in the Monaco Memo. The mandate for prompt self-disclosure, evidence submission, and compensation clawbacks necessitates a proactive and comprehensive approach. Compliance professionals are expected to play a pivotal role in guiding companies toward ethical practices and accountability amidst these transformative changes, and should be open to leverage modern technology to help them drive a successful compliance program.

## Adapting to the New Landscape:

The DOJ's emphasis on rapid self-disclosure, cooperation, and effective compliance programs demands an agile response from compliance professionals. This underscores the pivotal role of compliance teams in steering companies toward ethical practices and accountability in light of these evolving dynamics.

## Incorporating the Monaco Memo Into Compliance Programs:

There is a strong need for companies to integrate the insights from the Monaco Memo into their compliance programs. The memo's expectations necessitate alignment between compliance teams and senior management. By leveraging these insights, organizations can enhance their compliance efforts and effectively navigate the evolving enforcement landscape.



## Incorporating early self disclosure into compliance programs:

Early identification of potential issues enables organizations to self-disclose violations to the authorities, demonstrating their commitment to compliance and cooperation, as outlined in the Monaco Memo. Oversight's FCPA/OFCA solution plays a crucial role in supporting organizations' early self-disclosure efforts. By employing intelligent algorithms, it analyzes vast amounts of data to detect suspicious activities, such as improper payments, bribery, or corrupt practices.

## Strengthening the Culture of Compliance:

Building a strong culture of compliance is essential for organizations seeking to prevent misconduct and corruption. Oversight's FCPA/OFCA solution facilitates this objective by providing a comprehensive framework to enforce compliance policies effectively. The solution offers the following key features:

- a. Proactive Monitoring:** Through continuous monitoring of financial transactions, employee behavior, and vendor relationships, the solution identifies potential compliance risks. It detects patterns and anomalies that may indicate non-compliant activities, enabling organizations to take immediate corrective action.
- b. Policy Enforcement:** Oversight's solution ensures adherence to compliance policies by automating policy enforcement. It verifies that employees follow established protocols, monitors deviations, and generates alerts when violations occur.
- c. Training and Education:** The solution supports the implementation of comprehensive compliance training programs. It facilitates the dissemination of relevant policies, guidelines, and best practices, promoting awareness and understanding of compliance requirements. By providing a centralized platform for training, organizations can track and measure employee engagement, ensuring an informed and educated workforce.
- d. Data Analytics and Reporting:** Oversight's solution leverages advanced analytics to provide actionable insights into compliance trends and risks. It generates comprehensive reports and visualizations, enabling organizations to monitor their compliance posture effectively. These analytics empower decision-makers to implement targeted improvements and demonstrate ongoing compliance efforts to regulators and auditors.



## Enhancing Compliance Effectiveness:

Oversight's FCPA/OFCA solution goes beyond mere detection and monitoring by focusing on preventive measures and continuous improvement. By streamlining compliance processes and fostering a culture of transparency and accountability, organizations can enhance their compliance effectiveness. The solution's robust features include:

- a. Risk Assessment and Mitigation:** The solution assists organizations in conducting thorough risk assessments to identify potential compliance gaps. It offers tools to implement risk mitigation strategies, enabling companies to proactively address vulnerabilities and minimize the likelihood of non-compliance.
- b. Audit Trail and Documentation:** Oversight's solution maintains an immutable audit trail and provides comprehensive documentation of compliance activities. This feature ensures transparency and accountability, supporting organizations in demonstrating their commitment to compliance and cooperation.
- c. Continuous Monitoring and Adaptability:** The solution provides real-time monitoring and adapts to changing compliance requirements and regulations. It automatically updates compliance policies and continuously scans for emerging risks, enabling organizations to stay ahead of potential compliance challenges.

In summary, the Monaco Memo and associated speeches by DOJ officials signal a **transformative shift in FCPA enforcement and compliance evaluation**. The DOJ's focus on rapid self-disclosure, cooperation, and robust compliance programs demands a proactive and comprehensive response from compliance professionals.



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### About Oversight

Oversight is the world's leading provider of AI spend management and risk mitigation solutions, digitally transforming how large organizations analyze and mitigate their enterprise spend risk - across travel & expense, purchase card (p-card) and payables entries. Working across these disparate financial data sources, Oversight leverages patented and proven analytical techniques to automatically uncover potential fraud, misuse, and errors, as well as hidden risks and patterns that would lead to greater financial loss if left undetected. Oversight helps create a culture of compliance that reduces out-of-policy spending by 70% while maximizing audit efficiency and eliminating cash leakage.

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