

Key:

- Jurisdictions with discounts are in green
- Jurisdictions with unclear guidance or that are silent on the issue are in orange

Country (alphabetical)	Details of discount	Discount available?
Australia	<p>Having a compliance programme in place may be treated by the Australian Competition and Consumer Commission (ACCC) as a mitigating factor when assessing penalties. Introducing a programme during the course of an investigation by the ACCC can also result in a reduced penalty.</p> <p>However, the mere existence of a compliance programme may not be sufficient for a reduction. Rather, the programme must be effective and well managed. The ACCC has published some guidance and templates for the effective implementation of compliance programmes.</p> <p>The extent of the potential discount is not explicitly defined in guidance or regulations, although the ACCC has stated that the thoroughness of the programme will be taken into account.</p>	Yes
Brazil	<p>Brazil's Administrative Council for Economic Defence (CADE) will consider a 'robust' compliance programme as a reason to qualify for reduced sanctions. CADE has asserted that superficial compliance programmes, adopted with the intention of being used as a mitigating factor in case of conviction, will not be tolerated.</p> <p>Article 42 of Decree No. 8,420/15, which follows Brazil's Clean Companies Act 2014, sets forth the parameters by which CADE will evaluate the efficacy and thoroughness of a company's compliance programme. The decree also describes a comprehensive calculation that takes into account certain aggravating and mitigating factors when determining a fine. If there is evidence that the company has adopted and implemented an effective compliance programme, a decrease in 1% to 4% of the total percentage of gross revenue used to determine the amount of the fine will be applied.</p> <p>CADE has published guidance on the structuring and benefits of adopting competition compliance programmes.</p>	Yes
Canada	<p>The Competition Bureau may consider the existence of a compliance programme when determining the level of fine it recommends to the Public Prosecution Service. However, the mere existence of a programme will not suffice: only a credible and effective programme will be treated as a mitigating factor.</p> <p>The implementation of a compliance programme after the competition infringement has been committed may have a positive impact on the Competition Bureau's sentencing recommendations, but to a lesser degree than a pre-existing programme.</p> <p>The Competition Bureau has published guidance for implementing effective compliance programmes for certain businesses.</p>	Yes

<p style="text-align: center;">China</p>	<p>There is no explicit provision in the law or regulations for the existence of a compliance programme having the effect of reducing a penalty. However, the State Administration for Market Regulation (SAMR) may take into account compliance programmes as a mitigating factor when determining sanctions. The mere existence of a compliance programme is not sufficient to impact the level of the fine.</p> <p>On 28 November 2019, SAMR published for comments draft guidelines titled <i>Antitrust Compliance Guidelines for Undertakings</i> as part of the authority's new measures to bolster competition compliance.</p>	<p style="text-align: center;">Not clear</p>
<p style="text-align: center;">Hong Kong</p>	<p>Under the Competition Ordinance, the power to determine whether there has been a contravention of the law and the level of penalty to be imposed rests solely with the Hong Kong Competition Tribunal. This tribunal may take into consideration any recommendations by the Competition Commission when exercising its discretion on the orders to be made, including any reduction in the penalty amount.</p> <p>The Competition Commission states in its Policy on Recommended Pecuniary Penalties that one of the mitigating circumstances which may lead to a decrease in the recommended penalty is “where an undertaking has taken steps to ensure genuine compliance with the Ordinance through implementing a proportionate and on-going compliance programme that reflects a corporate commitment to competition compliance.”</p> <p>In its Enforcement Policy, the Commission has further provided guidance on its enforcement functions when investigating possible contraventions and has indicated that consideration will be given to “compliance efforts of persons under investigation where those persons can demonstrate that they have made a genuine effort to comply”.</p>	<p style="text-align: center;">Not clear</p>
<p style="text-align: center;">India</p>	<p>There are no specific provisions in India's Competition Act for dealing with compliance programmes. However, the existence of a compliance programme may be taken as a mitigating factor by the Competition Commission of India (CCI), as they have done so in past cases. The extent of the reduction is determined on a case-by-case basis.</p> <p>The CCI has issued a Compliance Manual for Enterprises, which offers guidance on the elements of an effective compliance programme.</p>	<p style="text-align: center;">Yes, in practice</p>
<p style="text-align: center;">Italy</p>	<p>On 25 September 2018, the Italian Competition Authority adopted its Guidelines on Antitrust Compliance, which set out the required content of a robust compliance programme. The guidelines also specify that a compliance programme may be treated as a mitigating circumstance, resulting in a reduced fine. However, in order to benefit from a reduced fine, a company must submit a request to the regulator.</p> <p>A fine may be reduced by:</p>	<p style="text-align: center;">Yes</p>

	<ul style="list-style-type: none"> • Up to 15% where the company has an “effective” compliance programme in place prior to the investigation (but in cases where the leniency programme is applicable, a discount of up to 15% is only available if the company submitted an application for leniency); • Up to 10% for compliance programmes which are not “manifestly inadequate”, and the company adequately modifies its pre-existing programme within six months after the opening of the proceedings; • Up to 5% where the company had a pre-existing programme which was “manifestly inadequate” but has substantially modified it within six months after the opening of the proceedings; • A fine reduction will be capped at 5% where an adequate compliance programme is adopted after the opening of the proceedings. <p>The existence of a compliance programme may, in exception cases, be treated as an aggravating factor, such as if the programme was used to facilitate or conceal an infringement.</p>	
Japan	<p>Although there is no express guidance in the official regulations, the Japanese Fair Trade Commission (JFTC) will consider the existence of a compliance programme as a mitigating factor in sentencing, which may lead to a reduced fine. The extent of the reduction available has not been explicitly defined.</p> <p>The JFTC published a Survey on Corporate Compliance Efforts within the Antimonopoly Act, which outlines key features of an effective compliance programme.</p>	Yes, in practice
Netherlands	<p>When determining the level of a fine, the existence of a compliance programme may be taken into account by the Dutch Competition Authority (ACM). In a recent case, the ACM considered a compliance programme to be a mitigating factor. However, a reduction will only be considered if the company has taken steps to make the programme effective and if no senior executives were involved in the infringement.</p> <p>The extent of the reduction available has not been explicitly defined.</p>	Yes
Singapore	<p>The Competition and Consumer Commission of Singapore (CCCS) has stated in its Penalty Guidelines that the existence of a compliance programme is a mitigating factor that can be taken into consideration in the adjustment of a financial penalty. When considering how much mitigating value to be accorded to the existence of any compliance programme, the CCCS will consider various factors, including:</p> <ul style="list-style-type: none"> • Whether there are appropriate compliance policies and procedures in place; • Whether the programme has been actively implemented; • Whether it has the support of, and is closely monitored by, senior management; 	Yes

	<ul style="list-style-type: none"> • Whether there is active and ongoing training for employees at all levels who may be involved in activities that are touched by competition law; and • Whether the programme is evaluated and reviewed at regular intervals. <p>The CCCS has also published guidance for implementing an effective competition compliance programme.</p>	
Spain	<p>On 10 June 2020, the National Securities Market Commission published its Guide to Compliance Programmes on Antitrust Rules, which sets out the elements of effective compliance programmes. The guide provides that the existence of a compliance programme may be a mitigating factor resulting in a reduced fine. However, the mere existence of such a programme will not automatically be treated as a mitigating factor, and programmes will be assessed on a case-by-case basis.</p> <p>The extent of the reduction available, however, is not defined.</p>	Yes
United Kingdom	<p>If there is a compliance programme in place in the UK, a discount of up to 10% of the fine can be obtained (if adequate steps are demonstrated), according to the Competition and Market Authority's (CMA) penalties guidance. The mere existence of a compliance programme will not suffice, and the CMA has published competition law guidance to assist with creating an effective compliance regime. However, a compliance programme may also be an aggravating factor in exceptional cases if it is used to mask an infringement or to mislead the CMA during an investigation.</p>	Yes
United States	<p>The existence of a 'robust' compliance programme, along with other mitigating factors, reduces an organization's culpability score under the U.S. Sentencing Guidelines and results in a lower range of fines. The Department of Justice (DOJ) can also ask a court to appoint an external compliance monitor who can implement a compliance programme as a condition of entering a plea agreement.</p> <p>The DOJ has published guidance on the evaluation of corporate compliance programmes.</p>	Yes