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**SOLVING CORPORATE PROBLEMS:
ENFORCEMENT AND INDEPENDENT INVESTIGATION
UNDER THE BIDEN ADMINISTRATION**

A well-designed, adequately resourced, and effective corporate compliance program is a company's first line of defense against potential wrongdoing. But when misconduct occurs, companies must be prepared to independently investigate, identify the root cause of the misconduct, and appropriately remediate the issue. Companies should also consider the Department of Justice's recent changes to its enforcement policies when determining how best to proceed. This article discusses those changes and explains how an independent, counsel-led investigation — supported by forensic accounting teams and e-discovery experts — can help best position a company to avoid prosecution.

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Federal “prosecutors do not just wait for cases to come to them. [They] detect wrongdoing through proactive and sophisticated methods of identifying criminal wrongdoing, including ground-breaking data analytics.”¹

¹ Assistant Attorney General Kenneth A. Polite, Jr. Delivers Keynote at the ABA's 38th Annual National Institute on White Collar Crime, U.S. DEP'T OF JUST. (Mar. 3, 2023), <https://www.justice.gov/opa/speech/assistant-attorney-general-kenneth-polite-jr-delivers-keynote-aba-s-38th-annual-national> [hereinafter *Polite Keynote*].

The Biden administration's Department of Justice (“DOJ”) expects corporations to be engaged in similar efforts.² Companies must develop and implement effective, risk-based compliance programs with procedures that allow them to detect misconduct and respond appropriately.³ Based on recent changes to the DOJ's Corporate Enforcement Policy, responding

² *Id.*

³ *Id.*

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