

Six Takeaways from DOJ's New Corporate Fraud Enforcement Priorities

by Greg Brower

The head of the U.S. Department of Justice's (DOJ) new National Fraud Enforcement Division (NFED) has announced a significant expansion of the Division's corporate fraud enforcement agenda. In the October 1, 2026 memorandum, "Corporate Enforcement in the Fight Against Fraud," Assistant Attorney General Colin McDonald issued several directives aimed at ensuring that the Division's corporate enforcement work "provides transparency to stakeholders, appropriately incentivizes the disclosure of misconduct, rewards those who cooperate with the government, holds individuals and corporate criminals accountable, and promotes the recovery of fraudulent proceeds for the American people." This new guidance provides the clearest roadmap to date of the types of corporate misconduct that federal prosecutors intend to prioritize and the factors that will drive charging and resolution decisions.

For companies operating in highly regulated sectors, government-facing industries, healthcare, international trade, and tax-sensitive environments, the message is clear: DOJ intends to pursue a more concentrated, data-driven, and aggressive fraud enforcement strategy while continuing to reward timely self-disclosure, cooperation, and remediation.

Key Enforcement Priorities

The new NFED directive identifies several categories of fraud that prosecutors are instructed to prioritize, including the following:

1. Healthcare Fraud and Public Health Misconduct

The memo makes clear that DOJ will continue to target healthcare-related schemes, including traditional healthcare fraud, unlawful distribution of controlled substances, and violations involving pharmaceuticals and medical products. The guidance reflects the government's longstanding focus on safeguarding federal healthcare programs and protecting public health.

2. Government Contracts and Procurement Fraud

Federal prosecutors are directed to place particular emphasis on fraud involving government contracting, procurement programs, grants, and other government functions. Companies doing business with federal agencies should expect heightened scrutiny of certifications, pricing disclosures, subcontracting practices, and performance representations.

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3. Tax and Revenue-Related Fraud

The directive identifies significant evasion of federal revenues as a priority enforcement area. This focus reflects NFED's assumption of responsibilities previously handled by DOJ's Tax Division and signals increased attention to criminal tax-related conduct and schemes that deprive the federal government of revenue.

4. Trade, Customs, and Tariff Evasion

One of the most noteworthy priorities in the memo is the emphasis on tariff evasion, customs fraud, import-related misconduct, and forced labor-related violations. Companies with international supply chains should anticipate increased coordination among DOJ, Customs and Border Protection, and other federal agencies.

5. Corporate Misconduct Affecting Public Trust

More broadly, the new guidance clarifies that DOJ will pursue fraud that undermines public confidence in governmental institutions or causes substantial losses to taxpayers and federal programs. The Fraud Division has characterized its mission as protecting the "financial integrity" of government programs and taxpayer funds.

Factors Likely to Increase Enforcement Risk

The directive provides unusually specific guidance on the circumstances that prosecutors should weigh heavily when assessing corporate misconduct. Among the aggravating factors identified by NFED are:

- Significant involvement by senior management or corporate leadership.
- Efforts to conceal misconduct or obstruct investigations.
- Long-running schemes, particularly those lasting three years or more.
- Conduct affecting public safety or national security interests.
- Misconduct causing substantial losses to taxpayer-funded programs.
- Schemes affecting multiple federal districts.
- Fraud involving at least 25 victims or losses exceeding \$25 million.
- Conduct involving funds flowing to foreign adversaries.
- Related immigration offenses or other criminal violations.

These factors suggest that prosecutors will increasingly focus on systemic misconduct, executive accountability, and conduct with national economic or governmental implications.

Continued Focus on Individual Accountability

Consistent with prior DOJ policy, the new guidance emphasizes prosecution of individual wrongdoers. DOJ officials have stressed that corporate resolutions are not substitutes for pursuing responsible executives, managers, and employees. Companies conducting internal investigations should expect prosecutors to closely examine management knowledge, decision-making, and oversight failures.

Voluntary Self-Disclosure Remains Critical

While DOJ is expanding enforcement resources, it continues to offer substantial incentives for companies that voluntarily disclose misconduct. In March 2026, DOJ implemented its first department-wide Corporate Enforcement and Voluntary Self-Disclosure Policy (CEP), creating a uniform framework applicable across nearly all corporate criminal matters. Under the CEP, companies that voluntarily self-disclose, fully cooperate, and timely remediate misconduct may qualify for declinations or significant reductions in penalties, absent serious aggravating circumstances. The new NFED directive expressly instructs prosecutors to follow the CEP and the Principles of Federal Prosecution of Business Organizations, indicating that self-disclosure will remain a central feature of DOJ's corporate enforcement model.

Practical Takeaways for Companies

The latest DOJ guidance reinforces several practical lessons for corporate compliance programs:

- Reassess compliance controls in healthcare, government contracting, tax, customs, and international trade functions.
- Evaluate reporting and escalation procedures to ensure potential misconduct reaches decision-makers quickly.
- Review executive oversight frameworks, as management involvement remains a key charging consideration.
- Conduct targeted risk assessments focused on government-facing activities and revenue-related matters.
- Develop protocols for voluntary self-disclosure decisions before a potential issue arises.
- Strengthen internal-investigation capabilities to facilitate rapid fact-gathering and remediation.

Looking Ahead

The creation of NFED, the publication of detailed corporate enforcement priorities, and the rollout of a department-wide voluntary disclosure framework collectively signal a new phase in DOJ's approach to corporate fraud enforcement. The Department is clearly concentrating substantial investigative resources on fraud affecting government programs, healthcare, tax revenue, and international commerce while demanding greater accountability from corporate leadership. Companies that proactively invest in compliance, remediation, and disclosure processes will likely be best positioned to navigate the increasingly aggressive enforcement environment.