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CLIENT ALERT

DOJ Announces White Collar Enforcement Priorities and Policy Revisions

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On May 12, 2025, the U.S. Department of Justice ("DOJ" or the "Department") clarified the second Trump administration's approach to white-collar and corporate crime, issuing a Criminal Division Enforcement Plan titled "Focus, Fairness, and Efficiency in the Fight Against White-Collar Crime," ("Enforcement Plan") alongside revisions to the Criminal Division's Corporate Enforcement Policy (CEP), DOJ's Whistleblower Awards Pilot Program, and a memorandum curtailing the use of corporate monitors. In remarks announcing the change at the Securities Industry and Financial Markets Association ("SIFMA") Anti-Money Laundering and Financial Crimes Conference, Matthew R. Galeotti, head of DOJ's Criminal Division, said the updates were designed to eliminate "[e]xcessive enforcement and unfocused corporate investigations" that hamper American business innovation and economic growth.

The Enforcement Plan outlines new areas of focus and approach, none of which should come as a surprise to those following the administration's pronouncements to date, which have notably included 14 "Day One" memoranda previously issued by Attorney General Pam Bondi (see our prior Client Alert here) and a flurry of Executive Orders establishing the administration's "America First" approach.

Overall, the priorities and revisions announced demonstrate that any fears regarding the demise of white collar enforcement appear to be premature. The Division remains keenly interested in self-disclosure and, given the tweaks to the program, the importance of robust risk analysis and internal investigation procedures are as strong as ever. Below we address the key updates and their implications for companies active in, and doing business with, the U.S., all while further guidance remains pending in a number of areas, including the U.S. Foreign Corrupt Practices Act (see our prior Client Alert addressing the enforcement "pause" here).

DOJ Prosecutions: Areas of Focus Consistent with the Administration's Priorities

Going forward, DOJ's Criminal Division will prioritize investigating and prosecuting corporate crime in a number of "high-impact areas" posing the greatest potential harm to American citizens and companies. The areas include:

- High-profile areas of administration activity to date, including:
    - "Waste, fraud, and abuse" within government programs and initiatives consistent with Department of Government Efficiency ("DOGE") messaging, targeting federal program, government contracting, and procurement fraud, including in health care and defense spending;
    - Trade and customs fraud, including tariff evasion, as part of an evolving global trade landscape;
- Frauds and market manipulation schemes that victimize U.S. investors and markets, including Ponzi schemes, securities and investment fraud (including via variable interest entities), and frauds impacting the health and safety of consumers or vulnerable groups like the elderly and servicemembers;
- Conduct that threatens U.S. national security or financial systems, including material support by corporations for foreign terrorist organizations ("FTOs"), including recently designated cartels and Transnational Criminal Organizations ("TCOs"), or U.S. financial institutions and their insiders that commit sanctions violations or enable transactions by cartels, TCOs, hostile nation-states, or FTOs;
- Complex money laundering operations in China and elsewhere, and violations of the Controlled Substances Act and the Federal Food, Drug, and Cosmetic Act (FDCA), as part of tackling the flow of fentanyl and other dangerous drugs into and within the U.S.;
- Bribery and associated money laundering that impact U.S. national interests, undermine U.S. national security, harm the competitiveness of U.S. businesses, and enrich corrupt foreign officials (citing to, but not otherwise commenting on the current "pause" on FCPA enforcement); and

- Crimes involving digital assets, including investor or consumer fraud and the use of digital assets in furtherance of criminal activity.

The Enforcement Plan notes that Criminal Division prosecutors will prioritize efforts to identify and seize assets that are the proceeds of, or involved in, such offenses and, where authorized under the law, use forfeited assets to compensate victims. Prosecutors are also directed to prioritize schemes involving "senior-level personnel or other culpable actors, demonstrable loss, and efforts to obstruct justice."

CEP Revisions Further Emphasize Incentives for Corporate Voluntary Disclosures

The CEP's directives on the benefits of corporate self-disclosure, cooperation, and remediation have applied in various iterations across the Criminal Division since 2018. In his remarks to SIFMA, Mr. Galeotti characterized those prior versions of the CEP as "unwieldy and hard to navigate" where, in contrast, the revised CEP is aimed at being "as transparent as [it] can to companies and their counsel about what to expect." With that, this latest iteration of the CEP leaves much of the overarching regime in place, but adds (together with a new graphic flow-chart) clearer pathways to declinations and the possibility of shorter terms for current and future corporate resolutions.

A Clearer Pathway to Declination

Under the revised CEP, companies that voluntarily self-disclose misconduct, fully cooperate with the government, take timely steps to remediate an issue, and have no aggravating circumstances, can now expect to receive a declination and not have to enter into a criminal resolution. "This is a clear path to declination," Mr. Galeotti told the SIFMA audience on Monday evening, aimed at providing a welcome measure of certainty for companies that would previously have received a *presumption* of a declination. For companies that otherwise meet the same criteria but where aggravating circumstances are present, such as executive/management involvement in misconduct or a history of repeat offenses, prosecutors now have full discretion to recommend a declination (following the removal of certain more onerous considerations) "based on weighing the severity of those aggravating circumstances and the company's cooperation and remediation."

In a "near miss" scenario, companies that delay self-disclosure or self-disclose in good faith and without knowing that the government was already aware of the misconduct may still be eligible for significant benefits including non-prosecution agreements with a term of fewer than three years, a 75% reduction of the criminal fine, and avoiding a compliance monitor. According to Mr. Galeotti, the revised CEP will "… put an end to the guessing game companies previously faced under these circumstances." In cases where companies aren't eligible for other resolutions, prosecutors retain discretion but are limited to recommended fine reductions of up to 50%.

Shorter Terms for Current and Future Resolutions

Going forward, terms will be limited to no more than three years other than in "exceedingly rare" cases (which is consistent with current Department practice), with prosecutors to regularly assess whether early termination is appropriate. The Enforcement Plan also directs the Criminal Division's Fraud Section and the Money Laundering and Asset Recovery Section to review the *length* of terms of all existing corporate resolutions with companies to determine if they warrant early termination. The review of current matters is said to be ongoing, with the Criminal Division confirming it has already moved to end multiple agreements early. Factors that may lead to early termination include, but are not limited to, duration of the post-resolution period, substantial reduction in the company's risk profile, extent of remediation and maturity of the compliance corporate program, and whether the company self-reported the misconduct.

Expansion of Topics of Interest under DOJ's Whistleblower Pilot Program

Speculation that the Criminal Division's new Corporate Whistleblower Awards Pilot Program may have been paused or removed under the new administration have proved unfounded, with the pilot pivoting to include additional areas of enforcement focus reflecting the administration's priorities. The three-year program, launched in August 2024, has been updated to include the following priority "subject areas" effective immediately, with whistleblower rewards potentially on offer where relevant tips lead to forfeiture:

- Violations by corporations related to international cartels or transnational criminal organizations, including money laundering, narcotics, Controlled Substances Act, and other violations;
- Violations by corporations of federal immigration law;
- Violations by corporations involving material support of terrorism;
- Corporate sanctions offenses;
- Trade, tariff, and customs fraud by corporations; and
- Corporate procurement fraud.

Notably, the pre-existing "subject areas" of focus have not been removed or edited as part of these revisions, nor are there changes to the pilot program's overall format and conditions (see our earlier Client Alert on the program itself here). These include certain crimes involving U.S. banks and financial institutions, foreign corruption cases outside of the jurisdiction of the SEC, domestic corruption cases, and certain health care fraud schemes. In December 2024, DOJ reported receiving over 250 whistleblower tips in the first months of the program, some of which had already proved successful at identifying criminal conduct the Department was not already aware of.

Narrowly Tailored Use of Monitors

Finally, in the first months of the new administration, DOJ has already moved to end a number of corporate monitorships ahead of schedule, including in high-profile FCPA and market manipulation-related resolutions with Glencore and Albemarle. "Without appropriate oversight from the Criminal Division, monitors can create an adversarial relationship with the companies they monitor, impose significant expense, stray from their core mission and unduly interfere with business," Mr. Galeotti said in his speech to SIFMA. It comes then as little surprise that DOJ's newly released "Memorandum on Selection of Monitors in Criminal Division Matters," introduces a much more narrowly tailored set of circumstances for when, and with what mandate and length, DOJ prosecutors may impose a corporate monitor.

According to the Enforcement Plan a monitor may only be imposed when "necessary"— "when a company cannot be expected to implement an effective compliance program or prevent recurrence of the underlying misconduct without such heavy-handed intervention." The new policy lays out four factors prosecutors must consider before imposing a monitor: the risk of criminal conduct recurring that impacts U.S. interests; the availability of other independent government oversight; the efficacy of the company's compliance program; and the maturity of the company's controls and ability to test its compliance program.

This will be welcome news for companies facing DOJ scrutiny, superseding earlier guidance most recently revised under the Biden administration in March 2023. The Criminal Division, in coordination with Department leadership, is currently also undertaking a review of all existing monitorships to determine whether each monitor is still necessary on a case-by-case basis.

What Next?

The level of regulatory and enforcement uncertainty is increasing, and the environment remains dynamic and regularly evolving. As expected, the administration's first major foray into substantive revisions of long-standing DOJ policies has sought to emphasize areas of focus for criminal enforcement aligned with its "America First" priorities. Much remains to be seen in terms of the impacts of these updates on the enforcement environment in practice, including whether companies will self-report matters at the same or different rates, resulting in more CEP declinations, and whether the DOJ's still new Whistleblower Program will result in a significant number of prosecutions in areas of stated importance to the administration.

As DOJ and other federal enforcement authorities continue to undergo structural and policy changes, leaving open questions as to the trajectory of criminal and regulatory enforcement under the administration, these shifts in the enforcement landscape will place added pressure on compliance programs. Companies should continue to reassess and realign their risk management priorities while government guidance remains pending in many areas. Further updates will be forthcoming as the administration continues to revise regulatory and enforcement policies.

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