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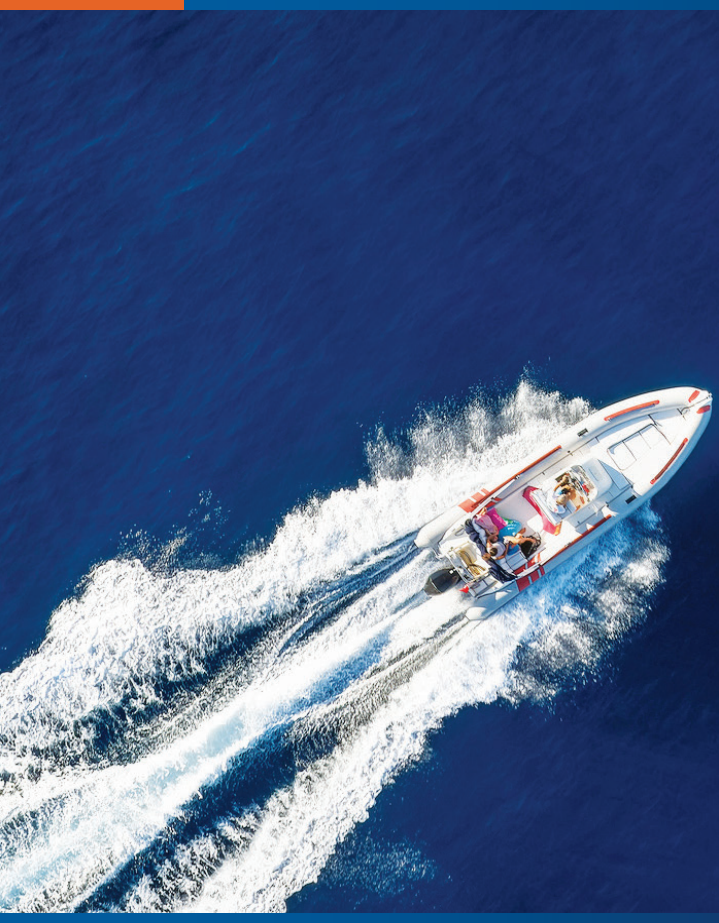

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DOJ Enforcement Priorities and Outlook for 2025/2026


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Introduction

The recent overhaul of white-collar enforcement priorities by the Department of Justice (DOJ) and Securities and Exchange Commission (SEC) under President Trump's second administration signifies a pivotal shift in the approach to corporate crime. While the DOJ and SEC have retained some enforcement priorities from former President Biden's administration – such as encouraging voluntary self-disclosures and increasing focus on artificial intelligence (AI) fraud – the Trump administration has also introduced significant changes aimed at fostering a more business-friendly regulatory environment. These changes include a comprehensive new playbook from the DOJ that specifies 10 key areas for white-collar enforcement and targets crimes that pose substantial threats to U.S. interests. Notably, the DOJ's enforcement strategy for the Foreign Corrupt Practices Act (FCPA) is designed to "limit undue burdens on American companies" while simultaneously focusing on corrupt conduct that harms U.S. companies. In the digital assets space, regulators have retreated from regulation by enforcement, with the SEC dismissing its civil enforcement actions against several large cryptocurrency exchanges. For U.S. companies that find themselves on the wrong side of the law, the revised Corporate Enforcement and Voluntary Self-Disclosure Policy (CEP) provides greater benefits for companies that self-disclose misconduct, offering a clearer path to avoiding prosecution.

However, in certain areas, the DOJ and SEC have signaled an intent to increase enforcement activities. Tariffs have become a cornerstone of the Trump administration's trade strategy, and there are increasing indications that prosecutors are intensifying their scrutiny of companies that evade U.S. tariffs. Additionally, in an effort to combat the fentanyl crisis, the DOJ has begun aggressively pursuing criminal cases related to drug cartels and transnational criminal organizations (TCOs), which will likely be a key area of enforcement moving forward. As the DOJ and SEC continue to prioritize these high-impact areas, businesses must remain vigilant and proactive in their compliance efforts. The evolving regulatory landscape underscores the importance of robust compliance programs that can adapt to new guidelines and withstand increased scrutiny. Companies are encouraged to thoroughly review and update their compliance frameworks to align with these new directives, ensuring they are prepared to navigate the complexities of the current enforcement environment.

Revised FCPA Guidelines

On February 10, 2025, President Trump signed an executive order directing the Attorney General to pause enforcement of the FCPA and to issue updated guidelines for FCPA enforcement that aligned with the administration priorities.[1] In response to the executive order, the DOJ issued new FCPA enforcement guidelines (Guidelines) on June 10, 2025, which are intended to align FCPA investigations and prosecutions with the directives in President Trump's executive order by "(1) limiting undue burdens on American companies that operate abroad and (2) targeting enforcement actions against conduct that directly undermines U.S. national interests."[2]

The Guidelines emphasize several non-exhaustive factors prosecutors and authorizing officials must consider in deciding whether to pursue FCPA investigations and enforcement actions. A "primary factor" prosecutors must consider is whether the conduct has some connection to the criminal operations of a drug cartel or TCO.[3] This nexus does not have to be direct. It may be sufficient if those involved in the corruption scheme used shell companies or money launderers also used by organized criminal groups, or if a foreign official who accepted a bribe from a company also took payments from drug cartels or TCOs. The Guidelines instruct prosecutors to focus on misconduct that deprived "specific and identifiable" U.S. companies and individuals of fair access to compete and/or resulted in economic injury, and prosecutors will consider whether specific and identifiable U.S. entities or individuals have been harmed by the foreign officials' demand for corrupt payments.[4] The Guidelines also require prosecutors to prioritize cases involving misconduct related to defence and intelligence agencies and critical infrastructure (i.e., critical minerals, deep-water ports, and other key infrastructure projects).[5] Lastly, the Guidelines direct prosecutors to prioritize cases involving serious "misconduct that bears strong indicia of corrupt intent tied to particular individuals, such as substantial bribe payments, proven and sophisticated efforts to conceal bribe payments, fraudulent conduct in furtherance of the bribery scheme, and efforts to obstruct justice."[6] FCPA investigations and enforcement will no longer penalize "alleged misconduct involving routine business practices or the type of corporate conduct that involves de minimis or low-dollar, generally accepted business courtesies."[7]

A few other things of note are mentioned in the Guidelines. No single factor is dispositive and prosecutors will still consider the policies and factors outlined in the Principles of Federal Prosecution.[8] In keeping with the Trump administration's focus on individual accountability, the Guidelines instruct prosecutors to focus on cases in which individuals have engaged in criminal misconduct, rather than attributing "nonspecific malfeasance to corporate structures."[9] The Guidelines also indicate that the DOJ will not pursue relatively low-dollar "generally accepted business courtesies," and will

instead focus on matters involving substantial bribe payments, efforts to conceal bribes, fraudulent conduct, and obstruction of justice.[10] Lastly, the Guidelines direct prosecutors to consider the likelihood that an appropriate foreign law enforcement authority is willing and able to investigate and prosecute the same alleged misconduct.[11] The DOJ appears poised to defer to foreign authorities where misconduct does not implicate the U.S. interests highlighted in the Guidelines and the misconduct can be effectively prosecuted by foreign authorities.

In keeping with the Trump administration's business-friendly approach, these guidelines seek to minimize business disruptions for U.S. companies. While the Guidelines emphasize a focus on harm to U.S. companies and individuals, suggesting that the DOJ may be less interested in pursuing cases against U.S. companies, prosecutors are instructed not to focus on the nationality of the potentially culpable party.[12] Where the DOJ does launch an investigation against a U.S. company, the Guidelines instruct prosecutors to "proceed as expeditiously as possible" in their investigations.[13] Prosecutors are similarly instructed to consider the collateral consequences of their investigations, such as the "potential disruption to lawful businesses and the impact on a company's employees."[14]

The Guidelines require the Assistant Attorney General for the Criminal Division or a higher-ranking DOJ official to approve all new FCPA investigations and enforcement actions.[15] The previous policy permitted the DOJ's Fraud Section and the FCPA Unit to initiate and pursue investigations independently. This new requirement ensures that DOJ leadership can oversee FCPA enforcement to align with the Guidelines and administration priorities. While it remains to be seen how the DOJ will implement the Guidelines in practice, the Guidelines suggest that the DOJ will continue to enforce the FCPA but will hone its focus on a narrower range of misconduct than prosecutors have previously targeted. It is also unclear whether the SEC will follow a path similar to the DOJ, as the Commission has not formally announced any changes to its FCPA enforcement policy.

New DOJ Playbook on White-Collar Enforcement

On May 12, 2025, the DOJ released a new playbook on white-collar crime and announced updated enforcement priorities for the Criminal Division.[16] The new memorandum specifies 10 priority areas for white-collar enforcement, highlighting crimes that pose significant threats to U.S. interests. These areas include:

- Waste, fraud, and abuse, including healthcare fraud and federal program and procurement fraud that harm the public fisc.
- Trade and customs fraud, including tariff evasion.
- Fraud perpetrated through variable interest entities, including, but not limited to, offering fraud, "ramp and dumps," elder fraud, securities fraud, and other market manipulation schemes.
- Fraud that victimizes U.S. investors, individuals, and markets including, but not limited to, Ponzi schemes, investment fraud, elder fraud, service member fraud, and fraud that threatens the health and safety of consumers.
- Conduct that threatens national security, including threats to the U.S. financial system by gatekeepers, such as financial institutions and their insiders that commit sanctions violations or enable transactions by cartels, TCOs, hostile nation-states, and/or foreign terrorist organizations (FTOs).
- Material support by corporations to FTOs, including recently designated drug cartels and TCOs.
- Complex money laundering, including Chinese money laundering organizations and other organizations involved in laundering funds used in the manufacturing of illegal drugs.
- Violations of the Controlled Substances Act and the Federal Food, Drug, and Cosmetic Act, including the unlawful manufacture and distribution of chemicals and equipment used to create counterfeit pills laced with fentanyl and unlawful distribution of opioids by medical professionals and companies.
- 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 foreign corrupt officials.
- Crimes involving digital assets that (1) victimize investors and consumers, (2) use digital assets in furtherance of other criminal conduct, and (3) constitute willful violations that facilitate significant criminal activity, with an emphasis on cases that impact victims, involve drug cartels, TCOs, or terrorist groups, or facilitate drug money laundering or sanctions evasion.[17]

In addition to the DOJ's new playbook, the DOJ released several additional policies, including the revised CEP, discussed further herein, a new Memorandum on the Selection of Monitors in Criminal Division Matters (Monitor Memorandum), and an updated Corporate Whistleblower Awards Pilot Program (Whistleblower Program).

The Monitor Memorandum significantly revises the DOJ's approach and policy regarding the use of independent compliance monitors in corporate resolutions.[18] In prior years, the DOJ required the imposition of an independent compliance monitor to oversee remediation and enhancement of corporate compliance programs. The DOJ now takes that position that the "value monitors add is often outweighed by the costs they impose."[19] The new guidance directs prosecutors to consider the following factors before imposing a monitor:

- Risk of recurrence of criminal conduct that "significantly impacts U.S. interests" – such as sanctions evasion, trade fraud and tariff evasion, foreign bribery, or crimes related to cartels or TCOs – and whether the potential of the recurrent conduct would be sufficiently mitigated by imposition of a monitor.
- Availability of independent government oversight, including whether a company is regulated by other governmental bodies in the U.S. or abroad.
- Efficacy of the compliance program at the company and the company's culture of compliance.
- Maturity of the company's controls and its ability to independently test and update its program.[20]

The costs of a monitorship must be proportionate to the underlying criminal conduct as well as the company's size and risk profile.[21] If a prosecutor believes that the benefits of monitorship outweigh the cost, they must secure approval from their supervisors, including the Section Chief and the Assistant Attorney General for the Criminal Division.[22] Consequently, the use of monitors will likely decline, as the required considerations will likely lead prosecutors to conclude that the costs of a monitorship exceed its benefits.

In addition, the Whistleblower Program has been expanded to encompass several of the DOJ's key areas of corporate enforcement. The Whistleblower Program, formally launched in August 2024, initially covered four categories of misconduct: (1) misconduct involving financial institutions; (2) foreign corruption; (3) domestic corruption involving bribes or kickbacks to government officials; and (4) healthcare fraud involving private insurance plans. The revised Whistleblower

Program, which leaves the structure of the program largely unchanged, now expands the categories of covered misconduct to include: (1) procurement and federal program fraud; (2) trade, tariff, and customs fraud by corporations; (3) violations of federal immigration law by corporations; and (4) corporate sanctions violations, including those involving material support of FTOs, drug cartels, and TCOs, as well as money laundering, narcotics, and Controlled Substances Act violations.[23]

Revised CEP

In May 2025 the DOJ revised the CEP to increase transparency regarding the benefits for companies that self-disclose misconduct, offering them a "clear path" to avoid prosecution.[24] Under Part I of the CEP, the DOJ will decline to prosecute a corporation for criminal conduct when the company voluntarily discloses the conduct, fully cooperates with the investigation, timely and appropriately remediates, and does not have any aggravating circumstances.[25] This is a change from the previous CEP, which only granted companies a *presumption* of declination if all of the criteria was met. As a condition of a CEP declination, the company must pay all relevant disgorgement or forfeiture amounts, as well as restitution or victim compensation payments resulting from the misconduct.[26]

Companies that do not meet the criteria for a declination can still benefit under the revised CEP. Where aggravating circumstances are present, prosecutors have the discretion to recommend a CEP declination based on the severity of the circumstances and the company's cooperation and remediation efforts.[27] The CEP does not specifically define what conduct will be considered aggravating; however, factors include the nature and seriousness of the offense, the egregiousness or pervasiveness of the misconduct, the severity of harm caused by the misconduct, and whether the company has been subject to criminal adjudication or resolution for similar conduct within the last five years.[28]

Companies that timely and appropriately remediate and self-report misconduct in good faith, but fail to meet the voluntary self-disclosure requirements laid out in Part I, will qualify for "near miss" treatment under Part II of the CEP. This treatment results in a non-prosecution agreement with a term of three years or less, no independent compliance monitorship, and a 75% reduction off the low end of the U.S. Sentencing Guidelines range.[29] Previously, the policy permitted prosecutors to recommend a fine reduction of 50 to 75% off the low end of the Guidelines range. This change, particularly the removal of the monitor requirement, is consistent with other policies announced by the DOJ, as discussed above.

Under Part III of the CEP, for companies that do not qualify for a declination under Part I or "near miss" status under Part II, but appropriately cooperate and remediate misconduct, prosecutors have the discretion to determine the appropriate resolution, including the form, term length, compliance obligation, and monetary penalty.[30] Regarding the monetary penalty, there will be a presumption that the fine prosecutors impose will be taken from the low end of the Guidelines range.[31] However, the company will not be eligible for more than a 50% reduction in the fine.[32]

Like its previous iteration, the revised CEP encourages voluntary self-disclosure of potential wrongdoing at the earliest possible time, even when a company has not yet completed an internal investigation. Notably, however, the revised CEP introduces a new definition of voluntary self-disclosure. Under this new definition, a disclosure is considered voluntary so long as the company has no preexisting obligation to report the misconduct to the DOJ.[33] Under the previous version of the CEP, a disclosure was not deemed voluntary if any preexisting obligation to disclose existed, such as those arising from industry-specific regulations. Further, if a whistleblower reports misconduct both to the company and to the DOJ, the company can still avoid prosecution under the CEP.[34] This applies even if the DOJ is notified by the whistleblower before the company acts – if the company reports the misconduct to the DOJ within 120 days of the internal whistleblower report and meets the other requirements for voluntary self-disclosure.

Cracking Down on Drug Cartels and TCOs

The Trump administration has placed a significant emphasis on combating the opioid crisis, with a particular focus on eradicating fentanyl trafficking. Recognizing that the "deadly activities of drug cartels and transnational organizations are enabled by international money laundering organizations and other financial facilitators," the administration has ramped up efforts to dismantle these networks.[35] During his inauguration ceremony, President Trump promised to designate drug cartels and TCOs as FTOs and Specially Designated Global Terrorists (SDGTs). That same day, President Trump issued Executive Order 14157, "Designating Cartels and Other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists," to initiate the process.[36] Shortly thereafter, on February 5, 2025, the Attorney General issued a Memorandum calling for the "Total Elimination of Cartels and Transnational Criminal Organizations" and ordered prosecutors to realign their priorities and resources to address this policy imperative.[37] The Secretary of State designated eight drug cartels and TCOs as FTOs and SDGTs making it illegal for any U.S. person or anyone subject to the jurisdiction of the United States to knowingly provide material support or resources to any of these organizations.[38] The DOJ has already begun filing material support charges based on the new designations – bringing three indictments charging individual defendants alleged to be leaders or members of drug cartels or TCOs with providing material support to these newly-designated FTOs.[39] These swift indictments suggest that prosecutors are moving quickly to bring charges in connection with the February 20 designations.

While the DOJ has yet to bring an enforcement action against a corporation for providing material support to an FTO or SDGT, a company could find themselves the subject of a criminal investigation if they pay protection fees to a designated organization or provide a designated organization with goods or services. In addition, as noted in other sections, connections to cartels and TCOs could invite unwanted scrutiny from DOJ officials. For example, under the revised FCPA Guidelines, a "primary factor" prosecutors will consider when deciding to initiate an investigation or prosecution is the extent to which the conduct has a connection to the criminal operations of a cartel or TCO.[40] In order to avoid unwanted attention, companies should update their compliance programs – including their internal reporting procedures – to focus on this new priority area.

Increased Scrutiny on Tariff Evasion

Tariffs have been a cornerstone of the Trump administration's trade strategy, and there are increasing indications that the DOJ is intensifying its scrutiny of companies that evade U.S. tariffs. As outlined in the preceding sections, the DOJ's May 12 memorandum on enforcement priorities directs prosecutors to explicitly target individuals and companies involved in tariff evasion.[41] Tariff evasion has been elevated

to a priority subject area within the revised Whistleblower Program, underscoring the DOJ's commitment to addressing these violations.[42] Prosecutors are already moving quickly to execute these new priorities through enforcement actions and settlement agreements.

The DOJ is stepping up enforcement against tariff evasion and customs fraud through the False Claims Act (FCA). On July 23, 2025, the DOJ announced that two subsidiaries of MGI International LLC, Global Plastics LLC and Marco Polo International LLC, agreed to pay $6.8 million in civil penalties to resolve civil liability under the FCA for knowingly failing to pay customs duties on plastic resin imported from China.[43] On July 24, 2025, the DOJ announced that another company, Grosfillex Inc., had agreed to pay a $4.9 million penalty to resolve allegations that the company violated the FCA and other statutes by evading antidumping and countervailing duties on items made of aluminum originating from China.[44] In both settlements, the DOJ warned companies that it would pursue those companies, "who seek an unfair advantage in U.S. markets by attempting to evade paying the customs, duties, or tariffs on foreign imports."[45]

In addition to ramping up enforcement, the DOJ has implemented several organizational changes underscoring its heightened focus on tariffs. Notably, the DOJ's Market Integrity and Major Frauds Unit, which has traditionally prosecuted complex financial crimes, has now been directed to prioritize trade fraud. To strengthen the Fraud Section, the DOJ has integrated personnel from its Consumer Protection Branch into the Market Integrity and Major Frauds Unit, increasing the total number of staff dedicated to combating tariff evasion.

A Crypto-Friendly Administration

For years, proponents of digital assets have criticized "regulation by enforcement" by the SEC and other regulatory agencies, arguing that reliance on enforcement actions to regulate digital assets has resulted in an environment hostile to innovation and conducive to fraud. President Trump has answered their rallying cry, and has promised to "end the regulatory weaponization against digital assets" and has issued several executive orders directing prosecutors and regulators to align cryptocurrency enforcement with the administrations priorities.[46] Three days after his inauguration, President Trump issued Executive Order 14178, which states that the administration will protect and promote "(1) the ability of individual citizens and private-sector entities alike to access and use for lawful purposes open public blockchain networks without persecution and (2) fair and open access to banking services for all law-abiding individual citizens and private-sector entities alike."[47] Executive Order 14178 also established the "President's Working Group on Digital Asset Markets," chaired by the Special Advisor for AI and Crypto, and consisting of representatives from the SEC, DOJ, and number of other federal departments and offices.[48] The working group is tasked with submitting recommendations for regulatory and legislative proposals for digital assets.

The SEC has undergone a change in tone with respect to cryptocurrency, with several pro-crypto Commissioners leading the agency, such as Commissioner Hester Peirce – who has been long dubbed "crypto mom" by the industry. The day after the inauguration, then acting Chair Mark Uyeda announced the formation of the SEC's Crypto Task Force, led by Commissioner Peirce.[49] The task force's work can be categorized into two main areas: (1) identifying what is specifically covered by existing federal securities laws and thereby falls under the SEC's jurisdiction; and (2) devising more practical solutions for crypto market participants under the SEC's jurisdiction to either register with the commission or operate within the boundaries of the securities laws.[50] Further, on February 20, 2025, the SEC announced the establishment of the Cyber and Emerging Technologies Unit, which replaces the Enforcement Division's Crypto Assets and Cyber Unit.[51] This rebranded and significantly downsized unit will "focus on combatting cyber-related misconduct and protecting retail investors from bad actors in the emerging technologies space," including AI, machine learning, blockchain technology, and cryptocurrency.[52]

Moving forward, it is likely that SEC enforcement efforts in the digital asset space will be limited to cases involving fraud and manipulation. Along these lines, the agency has systematically closed or dismissed ongoing enforcement matters based on non-fraud regulatory violations. For example, in February 2025, the SEC announced that it was dismissing its ongoing civil enforcement action against Coinbase.[53] In announcing the dismissal, the SEC stated that it was ending its longstanding practice of regulation by enforcement, with then acting Chair Uyeda noting that in prior years the "Commission's views on crypto [has] been largely expressed through enforcement actions without engaging the general public," and that it was "time for the Commission to rectify its approach and develop crypto policy in a more transparent manner" through the Crypto Task Force.[54]

Similarly, the DOJ has ended its practice of "regulation by prosecution," and on April 7, 2025, the DOJ issued a memorandum instructing federal prosecutors to cease pursuing "litigation or enforcement actions that have the effect of superimposing regulatory frameworks on digital assets," noting that regulators and not prosecutors will "do this work outside the punitive criminal justice framework."[55] Under the new policy, the DOJ will prioritize investigations and prosecutions involving individuals who defraud investors in digital assets or who use digital assets in furtherance of other crimes, including offenses related to terrorism, narcotics trafficking, human trafficking, organized crime, hacking, and cartel and gang financing.

The memorandum instructs prosecutors to consider several factors when deciding whether to pursue criminal charges involving digital assets.[56] First, prosecutors will prioritize investigations and enforcement actions against individuals who: (a) cause financial harm to investors and consumers; and/or (b) use digital assets in furtherance of criminal conduct. Second, prosecutors will not charge "regulatory violations" in cases involving digital assets – defined to include unlicensed money transmitting, violations of the Bank Secrecy Act, unregistered securities offering violations, unregistered broker-dear violations, and other violations of the registration requirements under the Commodity Exchange Act – unless there is evidence the defendant knew of the licensing or registration requirement and willfully violated it. Finally, prosecutors are instructed not to charge violations of the Securities Act of 1933, the Securities Exchange Act of 1934, the Commodity Exchange Act, or the regulations promulgated pursuant to these acts in cases where (a) the charge would require the DOJ to litigate whether a digital asset is a security or commodity, and (b) there is an adequate alternative criminal charge available. Prosecutors who pursue cases that involve exceptions to these policies must first obtain approval from the Deputy Attorney General.

The memorandum also disbanded the DOJ's National Cryptocurrency Enforcement Team and instructed the Fraud Section's Market Integrity and Major Frauds Unit to cease cryptocurrency enforcement.[57] Nonetheless, the DOJ's criminal

enforcement involving cryptocurrency will continue and the DOJ will pursue and prioritize crypto cases involving investment frauds and other fraud schemes involving cryptocurrency that victimize investors, as well as money laundering and illicit finance schemes involving cryptocurrency, particularly where such schemes relate to drug cartels, TCOs, human trafficking and human smuggling, or terrorism.[58] For example, in March 2025, in coordination with European law enforcement, the DOJ seized the assets of Russian cryptocurrency exchange Garantex, due to its alleged sanctions violations and facilitation of money laundering by TCOs.[59] And in June 2025, the DOJ indicted Iurii Gugnin, the founder of the cryptocurrency company Evita, for defrauding financial institutions, violating the Bank Secrecy Act, and evading sanctions and export controls.[60] The government alleged that "Gugnin's cryptocurrency company allegedly served as a front to launder hundreds of millions of dollars for sanctioned Russian entities and to obtain export-controlled technology for the Russian government."[61]

AI

Another area of focus for the DOJ and SEC in recent years has been AI, specifically "AI washing," where a company makes unfounded claims regarding its AI use and capabilities. Senior officials at the DOJ and SEC have repeatedly warned that the misrepresentation of AI capabilities and the misuse of AI will be scrutinized moving forward with increased seriousness. For example, in April 2025, the SEC and DOJ charged Albert Saniger, founder and former CEO of Nate, Inc., with engaging in a scheme to defraud investors and prospective investors of Nate by making false and misleading statements about Nate's use of AI technology and its operational capabilities.[62] The government alleged that Saniger marketed Nate as a mobile shopping application that used automated technology that relied on AI to complete purchases made through the app without human involvement, when in reality it relied on contract employees based in the Philippines and Romania to manually input orders placed by users on the app.

Of note, in September 2024, the DOJ released an updated Evaluation of Corporate Compliance Programs (ECCP).[63] Initially published in 2017, the ECCP outlines the factors that prosecutors will consider when assessing the compliance program of a company involved in a criminal enforcement action. Relevant here, the revised ECCP includes new criteria that prosecutors will rely on when evaluating how companies assess and manage the risks associated with the use of emerging technologies, both within their business operations and their compliance programs. In their evaluations, prosecutors will consider:

- Whether and how the company evaluates the potential impact of new technologies like AI, including their effect on the company's ability to comply with criminal laws.
- Whether the company has implemented controls to ensure technologies are used solely for their intended purposes and has taken steps to mitigate risks associated with new technologies.
- Whether the management of risks related to the use of AI and other new technologies is integrated into the company's broader enterprise risk management strategies.
- The company's approach to governance regarding the use of new technologies.
- If AI is used in the company's compliance program, whether controls are in place to ensure the technology's trustworthiness, reliability and compliance with applicable law.
- The baseline of human decision-making used to assess AI.
- How accountability for the use of AI is monitored and enforced.
- How the company trains its employees on the use of emerging technologies.[64]

Similar to its approach with cryptocurrencies, the SEC is adopting a more comprehensive regulatory strategy for AI. The newly established Cyber and Emerging Technologies Unit will be concentrating on "AI washing" and cases of fraud committed using AI and machine learning.[65] This includes holding roundtables with industry participants to evaluate regulatory issues surrounding the use of AI.[66] Topics of discussion include potential conflicts of interest arising from the use of AI by investment advisers and broker-dealers, new methods by which AI could facilitate fraud and market manipulation, and steps companies can take to implement governance and risk-management procedures related to AI.

Conclusion

The DOJ and SEC's recent overhaul of white-collar enforcement policies signifies a pivotal shift in their approach to corporate crime, aligning their goals with broader administration priorities. Many of these changes are clearly more business-friendly, particularly toward U.S companies, than have been seen in prior administrations. This includes a more supportive regulatory environment for digital assets and a focus on minimizing disruptions to legitimate business operations and conduct that harms U.S. interests. However, the SEC and DOJ are paying special attention to issues that align with overall administration priorities, and we can expect to see continued investigation and enforcement in areas involving drug cartels and TCOs, fraud, tariffs, and other areas of interest. It remains to be seen how the revised FCPA will be implemented in practice, and whether the SEC will adopt the same factors as the DOJ, but it is likely FCPA enforcement will continue, particularly where the conduct at issue harms U.S. national security interests or involves a nexus to drug cartels and TCOs. For companies that identify misconduct before prosecutors initiate an investigation, the revised CEP provides a clearer path to avoiding prosecution for those companies that voluntarily disclose wrongdoing, fully cooperate with investigations, and take timely remedial actions. The evolving regulatory environment underscores the necessity of robust compliance programs capable of adapting to new guidelines and withstanding increased scrutiny. Businesses must remain vigilant and proactive in their compliance efforts.

Disclaimer

Any views expressed in this publication are strictly those of the authors and should not be attributed in any way to White & Case LLP.

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