

CLIENT ALERT

The National Fraud Enforcement Division Announces Corporate Investigative Priorities

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AUTHORS

William J. Stellmach | Michael S. Schachter | Jason Linder | Sonali D. Patel
Robert J. Meyer | Soumya Dayananda | Andrew English | Koren Bell
Marina A. Torres | Rita D. Mitchell | Juliet Gunev | Casey E. Donnelly
Sean Sandoloski | Kathryn Bolas

On October 1, 2026, the National Fraud Enforcement Division of the Department of Justice (the “Fraud Division” or “Division”) issued its first significant directive to prosecutors governing the investigation of corporate fraud (the “Corporate Enforcement Directive” or “Directive”).¹ This update provides background on the newly established National Fraud Enforcement Division, summarizes its stated enforcement priorities, and recommends action items.

Key Takeaways

- The Corporate Enforcement Directive makes clear that the Fraud Division’s previously announced priorities extend to corporate enforcement.

¹ See <https://www.justice.gov/opa/media/1463571/dl?inline>.

- The Directive identifies bright-line thresholds which federal prosecutors must “place great weight on” when evaluating potential cases—namely, whether the conduct: extended more than three years, involved more than three federal districts, or impacted more than twenty-five victims. Any self-disclosure should be informed by these factors, which essentially are a list of “aggravating factors” under the Corporate Enforcement and Voluntary Self-Disclosure Policy (the “CEP”).
- The Directive meaningfully extends the Department’s whistleblower program to include participants in the alleged misconduct. Until now, current or former employees who were involved in a course of conduct that could otherwise fit within the Department’s whistleblower program had no tangible incentive to report it. That appears to no longer be the case.

National Fraud Enforcement Division Priorities

The Fraud Division was created earlier this year to combat fraud, with an emphasis on fraud committed using taxpayer dollars or impacting taxpayer funded programs. The Fraud Division consolidated the Health Care Fraud Unit, the Tax Section and the Market, Government and Consumer Fraud Unit of the Department of Justice’s Criminal Division, as well as pulling other resources in from the Criminal Division, with the stated goal of making the Fraud Division one of the Department’s largest.²

On August 13, 2026, the Fraud Division issued its first significant memorandum delineating its structure and highlighting five key areas of enforcement: public trust and financial integrity, health care, internal revenue, global trade and commerce, and corporate misconduct.³

Building on that memorandum, the Corporate Enforcement Directive makes clear that the Fraud Division’s Corporate Enforcement Section is to: (i) lead the Division’s work on prosecuting corporate fraud; (ii) actively support other sections throughout the entire investigative process; and (iii) evaluate compliance with the terms of any corporate criminal resolution in the Division. Within seven days of the issuance of the Directive, prosecutors within the Fraud Division are required to report any ongoing corporate investigations to the Chief of the Corporate Enforcement Section.⁴

² The White House announced a national fraud enforcement division in January 2026. See “White House Announces New Fraud Division at DOJ,” <https://www.willkie.com/-/media/files/publications/2026/01/white-house-announces-new-fraud-division-at-doj.pdf>. On April 7, 2026, the Department of Justice provided a more detailed outline of how that division would be created. See <https://www.justice.gov/ag/media/1435311/dl?inline>.

³ A previous client alert regarding the August 13 memorandum can be found here: <https://www.willkie.com/-/media/files/publications/2026/08/dojs-newly-established-national-fraud-enforcement-division-announces-new-structure-and-five-priority.pdf>. Prior to the August 13 memorandum, the Department of Justice issued broader white collar priorities and policies on May 12, 2025. A client alert regarding that memorandum can be found here: <https://www.willkie.com/-/media/files/publications/2025/05/doj-announces-white-collar-enforcement-priorities-and-policy-revisions.pdf>.

⁴ The Directive does not apply to “cases assigned to a District Fraud Counsel by a U.S. Attorney’s Office that are not also supervised by the Fraud Division.”

In addition, the Directive makes clear how the Division's prosecutors are to think through corporate enforcement of previously announced enforcement priorities. Specifically, the Fraud Division has directed prosecutors to focus on the following:⁵

- **Health Care Industry.** The Directive instructs prosecutors to root out corporate fraud schemes in the health care industry, including "health care fraud, distribution of controlled substances, and violations of the Federal Food, Drug, and Cosmetic Act." As spelled out in its previous memorandum, the Division is focused on prosecuting "home health and hospice schemes," "financial crimes relating to health care," "deceptive[] market[ing of] unsafe products and services," "telemedicine," "Medicare or Medicaid fraud," and "controlled substance diversion."
- **Public Trust or Financial Integrity.** The Fraud Division also intends to prioritize prosecutions of "[f]raud schemes involving the public trust or financial integrity of Americans and markets related to procurement, government contracts, and other government functions." The Division previously identified "contracting fraud schemes" and fraud involving "benefit and grant programs" as priority targets.
- **Revenue Evasion.** The Fraud Division is prioritizing fraud that involves "significant evasion of internal or external revenue." The Directive combines internal revenue with external revenue (previously discussed under Global Trade and Commerce) into a single priority. As the Division previously announced, this includes violations of the internal revenue laws as well as crimes that "deprive the public fisc of vital external revenue." The Division intends to invest in and use "data analytics, financial forensics, and nationwide coordination" to identify and pursue these crimes earlier.
- **Global Trade and Commerce.** Prosecutors are directed to prioritize fraud involving "tariff evasion, importation of goods or services, or forced labor." The Division previously stated that it would target "trade and customs violations and supply chains polluted by forced labor," specifically identifying "transshipment schemes, country-of-origin fraud, the undervaluation of imported goods designed to evade duties, sanctions evasion, and foreign forced labor schemes."

Additional Factors for Prosecutors to Consider

The Corporate Enforcement Directive also spells out key factors that prosecutors should place "great weight on" when "determining whether to bring charges and negotiating plea or other agreements." The non-exhaustive list of considerations that Fraud Division prosecutors must weigh includes:

- Knowledge of, or involvement in, a fraud scheme by corporate management;
- Any efforts to conceal fraud from government agencies or auditors or otherwise impede or obstruct a government function or oversight;

⁵ The previous priority that has been left off the new list is "corporate misconduct." Because this memorandum governs corporate misconduct generally, it is not a separate priority but is clearly present throughout.

- Whether conduct that furthers the scheme lasted three years or more;
- Any actions that threaten the safety or security of Americans, including military readiness;
- Whether the conduct in question causes substantial financial hardship to, or affects more than one, taxpayer funded program or government function;
- Whether the conduct in question affects three federal districts or more;⁶
- Whether related financial harm impacts twenty-five or more victims or results in \$25 million or more in losses;
- Whether the conduct involves the exfiltration of American dollars to support foreign adversaries or immigration offenses.

Put another way, the staff of the Fraud Division has been told to focus on the scope and pervasive nature of the fraud and any intersection of the fraud with national security, including foreign threats and immigration.

Focus on Whistleblower Policies and Expansion of Department Program

Finally, the Directive continues to promote the Department's strong desire for companies and employees to report any wrongdoing and to cooperate fully with any investigation.

First, the Directive confirms that prosecutors must continue to follow and implement the CEP. Earlier this year, the DOJ announced that the CEP would apply to all criminal matters in the Department, including those brought by the Fraud Division.⁷ Under the CEP, if a company voluntarily self-discloses its misconduct to the “appropriate Department criminal component,” fully cooperates with the Department’s investigation, timely and appropriately remediates the misconduct and there are no aggravating circumstances, then the Department will decline to prosecute. The devil, of course, is in the details.

Second, the Corporate Enforcement Directive instructs leadership in the Fraud Division “to design and implement policies and programs that appropriately incentivize whistleblowers to bring forward credible information pertaining to fraud.” The policies created should help to “uncover criminal conduct, strengthen ongoing investigations, help prevent fraud losses, and enable the Department to effectively respond to both latent and emerging criminal fraud threats.”

There are already some established laws and programs that incentivize whistleblowers to report corporate fraud. These include the False Claims Act, which encourages individuals to file lawsuits alleging false claims as relators, and the Corporate Whistleblower Awards Pilot Program, which has been in effect since August 2024 and is set to run for a total of three years. The additional whistleblower programs contemplated by the Directive will further

⁶ Federal districts are geographic divisions used by the federal court system. There are 94 federal districts throughout the United States.

⁷ You can find a previous client alert regarding the CEP here: <https://www.willkie.com/-/media/files/publications/2026/03/one-size-fits-all-doj-first-department-wide-corporate-enforcement-policy.pdf>.

incentivize employees to report misconduct. As just one example, whereas the Corporate Whistleblower Awards Pilot Program excludes rewards for those who “meaningfully participated” in the misconduct, the Directive states that the Division’s policies “must encourage and protect the disclosure of information by whistleblowers, including by those who participated in the criminal conduct.”

Action Items

Based on the policies announced in the Directive, companies should be aware of and consider the following:

- Any company evaluating self-disclosure should apply the factors articulated in the Directive against any ongoing or recent internal investigation.
 - As written, the CEP allows the Department to maintain discretion over what is considered an aggravating circumstance that necessitates the prosecution of an otherwise cooperative company working to remediate any issues. Whether something is an aggravating factor or not is committed to the discretion of the DOJ—it is in the eye of the beholder.
 - However, the Corporate Enforcement Directive instructs prosecutors to consider a specific list of factors when determining “whether to bring charges and negotiating plea or other agreements.” Presumably, these factors will also interact with decisions to issue declinations under the CEP.
- Prosecutors were given just seven days to report open corporate investigations to the Corporate Enforcement Section. Companies with open investigations by the Division should therefore expect their matter to be reviewed by the Corporate Enforcement Section and consider the possibility of a change in oversight of their matter, which might provide a natural inflection point for re-engagement.
- Similarly, companies operating under extant deferred prosecution agreements or non-prosecution agreements should expect an assessment of their compliance with the corporate resolutions. This is an appropriate time to test that compliance internally.
- The expansion of the whistleblower program puts a heightened premium on reviewing internal reporting channels, intake procedures, dispositions and anti-retaliation policies. Because even meaningful participants in conduct will likely soon benefit from whistleblowing, a lookback for closed internal investigations that trigger the factors in the Directive might also be prudent.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

William J. Stellmach

202 303 1130

wstellmach@willkie.com

Michael S. Schachter

212 728 8102

mschachter@willkie.com

Jason Linder

310 728 8329

jlinder@willkie.com

Sonali D. Patel

202 303 1097

sdpatel@willkie.com

Robert J. Meyer

202 303 1123

rmeyer@willkie.com

Soumya Dayananda

202 303 1312

sdayananda@willkie.com

Andrew English

202 303 1186

Aenglish@willkie.com

Koren Bell

310 855 3016

kbell@willkie.com

Marina A. Torres

310 855 3086

mtorres@willkie.com

Rita D. Mitchell

+44 20 3580 4726

rmitchell@willkie.com

Juliet Gunev

310 855 8358

jgunev@willkie.com

Casey E. Donnelly

212 728 8775

cdonnelly@willkie.com

Sean Sandoloski

202 303 1072

ssandoloski@willkie.com

Kathryn Bolas

212 728 8907

kbolas@willkie.com

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BRUSSELS CHICAGO DALLAS FRANKFURT HAMBURG HOUSTON LONDON LOS ANGELES
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