

SFO Announces New Corporate Cooperation Guidance

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On August 6, the United Kingdom's Serious Fraud Office ("SFO") published new guidance on the steps companies should take in order to receive cooperation credit in the SFO's charging decisions. The document, titled "Corporate Cooperation Guidance" (the "SFO Guidance"), outlines similar steps to those set forth in the United States Department of Justice's Corporate Enforcement Policy ("CEP"), indicating that SFO Director Lisa Osofsky, formerly of the FBI, is ushering in familiar U.S.-based standards in her new role leading the SFO.

Despite many similarities, the SFO Guidance differs from the CEP in a few significant respects. The most noteworthy of these differences is that the SFO Guidance indicates that a company may not obtain cooperation credit unless it waives privilege over witness accounts, notes, and transcripts obtained during the course of the company's investigation. Second, by requiring companies to provide such material, the SFO Guidance could come into tension with the recent *United States v. Connolly* decision from the Southern District of New York, in which Chief Judge Colleen McMahon admonished the Department of Justice for "outsourcing" its investigation to company counsel, rather than relying on its own investigation and resources.

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