

DOJ Fraud Section Retains New Compliance Counsel

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The Department of Justice (DOJ) Fraud Section recently retained Hui Chen as a full-time compliance expert reporting to the chief of the Fraud Section and the acting chief of the Strategy, Policy, and Training Unit in the Fraud Section. Formerly a federal prosecutor, Ms. Chen most recently served as global head for Anti-Bribery and Corruption at Standard Chartered Bank (SCB). Ms. Chen's vita also includes her time as assistant general counsel in the Compliance Division of Pfizer, Inc., as well as significant in-house and compliance positions at Microsoft Corporation, to include Director of Legal Compliance for the Greater China Area. Beginning Nov. 3, Ms. Chen "will provide expert guidance to Fraud Section prosecutors as they consider the enumerated factors in the United States Attorneys' Manual concerning the prosecution of business entities, including the existence and effectiveness of any compliance program that a company had in place at the time of the conduct giving rise to the prospect of criminal charges, and whether the corporation has taken meaningful remedial action, such as the implementation of new compliance measures to detect and prevent future [wrongdoing](#)." Ms. Chen is also tasked with assisting prosecutors in developing "appropriate benchmarks for evaluating corporate compliance and remediation measures and communicating with stakeholders in setting those [benchmarks](#)." Ms. Chen will help the Fraud Section monitor and evaluate whether such remediation measures are effective following any corporate resolutions reached between DOJ and the subject entity. So what does this mean? Well, the DOJ now has its own resident "expert" to advise and guide the department in its assessment of any existing anti-corruption compliance program to determine whether a company is doing all that it can to detect and prevent bribery and other forms of corruption among its ranks. The same expert will also determine whether remediation efforts are satisfactory and in line with Fraud Section resolutions. This raises a host of other questions given the, at times, innumerable differences between various organizations, including corporate culture, size and the nature of the entity's business. How will such differences be evaluated in order to have reasonably consistent outcomes? The answer is unclear at this point, but one takeaway is that general counsel and compliance officers should stay abreast of relevant and new leading practices in the compliance arena. This makes it all the more important that corporations benchmark their compliance programs on a periodic basis with outside firms, in order to obtain the best sense of where the "market" is at any given time. The bar has been raised. Stay tuned.

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