

In the News

O'Melveny's Heiss, Racanelli, Miller Co-Author Corporate Counsel Article on the DOJ's New "Carve-Out" Policy



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O'Melveny & Myers partners Howard Heiss and Mark Racanelli, along with associate James Miller, co-authored a January 29, 2014, *Corporate Counsel* article focused on the US Department of Justice's recent changes to the Division's practice of excluding certain employees from the non-prosecution provisions of corporate plea agreements, also known as its "carve-out" policy. In the article, titled "DOJ's New 'Carve-Out' Policy: Is it an Improvement?" the authors contend that the Division's new policy is "a step in the right direction in that it now recognizes the obvious unfairness of publicly naming carve-outs," but fails to go far enough to protect non-culpable employees. "Even under the new policy, the stigma of being carved out remains meaningful," the authors write, concluding that "the Division should limit carve-outs to 'targets' of its investigation, against whom it has amassed 'substantial evidence' of criminal misconduct."

Heiss, Racanelli, and Miller are members of O'Melveny's White Collar Defense and Corporate Investigations Practice, and Heiss is also a member of the SEC Practice. They reside in the Firm's New York office.