

## The Analogic Settlement: What's Behind the Issue of Cooperation Credit?

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Ann Sultan and Marc Alain Bohn\* discuss cooperation credit in the first corporate enforcement action by the U.S. Department of Justice (DOJ) since its new "pilot program." Earlier this week, the DOJ and the U.S. Securities and Exchange Commission (SEC) entered into resolutions with Analogic Corporation, BK Medical ApS (BK Medical), and the former CFO of BK Medical over allegations of FCPA violations. In this case, BK Medical did not receive full cooperation credit from the DOJ. Under the parameters of the pilot program, the DOJ can offer a company an up to 50 percent reduction below the Sentencing Guidelines for the fine amount. Here, BK Medical received a discount of 30 percent from the DOJ.

Sultan and Bohn noted an intersection between the guidelines of the Yates Memo and a trend toward increased international cooperation: BK Medical's Non-Prosecution Agreement (NPA) included BK Medical's commitment to "cooperate with foreign authorities that are prosecuting individuals involved in this matter." "By contrast, the NPA between the DOJ and PTC Inc. from February 16, 2016 -- the only other NPA to date this year -- included only general commitments to cooperate with domestic and foreign authorities," Sultan and Bohn said.

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