

National Fraud Enforcement Division Issues New Memorandum Outlining Priorities, Capping Two-Year Evolution of Approach to Corporate Enforcement

Client Alerts

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Since last year, the Department of Justice (DOJ) has issued a series of memoranda and policies developing and refining its corporate fraud enforcement priorities. Recently, in April 2026, DOJ announced the creation of the National Fraud Enforcement Division (NFED or the Division)—whose “core mission” is to “zealously investigate and prosecute those who steal or fraudulently misuse taxpayer dollars”—and it has been rapidly expanding ever since. In August 2026, the NFED issued a memo identifying five principal enforcement areas: public trust and financial integrity, health care, internal revenue, global trade and commerce, and corporate misconduct. Most recently, on October 1, 2026, Assistant Attorney General McDonald issued Directive 26-12, *“Corporate Enforcement in the Fight Against Fraud”* (the October Memorandum). The October Memorandum sets out the NFED’s approach to corporate enforcement, doubling down on the previously identified priority enforcement areas, and identifying ten factors that will drive the NFED’s charging and resolution decisions. In addition, the memo empowers the NFED’s new Corporate Enforcement Section to play a leading role in all its corporate cases, calls for new whistleblower programs, and emphasizes the role that data analytics will play in its drive to identify new cases.

I. Prior DOJ Fraud Enforcement Announcements

May 2025: The Galeotti Memorandum

On May 12, 2025, Matthew Galeotti, then Head of the Criminal Division, issued a memorandum titled *“Focus, Fairness, and Efficiency in the Fight Against White-Collar Crime”* (the Galeotti Memorandum), laying out the Criminal Division’s white-collar enforcement priorities. The Criminal Division was instructed to focus on a number of traditional areas of white-collar enforcement, as well as certain “high-impact” priority areas, including: (1) matters involving national security, such as those related to sanctions, foreign terrorist organizations, and cartels; (2) health care fraud; (3) government fraud and waste; and (4) trade and customs fraud.

The Galeotti Memorandum also announced several other notable policy changes:

- A simplified Criminal Division Corporate Enforcement Policy (CEP) that mandates declinations and non-prosecution agreements for companies that voluntarily disclose, cooperate, and remediate, and that increases benefits for companies with “near miss” voluntary disclosures.
- A review of all existing corporate agreements and monitorships to determine whether they should be terminated early.
- Updated guidance limiting monitors to cases in which they are “necessary,” requiring that monitorships be “narrowly tailored,” and imposing guardrails on monitor costs.
- An expansion of the Criminal Division’s Corporate Whistleblower Awards Pilot Program to include tips related to Administration priorities.
- A call for shorter, more efficient investigations and a continued focus on prosecuting individuals.

August 2026: The McDonald Memorandum

On August 13, 2026, Assistant Attorney General for the National Fraud Enforcement Division, Colin McDonald issued a memorandum titled *“The Fraud Division’s Enforcement Priorities”* (the McDonald Memorandum), which outlined the NFED’s new structure and identified five enforcement priorities. These priorities largely mirrored the priorities included in the Galeotti Memorandum: (1) public trust and financial integrity, (2) health care, (3) internal revenue, (4) global trade and commerce, and (5) corporate misconduct.

Read together, these pronouncements trace a clear line from the Galeotti Memorandum to a dedicated Division focused on health care, government, tax, and trade fraud—priorities the October Memorandum, discussed below, distilled into five categories for corporate investigations.

II. Most Recent Developments: October Memorandum

The October Memorandum largely restated and consolidated priorities the NFED has signaled since its creation, stating that it will “zealously prosecute corporate actors that defraud taxpayers.” At the same time, it will “firmly guard against overbroad corporate enforcement—rightly dividing between shades of corporate malfeasance—[to avoid] interfer[ing] with legitimate business operations.” The memo also identified four areas of fraud the Division will prioritize, enumerated standards for determining what qualifies as “serious” misconduct, and stressed the importance of the DOJ-wide Corporate Enforcement and Voluntary Self-Disclosure Policy announced in March 2026¹. The memo also formalized the role of the Division’s Corporate Enforcement Section (CES) and stressed DOJ’s focus on voluntary disclosure and on generating more cases through data and whistleblowers.

Reiterating Priority Areas for DOJ Fraud Enforcement

Consistent with prior DOJ guidance, the October Memorandum reiterated that NFED prosecutors “should prioritize” the following categories of fraud schemes, and we have already seen this play out in practice, with DOJ bringing significant actions in each of the announced priority areas throughout this year:

- **Health care fraud**, including distribution of controlled substances and violations of the Federal Food, Drug, and Cosmetic Act. On June 23, 2026, the Division’s National Health Care Fraud Takedown resulted in charges against 455 defendants, reflecting the priority’s translation into one of the Division’s largest coordinated enforcement actions to date.
- **Fraud implicating public trust or the financial integrity of American markets**, including procurement and government-contract fraud. DOJ’s resolution of criminal antitrust and fraud charges against EBLOCK Corporation for a bid-rigging scheme on January 29, 2026—one of the newly expanded whistleblower categories—resulted in a \$1 million whistleblower payout, illustrating how market-integrity cases are now being paired with the NFED’s whistleblower incentive structure.
- **Fraud involving significant evasion of internal or external revenue**, including taxpayer-funded benefit programs. On May 6, 2026, DOJ secured sentences against two Orlando residents, Rene Mauricio Escobar and Juana Nelida Escobar, for conspiracy to commit tax fraud and wire fraud arising out of a \$148 million construction payroll scheme. Operating through their company, Escobar Plastering, the defendants facilitated the payment of construction workers “off the books” for hundreds of subcontractors, depositing payroll checks totaling approximately \$148.8 million into company accounts and disbursing cash to workers without withholding or remitting payroll taxes.
- **Fraud involving tariff evasion, importation of goods or services, or forced labor**. The NFED’s Trade Fraud Task Force announced its largest public recovery to date on May 12, 2026, a \$549.5 million civil False Claims Act settlement with Perfectus Aluminum Inc. and affiliated companies, resolving allegations of antidumping and countervailing duty evasion on Chinese aluminum extrusions.
- **Fraud related to sanctions evasion and export control violations**. DOJ’s enforcement in this space has been significant in the past year, including a March 19, 2026, indictment of three individuals for allegedly conspiring to divert restricted AI technology to China.

Coordinating Activities Through the Corporate Enforcement Section

The October Memorandum clarified that CES will serve a Division-wide coordinating and oversight function over the NFED’s corporate docket across Main Justice and the US Attorneys’ Offices. It will also have “primary responsibility for evaluating a company’s compliance with the terms of any corporate criminal resolution.” The memo directed all NFED prosecutors to work with CES “at all

phases of corporate investigations, from case intake through completion of any corporate resolution or litigation.”

Providing Additional Detail on DOJ’s Focus on “Serious” Misconduct

The October Memorandum elaborated on DOJ’s longstanding focus on corporate fraud that is “serious and pervasive.” In doing so, the Department is focusing on longstanding conduct or conduct with widespread impact, and instances in which leadership was aware of or involved in the misconduct.

The Memorandum also enumerated ten factors on which prosecutors “must place great weight” in deciding whether to charge a company and in negotiating plea or other agreements: (i) knowledge or involvement of corporate management; (ii) efforts to conceal misconduct from regulators or auditors, or to obstruct a government function; (iii) conduct lasting three years or more; (iv) conduct threatening the safety or security of Americans, including military readiness; (v) conduct causing substantial financial harm to a taxpayer-funded program; (vi) conduct affecting multiple taxpayer-funded programs; (vii) conduct spanning three or more federal districts; (viii) conduct resulting in 25 or more victims or \$25 million or more in loss; (ix) conduct involving exfiltration of US dollars to support foreign adversaries; and (x) conduct involving immigration offenses. The Memorandum characterized this list as “non-exhaustive” and expressly preserved prosecutorial discretion to weigh “any other relevant factor” consistent with the Justice Manual.

Doubling Down on Data and Whistleblowers

Citing the Division’s use of “state-of-the-art technology” and “data analytics” through the National Fraud Detection Center to generate leads, the October Memorandum directed NFED leadership to design and implement new policies to incentivize whistleblowers—expressly including those who “participated in the criminal conduct”—to bring forward credible information. This reiterates and builds on the NFED’s prior expansion of the DOJ Corporate Whistleblower Awards Pilot Program.

III. What This Means for Clients

The October Memorandum and preceding guidance confirm that companies participating in, or receiving funds from, taxpayer-funded programs face a heightened risk of investigation. With a growing Division of approximately 500 lawyers and staff, and a National Fraud Detection Center generating leads from data analytics, companies should assume that potential misconduct in the NFED’s priority areas is more likely to be detected, and detected sooner, than in the past.

Companies Receiving Federal Funds Should Conduct a Compliance Review

Organizations that should expect increased scrutiny include:

- ***Government contractors.*** Government contractors, including those in the defense sector, should expect procurement fraud, including bid rigging, defective pricing, product substitution, and billing

fraud, to remain a top priority. The Memorandum's inclusion of conduct threatening military readiness as an aggravating factor, the Criminal Division's May 2025 expansion of its whistleblower awards program to corporate procurement fraud, and the Memorandum's call for new NFED whistleblower incentives only clarify this further.

- **Higher education and research institutions.** Universities, medical schools, academic medical centers, and federally funded research institutions fall within the McDonald Memorandum's focus on fraud against government grant and benefit programs and should review the accuracy of representations and certifications made in connection with federal funding.
- **Health care organizations.** Hospital systems, home health and hospice operators, and clinical laboratories that bill Medicare and Medicaid remain a central focus of the Division's enforcement efforts, as illustrated by the June 2026 National Health Care Fraud Takedown. Pharmaceutical and medical device manufacturers should also note the Memorandum's express inclusion of controlled substance distribution and violations of the Federal Food, Drug, and Cosmetic Act.
- **Importers and companies with global supply chains.** Companies importing goods into the US should expect continued scrutiny of transshipment, valuation, country-of-origin, and forced labor issues through the Trade Fraud Task Force.
- **Financial institutions in government lending programs.** Banks and other lenders participating in Small Business Administration guarantee programs, including the Paycheck Protection Program, may also face scrutiny under the Division's program fraud priorities.

Organizations falling into these categories should review their compliance programs, internal controls, and reporting practices, focusing on billing, tariff and customs records, and representations to government programs, and consider using data analytics internally to spot anomalies before the government does.

Focus on Data Analytics

The NFED has repeatedly emphasized that it will increasingly rely on data analytics to identify fraud. The Division has a dedicated National Fraud Detection Center that is intended to “detect[] and investigate[]” across taxpayer-funded programs.

In-house legal and compliance teams should, therefore, make sure they are focused on identifying, collecting, and tracking the data the government is likely to analyze—such as billing and claims data, pricing and invoicing data, and import and customs records—and on using that data to monitor for anomalies, so that potential issues can be identified and addressed before they surface in a government inquiry.

Engage Senior Management

The first factor that the October Memorandum directs prosecutors to “place great weight” on in deciding whether to charge a company is the knowledge or involvement of corporate management. Boards and senior leadership should be briefed on the Directive and its implications and should ensure that legal and compliance functions are aligned and resourced to respond promptly to government inquiries, subpoenas, and civil investigative demands.

Consider Disclosure When Warranted and Seek Counsel

Corporations should also ensure that they have a robust mechanism to allow internal whistleblower reporting and a process for internal investigations to validate those reports.

Voluntary self-disclosure remains the clearest path to a CEP declination, but the window is narrowing. The NFED’s data analytics and planned whistleblower incentives make it more likely that the government will learn of misconduct first. If a whistleblower also reports to the Department, the company must self-report as soon as reasonably practicable, and no later than 120 days after the internal report, to remain eligible for a declination. Companies should promptly escalate and investigate internal reports and, with counsel, weigh the CEP’s benefits against risks such as parallel False Claims Act exposure.

IV. Conclusion

The latest DOJ memorandum reemphasized the fraud enforcement priorities that this Administration has consistently conveyed. It also provided significantly more detail on what it means to focus on serious misconduct, and the way in which corporate fraud enforcement will be coordinated across the entire Department.

We have seen the priorities enumerated in this, and former, DOJ pronouncements, and expect to continue to see enforcement focused on these named areas. We will continue to monitor developments in this space and provide updates as additional details develop. Clients with questions should not hesitate to reach out to any member of our Investigations, Compliance, and Defense and Government Contractor Litigation and Compliance practices.

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