Practices Review and Improvement of Non-Prosecution Scope in Corporate Compliance

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Abstract: The enterprise compliance reform has been underway for two years. Through practical investigations into non-prosecution of compliance-related cases, it has been discovered that there are still significant issues within the crucial aspect of non-prosecution, directly impacting the legitimacy of corporate compliance. Among these issues, the foremost and fundamental one is determining whether non-prosecution applies solely to the implicated companies or extends to the implicated companies and individuals responsible. The practice of “exempting the responsible individuals” lacks theoretical basis. In addition to this, the scope of non-prosecution for corporate compliance is limited by the size of the applicable enterprises and the narrow range of applicable penalties. To address these issues, it is essential to enhance the existing framework by clarifying the conditions under which individuals responsible for the implicated cases are subject to compliance examinations, removing restrictions on the size of enterprises subject to compliance examinations, and exploring the application of conditional non-prosecution in cases involving serious corporate crimes. These improvements, aligned with the theories and objectives of enterprise compliance reform, aim to consolidate the achievements of practical implementation and explore a rational path for reform.

Keywords: Corporate compliance, Non-prosecution, Scope of application, Conditional non-prosecution.

1. Introduction

Corporate compliance, a term originated from the United States, has gradually developed with the improvement of relevant systems through various legislative acts. These acts include the Federal Sentencing Guidelines for Organizations, the Sarbanes-Oxley Act of 2002, the Principles of Federal Prosecution of Business Organizations, the Basel Accords, among others. The concept of corporate compliance entered the domestic landscape starting from the ZTE incident. Due to allegations that ZTE violated U.S. regulations on export restrictions, the U.S. announced sanctions against the company. In 2017 and 2018, ZTE reached two settlement agreements with the U.S. Department of Commerce, which involved a substantial fine of 2.29 billion USD and a ten-year probationary period for compliance. Furthermore, compliance coordinators appointed by the U.S. were tasked with coordinating, supervising, evaluating, and reporting ZTE's and its global subsidiaries' and affiliates' compliance with U.S. export control laws. The ZTE incident served as a wake-up call for Chinese enterprises engaging in international activities, and it marked the beginning of the rise of corporate compliance within the country. Since the launch of the corporate compliance reform in 2021, provinces, autonomous regions, and municipalities have actively explored various forms of corporate compliance based on local conditions, achieving significant progress. However, due to the lack of comprehensive regulations, there are significant discrepancies in the methods and practices of corporate compliance across different regions, leading to considerable confusion in practice. Regarding the issue of the scope of non-prosecution in corporate compliance, not only do different regions have varying regulations, but there are also inconsistencies between practice and regulations. Therefore, this paper examines typical cases released by the Supreme People's Procuratorate and analyzes the practice of the scope of non-prosecution in corporate compliance through the investigation of these cases. Based on this analysis, the paper identifies the problems associated with the scope of non-prosecution in corporate compliance and proposes solutions.

2. Discovery: Examination of the Practice of the Scope of Application for non-prosecution in Corporate Compliance

Since the start of the corporate compliance reform in June 2021, the Supreme People's Procuratorate has released a total of four batches comprising twenty typical cases of corporate compliance. However, due to the early stage of the reform in the corporate compliance system, the number of available reference cases is limited. Furthermore, these cases exhibit a significant degree of homogeneity. For example, the focus of the six typical cases in the second batch primarily revolves around the application of third-party supervision and evaluation mechanisms, resulting in a narrow perspective. Despite these limitations, these cases, selected from the national pilot program for corporate compliance reform, still hold a certain degree of representativeness. They offer insights into the positions adopted by procuratorates across the country regarding the applicable scope of corporate compliance.

Firstly, there is the issue of the applicable scope. The “Guiding Opinions (Trial Implementation) on Establishing Third-Party Supervision and Evaluation Mechanisms for Corporate Compliance” jointly issued by the Supreme People's Procuratorate and nine other departments explicitly state that both implicated companies and individuals can be subject to the third-party mechanism. This indicates the official stance on the applicable scope of non-prosecution for compliance. Among the twenty typical cases released by the Supreme People's Procuratorate, twelve cases involved decisions of non-prosecution for both the implicated companies and responsible individuals. In the second batch of typical cases released by the Supreme People's Procuratorate, the cases of Kang Moumou and others from Company Z in Suizhou City involving a major liability incident, as well as
the case of Company S in Wenchang City, Hainan Province, and Weng Moumou concealing and hiding criminal proceeds, resulted in decisions of non-prosecution for both the companies and individuals, despite the fact that the individuals involved should have been sentenced to imprisonment for more than three years. In other cases, some only prosecuted the companies while treating the responsible individuals leniently, while others applied lenient treatment to both the companies and responsible individuals. The Supreme People's Procuratorate also stated in the press conference for the release of the typical cases that for responsible individuals of implicated companies, imprisonment should be avoided whenever possible. From these cases and relevant documents, it can be observed that the scope of non-prosecution for compliance includes both implicated companies and individuals, and there is no distinction in both legal provisions and practice. This indicates that China's corporate compliance reform does not follow the "punish the individuals while sparing the companies" approach seen in the Anglo-American model of corporate compliance. Instead, China adopts a stance of "spare both the companies and responsible individuals."

Next is the issue of the applicable scale of enterprises. In the four batches of typical cases, the implicated enterprises are all small and medium-sized micro-private enterprises, without the involvement of listed companies or state-owned enterprises. Although these enterprises fall under the category of small and medium-sized micro-private enterprises, they possess strong development potential in their respective fields. For example, in the first batch of typical cases, the implicated company in the pollution environmental case involving Company L in Zhejiang Province and a national high-tech enterprise in Zhejiang Province and a national high-tech enterprise in recent years, demonstrating limitless development potential. Furthermore, some implicated enterprises are involved in foreign investment in China. For instance, in the second batch of typical cases, the implicated company in the case of a major liability incident involving Kang Moumou and others from Company Z in Suzhou City is a locally key foreign-invested food processing enterprise, playing an important role in improving the local investment environment. From these typical cases, it can be observed that the current scope of non-prosecution for compliance is temporarily limited to small and medium-sized micro-enterprises. However, specific requirements are still imposed on these applicable enterprises, such as being a high-tech enterprise, a leading enterprise in the relevant industry, or an enterprise that has significant impact on local employment, taxation, and investment.

Finally, there is the question of whether non-prosecution for compliance applies to serious crimes committed by enterprises. Among the 20 typical cases released by the Supreme People's Procuratorate, there are 14 cases in which the implicated individuals may be sentenced to less than three years of imprisonment. In the early stages of enterprise compliance reform, the provisions of pilot procuratorates in various regions were mainly applicable to minor criminal cases. For example, the Liaoning Provincial People's Procuratorate issued the "Opinions on Establishing the System of Compliance Investigation for Crime-involved Enterprises" based on the actual situation. This document states that enterprise compliance should be applicable to cases where "the directly responsible senior managers and other directly responsible personnel may be sentenced to less than three years of imprisonment, detention, control, or a single fine” is possible under the law. Similarly, the Supreme People's Procuratorate has been conservative in applying criminal penalties, and the typical cases released by the Supreme People's Procuratorate confirm this stance. However, the Supreme People's Procuratorate maintains an open attitude towards the non-prosecution for compliance in serious crime cases. Among the typical cases released, there are six cases where the applicable sentence exceeds three years, and even in the first batch of typical cases, in the case of Shanghai Company A, Company B, and individual Guan Moumou's false issuance of VAT special invoices, the implicated individuals should be sentenced to more than ten years of imprisonment. Although a non-prosecution decision was not made, lenient sentencing decisions were made for both the enterprise and the individuals involved. This also indicates the attitude of the Supreme People's Procuratorate and the need to gradually explore reasonable mechanisms for applying non-prosecution to serious crimes committed by enterprises.

3. Analysis: An Analysis of the Issues Regarding the Scope of Application for non-prosecution in Corporate Compliance

3.1 The Lack of Theoretical Basis for “Letting the Responsible Individuals Go”

"Letting the company off the hook while punishing individuals responsible" is a fundamental principle upheld when establishing corporate compliance systems abroad. By doing so, it not only protects the company from the risk of collapsing due to a single case but also ensures that the punishment is proportionate to the crime, aligning with the basic value of holding individuals accountable for their criminal actions and upholding judicial fairness. In the United States, prosecutors consider whether the prosecution against individuals directly responsible for the corporate wrongdoing is sufficient when deciding whether to enter into pretrial diversion agreements with the implicated company[1]. This means that the use of pretrial diversion programs typically applies to the company itself, rather than natural persons within the company who are suspected of criminal involvement, adhering to the principle of "letting the company off the hook while punishing individuals." Corporate compliance involves establishing an internal compliance system within the company to prevent corporate misconduct, and it pertains to the compliance of the company itself, not just the compliance of the business owner[2].

However, in the practice of corporate compliance in China, there is a dual non-prosecution approach of "letting the company off the hook while also letting individuals responsible off the hook." In cases of corporate crimes in China, whether it is a dual penalty system or a single penalty system, the focus is on punishing individuals directly responsible. The principles for punishing corporate crimes are no different from those for punishing natural persons,
emphasizing the principles of responsibility and legality, among others. In cases of natural persons committing crimes unrelated to the company, it is difficult to obtain non-prosecution treatment in practice, even if the suspects surrender themselves and confess their guilt with repentance. However, in cases involving corporate crimes, companies can enjoy non-prosecution treatment due to post-incident compliance plans.[3]. Even in cases where the company itself is not implicated but the corporate executives are involved in crimes, corporate compliance is still applied, ultimately resulting in individuals being exempt from prosecution. For example, in the first batch of guiding cases, Case 3 “Bribery committed by Wang, Lin, and Liu, non-state personnel” and Case 4 in the second batch, “Major liability accident case involving Z Company executives in Suizhou,” both cases involved companies that were not implicated in crimes, but individuals involved were exempted from prosecution due to the implementation of corporate compliance measures. For the implicated companies and individuals, corporate compliance has become a “get out of jail free” card. Applying corporate compliance assessments to companies that are not prosecuted and using it as a reason to let individuals involved in crimes go free raises concerns about violating the principle of legality and may give the impression of leniency towards criminal behavior.

The reason for this non-prosecution practice is based on China’s “dual punishment” principle for corporate crimes, which means that when a corporation is involved in a crime, not only the company should be punished but also the individuals directly responsible. The application of this dual punishment is a fundamental principle in Chinese criminal law and has gradually resulted in using the severity of sentencing for individuals as a reference for the seriousness of corporate crimes. In the practice of corporate compliance, this is reflected in the prosecution authorities' decision to conduct compliance investigations on companies based on the potential sentences for individuals directly responsible, and it determines whether non-prosecution decisions are made for both the company and individuals. However, this approach overlooks the independent will of the corporate entity as a separate entity, resulting in a blending of individual and corporate responsibilities. How to address the separation of corporate and individual responsibilities in corporate crimes has been a challenging issue in the field of criminal law.

3.2 The Limited Applicability to Small-scale Enterprises

As mentioned earlier, enterprise compliance investigations primarily apply to high-tech companies, small and micro-enterprises, and foreign-funded enterprises, excluding state-owned enterprises and listed companies for the time being. Among these, small and micro-enterprises are the main focus, while the proportion of large-scale enterprises is relatively low. This situation is primarily determined by China’s market economy structure. According to relevant data from the Ministry of Industry and Information Technology, small and micro-enterprises account for 99.8% of all registered corporate entities, and their total number accounts for 91.68% of the market entities. In a market economy system, private enterprises play a vital role as an important part of the market economy. They not only ensure economic vitality but also serve as a crucial guarantee for employment opportunities for the general public. Given the support of the policies promoting stability and security, it is reasonable to mainly apply enterprise compliance investigations to small and micro private enterprises in cases involving criminal offenses.

It is true that limiting enterprise compliance investigations to small and micro-enterprises can restrict the realization of the objectives and significance of enterprise compliance reform. Small and micro-enterprises, compared to large-scale enterprises, often have fewer employees and may lack scientifically sound modern corporate governance structures. Establishing comprehensive enterprise compliance systems within these companies requires substantial financial, material, and human resources, making it uncertain whether small and micro-enterprises can establish such robust systems. Additionally, to prevent superficial compliance, some local regulations specify lengthy periods for conducting enterprise compliance investigations. Even if small and micro-enterprises establish standardized compliance systems, sustaining the operation of these systems remains a question. Furthermore, since small and micro-enterprises are often family-owned businesses, there is a close connection between the enterprise leaders and the company itself. When a company or individual faces prosecution for criminal offenses, it can potentially lead to the collapse of the company. Preserving the company's existence often means treating the responsible individuals with non-prosecution. Given the current controversy surrounding the practice of dual non-prosecution, it is unclear whether future compliance reforms will lean towards "letting the responsible individuals off" or "strictly punishing the responsible individuals." Imposing severe penalties on the responsible individuals will undoubtedly dampen the enthusiasm of small and micro-enterprises to engage in compliance investigations. Therefore, the practice of primarily focusing enterprise compliance reforms on small and micro-enterprises needs to be reconsidered in light of the national conditions to fully achieve the objectives and significance of enterprise compliance reforms.

3.3 The Narrow Range of Applicable Penalties

The application of corporate compliance to significant corporate crimes remains a subject of ongoing debate. From the cases, it can be observed that while corporate compliance tends to lean towards leniency when applied, it does not exclude serious crimes. In the “Significance” section of Typical Case 2, “Wang's Insider Trading Case,” in the third batch of typical compliance cases, it is explicitly stated that the procuratorial organs should "actively and prudently explore the full-process case-handling mechanism of applying compliance reforms to cases that may be subject to heavier penalties.” This also indicates that the procuratorial organs are gradually beginning to pay attention to the reform mechanism of applying corporate compliance investigations to serious crimes.

While the Supreme People's Procuratorate has been guiding local procuratorates to apply compliance investigations to serious corporate crime cases, there are still concerns among some procuratorates regarding the application of compliance investigations to such cases due to the early stage of corporate
compliance reforms. Some scholars have proposed legislation that limits corporate compliance to cases that may be punishable by up to three years of fixed-term imprisonment, suggesting that "conditional non-prosecution of corporate crimes should be limited to cases that may be punishable by up to three years of fixed-term imprisonment"[4]. The difficulty of applying serious crimes to the system of compliance-based non-prosecution in enterprises can be attributed to two main reasons. First, the legality of applying non-prosecution to serious crimes cannot be established. The current non-prosecution mode employed in corporate compliance is relative non-prosecution. However, a necessary condition for relative non-prosecution is that the "criminal circumstances are minor," which refers to situations where the punishment could be up to three years of fixed-term imprisonment. This condition restricts the application of relative non-prosecution to serious crimes. In order to maintain legal stability, the punishment condition for compliance-based non-prosecution can only be set within the range of three years of fixed-term imprisonment or less. Second, the compliance investigation period for serious crimes is limited by the period for criminal prosecution. It is challenging for enterprises involved in serious crimes to complete compliance investigations within the limited investigation period. After the case is transferred to the procuratorate by the public security investigative agency, the procuratorate decides whether to initiate a compliance investigation and utilize third-party mechanisms based on the results of the compliance investigation. All of these procedures need to be completed before the expiration of the criminal prosecution period. Currently, the Criminal Procedure Law explicitly states that the procuratorate's review and prosecution period shall not exceed one year. For minor crimes, one year is usually sufficient for the investigation period, but for making non-prosecution decisions regarding serious crimes, greater caution is required to avoid violating the principle of legality in criminal punishment. Therefore, it is challenging to complete a compliance investigation within the one-year period. In countries like the UK and the US, where the corporate compliance system is more developed, the compliance investigation period is generally around three years to ensure that compliance investigations are not merely symbolic and superficial.

If corporate compliance only applies to minor criminal cases, it would greatly limit the scope of its application and fail to achieve the maximum objective of corporate compliance. Firstly, corporate compliance is not forgiveness for crimes, but an alternative measure to punishment. In cases where the criminal activities of a company are relatively minor and may result in a sentence of less than three years of imprisonment, some companies and individuals involved may receive relatively lenient treatment if they voluntarily admit guilt, actively return misappropriated funds, and offer compensation. In such cases, even without initiating compliance investigations, these companies may avoid prosecution to some extent. Compared to the time and effort required for compliance investigations, this may weaken the compliance willingness of small and medium-sized enterprises. Secondly, in the current context of international turmoil and the impact of the pandemic, serious corporate crimes are rampant. Some of these companies committing serious crimes are of considerable size, supporting a significant portion of the economy or being leaders in high-tech industries, which play a crucial role. Failure to apply corporate compliance to serious crimes may lead to the closure of these companies, resulting in severe consequences not only for the local economy but also contradicting the current state of corporate crime in our country.

4. Breakthrough: Recommendations for Enhancing the Scope of Application for non-prosecution in Corporate Compliance

4.1 Conditional Application of Compliance Investigation to Individuals Involved in the Case

In the practice of corporate compliance reform, a common approach is to "let the company go and let the responsible individuals go." In some places, it seems that the ultimate goal of promoting corporate compliance is to "let the responsible individuals go and incidentally protect the company." This means that even if the company itself has not committed any crimes, as long as the individuals responsible for the company have committed crimes and meet certain criteria for lenient punishment, and promise to establish an appropriate compliance plan after compliance, the prosecuting authorities will, in some way, not prosecute the entrepreneurs and incidentally protect the company. This approach has also raised many doubts. Some scholars argue that allowing individuals to evade criminal responsibility for violating criminal law simply by completing corporate compliance and avoiding conviction and punishment not only violates the basic principles on which criminal law exists, including the principles of culpability and proportionality, as well as the principle of equal application of the law, but also leads to an imbalance in the punishment of corporate and individual crimes[5]. The initial purpose of introducing the non-prosecution system for compliance in our country was to strengthen the protection of enterprises. If this system were to be applicable to individuals as well, it would overturn the legal foundations of substantive law and procedural law, leading to confusion in the application of the legal system[6]. Compliance for enterprises should not serve as a shield for committing crimes, and the application of the compliance assessment system to individuals should not become the norm.

When determining the scope of application for compliance in enterprises, the national conditions of our country must also be fully considered. China has a large number of small and micro enterprises, and most of them have a close connection with their responsible persons. If the responsible person collapses, the survival of the enterprise becomes impossible. Currently, China is facing increased downward pressure on the economy, has just suffered from the impact of the COVID-19 pandemic, and international trade conflicts are becoming more frequent. Enterprises themselves are under growing pressure to survive[7]. In addition, China implements a dual-punishment system for corporate crimes, where individual responsibility and corporate responsibility are difficult to separate. Based on the reality of the situation, it is even more important not to exclude responsible persons from the scope of application when determining the applicable subjects for compliance in enterprises.
Therefore, the application of compliance assessment to individuals involved should be conditional. Firstly, in cases of criminal offenses committed by large and medium-sized enterprises, due to their comprehensive management structure, prosecuting individuals separately would not have a significant impact on the company's operations. If the enterprise is involved in criminal activities, the focus should be on establishing an effective compliance system within the company, and the non-prosecution treatment should not be applicable to the responsible individuals. Secondly, if small and micro enterprises are involved in criminal activities, it is necessary to first determine whether it is an individual crime or a corporate crime. If it is a personal crime committed by the management personnel for reasons unrelated to the company's operations, the compliance system should not be applicable. However, if the management personnel commit crimes in the course of their company's operations, the first step is to determine whether the charges fall within the range of imprisonment for less than three years. The reason for setting this condition is that the non-prosecution of corporate crime members is mainly based on their own lighter criminal circumstances, their contribution to compliance rectification, and a comprehensive assessment of other statutory and discretionary leniency factors to determine whether non-prosecution is appropriate[8]. If the individuals involved in the crime are subject to a prison term of more than three years, even if the enterprise has completed the compliance assessment and may receive a lenient punishment, prosecution should not be avoided. Furthermore, it should be examined whether the small and micro enterprises have any salvage value and the possibility of establishing a compliance system within them. Additionally, the responsible individuals should voluntarily confess and accept penalties.

4.2 The Restriction on the Size of Enterprises should be Lifted

Firstly, the current practice of applying compliance assessment to small and micro enterprises has received praise, and these enterprises should continue to be included as subjects of compliance assessment. Although the individual success or failure of a single small and micro enterprise has a limited impact on economic development, these enterprises make up a significant proportion. In the overall context of economic downturn, both at the national and global level, with limited job opportunities provided by society and low resilience to risks, the role of small and micro enterprises in employment and social stability becomes particularly important, as evidenced during the COVID-19 pandemic[9]. Furthermore, small and micro enterprises generally have a weak awareness of law-abiding behavior. When they violate the law, they often have a strong willingness and need for compliance. Therefore, these enterprises should be conditionally given an opportunity to reform. After all, although not all enterprises are required to implement compliance measures, the spirit of compliance, which involves strengthening internal normative construction and actively preventing criminal risks, is something that all enterprises should embrace[10].

Secondly, compliance assessments in enterprises should primarily apply to large and medium-sized companies. Unlike in China, foreign countries mostly choose to conduct compliance assessments in cases involving large and medium-sized corporate crimes. For example, since the introduction of Deferred Prosecution Agreements (DPAs) in the UK under the Crime and Courts Act 2013, as of April 2020, a total of 11 companies, including Standard Bank, Rolls-Royce, and Tesco, have reached compliance non-prosecution agreements. These 11 companies are all large-scale enterprises. From the practices of applying compliance systems in European and American countries, including large and medium-sized companies as subjects of compliance assessments can achieve the expected compliance governance effects. Furthermore, large and medium-sized companies have a significant scale and are not only related to the employment of thousands or even tens of thousands of workers but also have a substantial impact on the economic development of a region. For example, in the case of the collapse of Arthur Andersen in the United States, tens of thousands of employees were laid off, leading to significant economic losses for the country. Lastly, large and medium-sized companies have sufficient financial and material resources, which enable them to support the operation of compliance systems effectively, ensuring the practical implementation of compliance measures.

4.3 Exploring Pathways for the Conditional non-prosecution of Serious Criminal Cases Involving Enterprises

When considering the initiation of compliance assessments in enterprises and the application of non-prosecution, the focus of the procuratorial organs should not be solely on the criminal circumstances but should shift towards evaluating the potential harm that prosecuting the implicated companies would cause to society and the economy[11]. Compared to minor offenses, applying compliance measures to serious crimes in enterprises better reflects the value of compliance principles and crime governance. However, under a system that tends towards non-prosecution, the condition for applying non-prosecution decisions to the suspects is that the circumstances of the case are relatively minor. This limitation becomes evident in cases of major corporate crimes. In the face of such a dilemma, it is necessary to explore a conditional non-prosecution system for compliance in enterprises to overcome the obstacles in applying the non-prosecution system to serious offenses committed by corporations.

For the application of conditional non-prosecution in cases of serious corporate crimes, it should not include the company's executives. This is because one of the essential aspects of corporate compliance is the implementation of alternative penalties for the company itself, which serves as a form of punishment. However, for the executives implicated in the case, compliance assessment cannot serve as a substitute for their individual punishment. Therefore, the application of conditional non-prosecution in corporate compliance should only be limited to those companies that demonstrate a willingness to comply with regulations. To ensure the protection of legal interests, it is necessary to separate individual responsibility from corporate responsibility in cases of corporate crimes. The most advocated theoretical approach in this regard is the "organizational entity responsibility theory"[12]. A company is composed of individual employees who have clear job responsibilities. Under the organizational leadership of the shareholders’
meeting and the board of directors, the executives delegate specific tasks to their subordinates. In the course of fulfilling their job responsibilities, employees may commit criminal acts intentionally or unintentionally. The benefits derived from these unlawful acts ultimately belong to the company, which constitutes the essence of corporate crime. However, the company itself does not require employees to engage in criminal behavior to complete their tasks. Therefore, the company should be held responsible for inadequate supervision over its employees rather than specific criminal acts. Accordingly, when prosecuting corporate crimes, judicial authorities should clearly distinguish between the responsibilities of the company as a whole and the actions and intentions of its key personnel or other relevant individuals. Instead of considering the actions and intentions of specific individuals, the focus should be placed on the company's organizational structure, business philosophy, internal regulations, and corporate culture as independent factors to determine whether corporate crime has been committed[13]. This approach of reasonably separating corporate responsibility from individual responsibility provides a legal basis for applying non-prosecution to companies involved in serious crimes. Once the company has filled institutional loopholes, eliminated management risks, and changed its business model through the establishment of a compliance management system, with the aim of preventing crimes and restoring legal interests, the non-prosecution becomes legitimate. In such cases, the prosecution can separately charge and deal with the employees who have committed the crimes[14]. Additionally, conditional non-prosecution based on corporate compliance can help overcome the limitation of the statutory time limit for criminal prosecution. The process of compliance assessment is complex and involves various stages such as pre-assessment review, evaluation during the assessment, and post-assessment supervision and prevention. The complexity of the compliance process, constrained by the time limit for criminal prosecution, makes it challenging to achieve effective prevention of corporate crimes. This is especially true for serious criminal cases, where a short compliance period may raise concerns about the legality of non-prosecution for such offenses. However, with conditional non-prosecution based on corporate compliance, it is possible to first make a non-prosecution decision for companies that demonstrate a willingness to comply. Then, a reasonable compliance assessment period can be set, typically around three years, to ensure a thorough examination of the implicated company. If the company fails to meet the compliance standards within the assessment period, the non-prosecution decision can be revoked, and the company can be subject to further scrutiny and prosecution.

5. Conclusion

Corporate compliance reform is a significant and transformative change in China's criminal procedure field and a major practice in the realm of social governance. Promoting corporate compliance reform is an important means to improve the current status of Chinese companies in the international investment arena. Nowadays, corporate compliance has become a subject of interdisciplinary research. However, the most crucial aspect of corporate compliance reform lies in the application of non-prosecution. This is the most direct way to incentivize implicated companies. Making non-prosecution decisions is not only vital for the survival of implicated companies but also serves as a key measure to motivate them to engage in compliance assessments. However, corporate compliance non-prosecution involves multiple aspects and requires support not only from legal principles but also from legislative safeguards. To address the existing issues regarding the scope of application for implicated individuals in compliance assessments, the restriction of compliance assessments based on company size, and the exploration of conditional non-prosecution for corporate serious crimes, it is necessary to address the problems in perfecting the scope of application for corporate compliance non-prosecution. This will help overcome obstacles in future legislation on non-prosecution, thereby consolidating the achievements of corporate compliance reform.

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