

DOJ Prioritizes Victims in Revised Guidance on Coordinated Resolutions

June 30, 2025

On June 5, 2025, the U.S. Department of Justice issued new internal guidelines for federal prosecutors, “Guidance on Coordinating Corporate Resolution Penalties in Parallel Criminal, Civil, Regulatory, and Administrative Proceedings.”¹ The memorandum from the Head of the Criminal Division, Matthew R. Galeotti, updates DOJ’s approach to corporate resolutions involving parallel enforcement actions by domestic or foreign authorities.

While reaffirming DOJ’s longstanding “anti-piling on” policy, the guidance introduces a notable shift: prosecutors now must prioritize compensation for victims of crime when determining whether to credit penalties paid to other enforcement authorities. This elevates victim relief from a discretionary factor to a core condition of coordinated resolution credit. As a result, companies may face higher overall penalties—at least in cases involving identifiable individual victims—and will need to engage more proactively in negotiating global settlements.

DOJ’S 2018 ANTI-PILING ON POLICY

In May 2018, then-Deputy Attorney General Rod Rosenstein introduced DOJ’s “Policy on Coordination of Corporate Resolution Penalties,” commonly referred to as the anti-piling on policy. The policy was intended to prevent companies from facing duplicative penalties for the same misconduct in matters involving resolutions with multiple enforcement authorities. That guidance, reflected in Section 1-12.100 of the Justice Manual, instructs prosecutors to consider “the totality of fines, penalties, and/or forfeiture imposed by all [DOJ] components as well as other law enforcement agencies and regulators” to avoid excessive or redundant punishment.²

¹ U.S. Department of Justice, Criminal Division, “Guidance on Coordinating Corporate Resolution Penalties in Parallel Criminal, Civil, Regulatory, and Administrative Proceedings” (June 5, 2025), <https://www.justice.gov/criminal/media/1402751/dl>.

² U.S. Department of Justice, “Policy on Coordination of Corporate Resolution Penalties” (May 9, 2018), <https://www.justice.gov/OIP/FOIA%20Library/DAG%20May%209%2C%202018%20Memo/dl>.

The 2018 framework emphasized coordination across DOJ components and with other federal, state, and foreign authorities. The policy directed prosecutors to evaluate factors, such as the seriousness of the offense, statutory requirements, the company's cooperation, and the risk of delay when assessing whether to credit penalties imposed by other authorities. Although the policy acknowledged restitution as a possible factor in coordinating corporate resolutions, victim compensation was not central.

THE 2025 GUIDANCE

The new guidance modifies how DOJ prosecutors must assess coordinated resolutions. It expressly requires prosecutors to prioritize "recoveries for and assistance to victims of crime" when considering whether to credit penalties paid to other enforcement authorities. Prosecutors may not reduce penalties sought by DOJ simply because a company resolved related charges with another agency, unless that resolution meaningfully advanced victim compensation.

Key principles under the new guidance include the following:

Domestic Crediting

DOJ generally will not credit penalties paid to other domestic authorities unless the funds paid to those other authorities served to compensate the victims. The guidance outlines two primary criteria:

- **Victim-specific compensation.** DOJ will not credit payments that displace restitution or forfeiture used to compensate identifiable victims, unless the other agency has a comparable mechanism for providing direct relief.
- **General victim support.** DOJ will avoid crediting penalties deposited into general-purpose government funds, such as a state treasury or the U.S. Treasury, unless the funds are used in a manner similar to the Crime Victims Fund, a federal program that funds services and reimburses costs for victims, or otherwise that meaningfully supports victims.

Foreign Crediting

DOJ prosecutors must determine whether a foreign authority has a process for compensating victims that is equally or more effective than that of DOJ. If not, crediting of foreign settlement payments is discouraged. When direct compensation is not feasible, the new guidance instructs prosecutors to weigh factors, such as the location and seriousness of the harm, the equities and contributions of the investigating and prosecuting authorities, the timing and structure of the coordinated resolution, and

DOJ's broader enforcement priorities and interests when deciding whether and how much to credit payments to foreign authorities.

Early Coordination and Company Obligations

The new guidance places the onus on companies to proactively coordinate resolutions. Credit is generally not available if a company:

- fails to timely disclose parallel investigations;
- finalizes resolutions with other authorities before engaging with DOJ; or
- does not ensure that payment to another authority occurs within one year of the DOJ resolution.

TAKEAWAYS

The revised guidance marks a shift in how DOJ will assess corporate penalties in multi-agency and cross-border resolutions, signaling a departure from the prior anti-piling on policy, at least in cases involving identifiable individual victims.

- In many corporate cases, for example, those involving the Foreign Corrupt Practices Act, identifying individual victims can be difficult or impossible. In such cases, the new guidance may have little impact. But in other cases, for example, fraud schemes in which individual victims are reasonably identifiable, companies may face the possibility of higher overall penalties as a result of the new guidance.
- Global settlements are likely to become more complex to negotiate, as companies will need to closely coordinate their strategy across jurisdictions to ensure that payments in one jurisdiction are credited to the maximum possible extent in the United States.
- To that end, in negotiating resolutions with state or foreign authorities, companies should seek to ensure that penalties are earmarked for victim compensation to the fullest extent possible to increase the likelihood of crediting in the United States.

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Please do not hesitate to contact us with any questions.



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