Patterson Belknap

White Collar Defense and Investigations Alert
May 21, 2025

DOJ Announces Guidance on White Collar Enforcement Priorities and Corporate Cooperation

On May 12, 2025, Matthew Galeotti, the Head of the Criminal Division of the Department of Justice ("DOJ"), announced changes to DOJ's white collar enforcement priorities and corporate cooperation policy. During a speech on May 12 and in memos issued that same day,[1] Galeotti highlighted the core areas of focus for white collar enforcement, many of which are consistent with the priorities of the Trump Administration. The memo also remarked that investigations are to be done efficiently and expeditiously, noting that investigations can often be costly and intrusive for businesses. Further, Galeotti described changes to corporate enforcement policy that place emphasis on cooperation and voluntary disclosure. These changes are reflected in revisions to the Department's Corporate Enforcement and Voluntary Self-Disclosure Policy ("CEP"), monitorship program, and the Corporate Whistleblower Awards Pilot Program.

This alert summarizes the key takeaways from DOJ's recent announcements. These changes will be of significant interest and importance to companies of all types, as well as their directors and officers. Together, these directives appear to reflect more favorable treatment of corporations, including with a clearer path toward cooperation, but also continued enforcement in areas that have been identified as priorities by the Department and in other memos and executive orders in the early months of the Trump Administration.

Areas of Focus

In the memo, DOJ identified ten priority areas of enforcement:

1. Waste, fraud, and abuse related to healthcare, federal programs, and procurement;
2. Trade and customs fraud, including tariff evasion;
3. Fraud perpetrated through "variable interest entities" or "VIEs" (i.e., entities controlled by means other than voting membership);
4. Fraud that victimizes U.S. investors, individuals, and markets;
5. Conduct that threatens U.S. national security;
6. Material support by corporations to foreign terrorist organizations;
7. Complex money laundering;
8. Violations of the Controlled Substances Act and the Federal Food, Drug, and Cosmetic Act;
9. Bribery and associated money laundering that impact U.S. interests; and

[1] Matthew R. Galeotti, Focus, Fairness, and Efficiency in the Fight Against White-Collar Crime (May 12, 2025), available at https://www.justice.gov/criminal/media/1400046/dl?inline; Matthew R. Galeotti, Memorandum on Selection of Monitors in Criminal Division Matters (May 12, 2025), available at https://www.justice.gov/criminal/media/1400036/dl?inline; U.S. Dep't of Justice, 9-47.120 – Criminal Division Corporate Enforcement and Voluntary Self-Disclosure Policy (May 12, 2025), available at https://www.justice.gov/criminal/media/1400031/dl?inline.

10. Crimes involving digital assets that victimize investors and consumers, that use digital assets in furtherance of other crimes, and willful violations that facilitate significant criminal activity.[2]

In elaborating on the rationale behind its list of top priorities for white collar enforcement, DOJ explained that each category of crimes "victimizes U.S. investors," threatens the U.S. economy and American competitiveness, or harms U.S. national security,[3] which Galeotti described as the "key threats to America."[4]

Galeotti also noted the intrusion into businesses' day-to-day operations often caused by criminal investigations. He instructed prosecutors to "move expeditiously to investigate cases and make charging decisions," and "take all reasonable steps to minimize the length and collateral impact of their investigations."[5]

Updates to DOJ's Corporate Cooperation Policy

DOJ also issued a revised Corporate Enforcement and Voluntary Self-Disclosure Policy to clarify terms and incentives of corporate self-disclosure when companies discover instances of misconduct. In Galeotti's words, "[s]elf-disclosure is key to receiving the most generous benefits the Criminal Division can offer."[6] While previous CEPs have included *presumptions* of declinations (i.e., decisions not to prosecute misconduct without requiring admissions of wrongdoing) when companies self-disclose and cooperate, the new CEP provides that DOJ "***will*** decline to prosecute" any company that (i) voluntarily discloses misconduct to DOJ; (ii) fully cooperates with DOJ; (iii) rectifies the misconduct in a timely manner; and (iv) demonstrates a lack of aggravating circumstances.[7]

Voluntary self-disclosure is defined as disclosure (i) to the Criminal Division (or another component or division of DOJ); (ii) that is *not previously known* to DOJ, (iii) for which the company had no obligation to disclose; (iv) that occurs "prior to an imminent threat of disclosure or government investigation"; and (v) that is made to DOJ "within a *reasonably prompt* time after becoming aware of the misconduct, with the burden being on the company to demonstrate timeliness."[8] Full cooperation, in turn, requires disclosure of "all relevant, non-privileged facts known," including all facts about "all individuals involved or responsible for the misconduct."[9]

Even for companies that cannot meet all four criteria but cooperate and remediate, the new policy makes room for favorable resolutions. Prosecutors are to give companies a non-prosecution agreement ("NPA")—where the government agrees not to prosecute offenses in exchange for the company's agreement to certain conditions, including admitting wrongdoing, paying a fine, or taking specified remedial action—if the company acted in good faith by self-reporting but it did not qualify as a "voluntary" self-report (the "near-miss" opportunity), or even if the company has aggravating factors present.

DOJ has also initiated a systematic review of existing agreements and, in some cases, has terminated them early. In determining whether to terminate an agreement early, DOJ considers, among other factors, the "duration of the post-resolution period, substantial reduction in the

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[2] Focus, Fairness, and Efficiency in the Fight Against White-Collar Crime at 4.
[3] *Id.* at 2-3.
[4] Matthew R. Galeotti, Head of the Criminal Division, U.S. Dep't of Justice, Remarks at SIFMA's Anti-Money Laundering & Financial Crimes Conference (May 12, 2025), available at https://www.justice.gov/opa/speech/head-criminal-division-matthew-r-galeotti-delivers-remarks-sifmas-anti-money-laundering.
[5] Focus, Fairness, and Efficiency in the Fight Against White-Collar Crime at 7.
[6] Remarks at SIFMA's Anti-Money Laundering & Financial Crimes Conference.
[7] Criminal Division Corporate Enforcement and Voluntary Self-Disclosure Policy at 1 (emphasis added).
[8] *Id.* at 4.
[9] *Id.*

company's risk profile, extent of remediation and maturity of the compliance corporate program, and whether the company self-reported the misconduct."[10] Moving forward, NPAs will not exceed three years, "except in exceedingly rare cases."[11]

Updates to DOJ's Monitorship Program

Concurrently with its release of its new enforcement plan, and consistent with other changes communicated by the Department, DOJ issued revisions to its monitorship program. While the prior Administration had put a greater emphasis on the use of monitors, the Department has now communicated that prosecutors should limit monitorships to cases only where necessary—that is, "when a company cannot be expected to implement an effective compliance program or prevent recurrence of the underlying misconduct without such heavy-handed intervention."[12] In particular, prosecutors should consider the following factors in determining whether a monitor is necessary:

- Whether the risk of recurrence relates to conduct that harms U.S. interests, including national security-related offenses, foreign bribery that significantly impacts U.S. interests, and other crimes that support cartels or other transnational criminal organizations;
- Whether the company is otherwise regulated;
- Whether the company in question has a "history of committing criminal conduct while under [its primary] regulator's supervision;"
- Whether remediation efforts have reduced the company's risk profile, including changes in leadership, action against bad actors, or use of third-party advisors; and
- The strength of the company's compliance program and internal controls.[13]

Any monitorship must be "narrowly tailored" to mitigate "the risk of recurrence of the underlying criminal conduct and to reduce unnecessary costs."[14] As with its NPAs, DOJ is reviewing each existing monitorship to determine which remain necessary.

Revisions to DOJ's Whistleblower Program

Finally, the Criminal Division also updated its Corporate Whistleblower Awards Pilot Program—through which individuals may earn monetary awards for tips relating to crimes in certain categories and resulting in the forfeiture of more than $1 million in net proceeds—to include corporate misconduct stemming from trade and procurement fraud, as well as violations related to federal immigration law, sanctions, cartels or other transnational criminal organizations, and the material support of terrorism.[15]

Consistent with the August 2024 amendment to the CEP, a company that receives a report of misconduct from a whistleblower who also reports that misconduct to DOJ will still be eligible for a declination under the new CEP if the company self-discloses to DOJ within 120 days after receiving the whistleblower's report *and* before DOJ contacts the company about the alleged misconduct.[16]

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[10] Focus, Fairness, and Efficiency in the Fight Against White-Collar Crime at 6.
[11] *Id.* at 7.
[12] *Id.* at 7.
[13] Memorandum on Selection of Monitors in Criminal Division Matters at 2-4.
[14] Focus, Fairness, and Efficiency in the Fight Against White-Collar Crime at 7-8; Memorandum on Selection of Monitors in Criminal Division Matters at 8.
[15] *See* Criminal Division Corporate Enforcement and Voluntary Self-Disclosure Policy at 4.
[16] *Id.* at 4.

Practical Considerations

Companies should be mindful of the new opportunities and potential risks created by DOJ's recent pronouncements:

- DOJ's emphasis on voluntary self-disclosure is critical for companies to keep in mind at the outset of (or even before) an investigation. Per Galeotti's remarks, voluntary self-reporting can result in a declination of prosecution if a company cooperates in full and remediates. Voluntary self-disclosure requires that companies report "within a reasonably prompt time after becoming aware" of the misconduct. Full cooperation, in turn, requires that a company disclose "all" relevant, non-privileged facts known to it, including about all individuals involved. While full cooperation offers companies the opportunity to receive a declination, it also has the potential to intersect with questions about privilege waiver. For these reasons, companies should continue to be proactive in investigating potential misconduct early to be in a position to avail themselves of the benefits afforded under this policy. Companies should also discuss with counsel their decisions to self-report, and the expectations of self-reporting and cooperation should be discussed early with the Government.

- A strong compliance program remains essential to ensuring that a company identifies issues early and remediates them. It also contributes greatly to a company's successful cooperation with the Government and avoidance of a monitor. Companies should consider ways to implement policies consistent with the recent DOJ memos. For instance, companies should remain mindful of the activities of its vendors and partners, including by cross-referencing the VIE, SDN, FTO, and other sanctions lists to ensure that they are not engaging in conduct that could create a risk of investigation or prosecution.

- While the DOJ memo provides a clear pathway to full cooperation and a declination of prosecution, prosecutors continue to have significant discretion in determining whether a company self-reported in a timely manner and cooperated in full. Companies and their counsel should discuss the contours of cooperation with the Government early in an investigation.

This alert is for general informational purposes only and should not be construed as specific legal advice. If you would like more information about this alert, please contact one of the following attorneys or call your regular Patterson contact.

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