

**THE UNITED STATES ATTORNEY'S OFFICE FOR THE SOUTHERN DISTRICT OF FLORIDA'S WHISTLEBLOWER
NON-PROSECUTION PILOT PROGRAM**

To encourage early voluntary self-disclosure of criminal conduct and to promote effective enforcement of federal criminal laws, the United States Attorney's Office for the Southern District of Florida ("USAO-SDFL") has implemented the Whistleblower Non-Prosecution Pilot Program ("Whistleblower Program"). The Whistleblower Program is applicable when an individual discloses to this Office information regarding criminal conduct undertaken by or through: (a) public or private companies, exchanges, indexes, financial institutions, investment advisers, investment firms, or investment funds involving fraud or corporate control failures or affecting market integrity; or (b) criminal conduct involving state or local bribery or fraud relating to federal, state, or local funds.¹ Specifically, in such circumstances, the USAO-SDFL will enter into a non-prosecution agreement in exchange for the individual's cooperation where the following conditions are met:

1. The misconduct has not previously been made public and is not already known to the USAO-SDFL or to any component of the Department of Justice ("DOJ");

2. The individual voluntarily discloses the criminal conduct to the USAO-SDFL and has not come forward in response to a government inquiry by any federal law enforcement or regulatory agency on the subject matter of disclosure. Moreover, the individual's disclosure is not pursuant to an obligation to report misconduct to the USAO-SDFL, federal law enforcement, regulatory agency, or to any component of the DOJ, and the disclosure is made prior to an imminent threat of disclosure or government investigation;

3. The individual is able to provide substantial assistance in the investigation and prosecution of one or more equally or more culpable persons, and is prepared to cooperate fully with the USAO-SDFL in its investigation and prosecution of the disclosed conduct and the recovery of any related criminal proceeds;

4. The individual truthfully and completely discloses all criminal conduct in which the individual has participated and of which the individual is aware;

5. The individual is not a: (a) foreign, federal, state, or local elected or appointed and confirmed official; (b) official or agent of a federal investigative or federal law enforcement agency; or (c) the chief executive officer or equivalent or chief financial officer or equivalent of a public or private company, or, regardless of title, a person who exercises primary control over the operations of the organization where misconduct occurred; and

6. The individual has not engaged in any criminal conduct that involves the use or threat of force or violence, any sex offense involving fraud, force, or coercion of a minor, or any criminal conduct that involves terrorism or implicates national security or foreign affairs. The individual cannot have a previous felony conviction or a conviction of any kind for conduct involving fraud or dishonesty, or a felony conviction involving violence or threat of violence, a sex offense involving fraud, force, or coercion of a

¹ This policy does not apply to individuals who provide information regarding violations of the Foreign Corrupt Practices Act, or violations of federal or state campaign financing laws, federal patronage crimes, corruption of the electoral process, or bribery of federal officials.

minor, or have engaged in an offense where another DOJ component would need to authorize charges or non-prosecution agreements.

Considerations for a Discretionary Non-Prosecution Agreement

Where an individual discloses information to the USAO-SDFL regarding criminal conduct undertaken by or through: (a) public or private companies, exchanges, indexes, financial institutions, investment advisers, investment firms, or investment funds involving fraud or corporate control failures or affecting market integrity; or (b) criminal conduct involving state or local bribery or fraud relating to federal, state, or local funds, but does not meet the requirements set forth above, SDFL prosecutors may nonetheless consider, with supervisory approval and consistent with the principles set forth in the Justice Manual and USAO-SDFL circulars, exercising discretion to extend a non-prosecution agreement in exchange for the individual's cooperation. In evaluating whether such an agreement would be in the public interest and necessary in a particular case, SDFL prosecutors and supervisors should consider, among other things, the following factors:

1. Whether and to what extent the criminal conduct has previously been made public or was previously known to the USAO-SDFL or to any component of the DOJ;
2. Whether the individual disclosed the criminal conduct voluntarily to the USAO-SDFL and not in response to a government inquiry or reporting obligation to USAO-SDFL or to any component of the DOJ, and prior to imminent threat of disclosure or government investigation;
3. The extent to which the individual is able to provide substantial assistance in the investigation and prosecution of one or more equally or more culpable persons and the individual's culpability relative to others;
4. Whether the individual has truthfully and completely disclosed all criminal conduct in which the individual has participated and which the individual is aware;
5. The extent to which the individual occupies any official or leadership position or other position of public or private trust;
6. The adequacy of non-criminal sanctions, including but not limited to, remedies imposed by civil regulators; and
7. The individual's criminal history.

Notice of Forfeiture and Restitution Requirement

A reporting individual understands that to receive any non-prosecution agreement under the USAO-SDFL self-disclosure program, an individual will be required to: (i) forfeit or disgorge proceeds involved in the individual's criminal misconduct; and (ii) pay restitution to victims consistent with the individual's role in the offense.

Evaluation Process

A Committee Co-Chaired by a member of the Executive Division and the Chief and Deputy Chief of the Criminal Division will evaluate disclosures received pursuant to this policy, in consultation with appropriate Section Chiefs. Even if the Committee Chairs do not believe that the reporting individual

satisfies the terms of the policy, they may conclude that the prospective individual should be considered for a non-prosecution agreement under the discretionary portion of the policy. In the event the Committee Chairs make an initial determination that a reporting individual appears to be eligible or should be considered under the discretionary portion of the policy, you will be contacted.

CONTACT INFORMATION

To self-disclose pursuant to this policy, please complete the reporting form located here at **WBP Reporting Form** and email it to **USAFLS.WhistleblowerProgram@usdoj.gov**.