

DOJ Appoints New Compliance Expert

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The United States Department of Justice (DOJ) has appointed Hui Chen, former head of compliance for Standard Chartered Bank and ex-assistant General Counsel at Pfizer, Inc., as its fraud section's compliance expert. Chen will help DOJ assess companies' compliance programs and test the validity of companies' claims about their programs, including whether the programs are mere window dressing, or are truly thoughtfully designed and sufficiently resourced to address each company's compliance risks. Chen will help guide fraud section prosecutors seeking remedial compliance measures as part of a resolution with a company (whether by prosecution or otherwise). The government's evaluation of a company's compliance program is among many factors considered when deciding whether to criminally charge a company or how to resolve a criminal charge. While it remains to be seen how DOJ will use Chen's expertise, it has emphasized the important role the new compliance counsel will play in its investigations, including those arising from the Foreign Corrupt Practices Act. Companies should be ready for the DOJ to critically examine their compliance efforts and claims that their compliance and training programs are effective, robust, and sophisticated. The DOJ has emphasized that it is critically important for companies to have strong, broad-based compliance programs that receive adequate resources and senior management's attention. As such, companies should avoid a narrow view of compliance that requires only adherence to specific regulations. There are several hallmarks of an effective compliance program, such as whether the program receives support from officers,

directors, and senior managers; whether policies are clear, in writing, and effectively communicated to all employees; whether those policies are kept up-to-date as risks and circumstances evolve; and whether a company, once investigated, is open and candid with regulators. Should you have any questions regarding this alert or about DOJ investigations generally, please do not hesitate to contact me.

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