

## ISSUES TO CONSIDER

# Developing a CARES Act Compliance Program

The CARES Act—including funding provided under the Paycheck Protection Program and Healthcare Enhancement Act—disbursed roughly \$2.7 trillion in relief funding across the economy. Hundreds of billions in payments and loans were made available to businesses.

But there are also a considerable number of conditions and requirements dictating how funds can be distributed, used, and repaid (or kept). Penalties are steep.

A corporate compliance program should consider:

- The establishment and definition of governance roles, including the assignment of a specific individual to monitor overall compliance
- A plan for internal communications and training on compliance issues
- The need to monitor the accuracy of—and adherence to—representations and certifications made when applying for relief funding
- The development of strong practices for monitoring and documenting ongoing compliance with requirements tied to the receipt of funds, including reporting and disclosure obligations
- The need for standards and procedures to detect and prevent non-compliance or criminal conduct
- Mechanisms for the reporting of—and response to—allegations of misconduct within your organization
- The articulation of steps to address misconduct, including restitution to victims and self-reporting/cooperation with authorities, as appropriate
- The need to monitor, communicate, and document compliance with evolving eligibility requirements issued by all applicable federal programs, including the CARES Act—to federal agencies as well as to directors, officers, and shareholders
- How your organization will interact with federal enforcement agencies—including the three newly established oversight bodies created to enforce CARES Act compliance—and respond to a potential government investigation

- Monitoring, auditing, and stress-testing of the compliance program to demonstrate that adequate steps were taken to ensure its ongoing strength and quality
  
- Promotion and enforcement of the compliance program throughout the organization, including disciplinary measures for non-compliance

Recordkeeping practices must:

- Memorialize the steps taken to secure funds, including certifications made by loan signatories
- Document when funds are received and specifically how they are used
- Make note of any material changes to your business plan, employment structure, and service offerings.

A more comprehensive review of related issues can be found [here](#).

## CONTACTS



**John Devine**  
*Partner, Philadelphia*  
215.864.8322  
devinej@ballardspahr.com



**Stephen Stigall**  
*Partner, New Jersey*  
856.761.3458  
stigalls@ballardspahr.com



**Timothy D. Katsiff**  
*Partner, Philadelphia*  
215.864.8301  
katsiff@ballardspahr.com



**Jody L. Ferris**  
*Associate, Minneapolis*  
612.371.5769  
ferrisj@ballardspahr.com