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Updated DOJ Leniency Program FAQs: Implications for Immunity Protections

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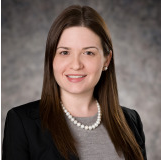
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The article, "Updated DOJ Leniency Program FAQs: Implications for Immunity Protections," by Dina Hoffer and Brittany Cohen was featured in the Spring 2017 edition of The Exchange published by the Antitrust Section of the American Bar Association.

On January 26, 2017, the U.S. Department of Justice's Antitrust Division released updated guidance on its Leniency Program.² Although many of the changes in the revised FAQs merely clarify how the policies have been and will continue to be applied in practice by the Antitrust Division, they reflect the Division's trend toward narrowing the protections offered under the Program, and therefore bring the Program more in-line with the immunity provisions found in the U.S. Attorneys' Manual. In the context of recent financial markets investigations jointly conducted by both the Antitrust and Criminal Divisions of the Department of Justice,³ such alignment in the treatment of culpable individuals could have practical implications. For instance, in a circumstance where an individual falls under the protections of the Leniency Program for a Sherman Act violation, she would typically remain subject to prosecution for other offenses that are not integral to the commission of the antitrust offense. The revised FAQs are even more emphatic on this point.⁴ Accordingly, the narrower the entry points to the Program are, the less likely it would be that the Antitrust Division and another DOJ component would differ in terms of immunity protections offered to culpable individuals in joint investigations.

Read more at the American Bar Association - Section of Antitrust Law's [The Exchange](#).

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