

Department of Justice Enforcement Trends

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Criminal Division Memo on Enforcement Priorities (May 2025)

- Priorities include:
 - “waste, fraud and abuse, including healthcare fraud and federal program and procurement fraud that harm the public fisc.”
 - trade/customs evasion, U.S. investor harm and market-manipulation, national security and sanctions-related misconduct, drugs, complex money laundering, and bribery tied to U.S. interests

False Claims Act enforcement remains robust

- Since January 20, 2025, DOJ has brought and settled dozens of FCA actions, routinely securing multimillion dollar settlements.
 - In FY2025, DOJ FCA settlements and judgements totaled more than \$6.8B.
- FCA enforcement has focused on several key areas:
 - Healthcare, particularly fraudulent and dishonest practices in Medicare and Medicaid billing;
 - Pandemic relief programs, such as the provision of false information in connection with Paycheck Protection Program loans;
 - Diversity, equity and inclusion (“DEI”) programs; and
 - Defense sector, such as the submission of false cybersecurity certifications by defense contractors.

Corporate enforcement policies and priorities (cont.)

First department-wide Corporate Enforcement and Voluntary Self-Disclosure Policy

- All DOJ's corporate criminal cases (except antitrust)
- Offers a declination with no penalties and no monitor to companies that voluntarily self-disclose, fully cooperate, and timely and appropriately remediate – absent aggravating circumstances
 - DOJ still maintains discretion to issue declination even when aggravating circumstances are present (such as pervasiveness or egregiousness of misconduct or recidivism)
 - Absent a declination, or where a company has a “near-miss” voluntary disclosure, the company is eligible for a non-prosecution agreement with a potentially shortened term and a discount of 50–75% off the otherwise applicable fine, as well as no monitor
- Policy published March 2026

Foreign Corrupt Practices Act

Executive Order on FCPA

- 180-day review of FCPA cases by the Attorney General
- No new FCPA investigations or enforcement actions were initiated. Existing FCPA investigations were paused. After review, some were dismissed, while others were cleared to move forward
- Called for guidelines to “prioritize American interests, American economic competitiveness with respect to other nations, and the efficient use of Federal law enforcement resources”

Guidelines indicate focus on U.S. interests

- **Four non-exhaustive factors** in determining whether to investigate or bring an enforcement action:
 - 1) **Cartel / TCO Connections**, 2) **Perpetrator Competes with U.S. Company**, 3) **Case impacts U.S. National Security**, and 4) **Cases of Serious Misconduct** where the corrupt intent is clear, the amount of bribes is significant, and/or the scheme involved concealment or obstruction
- **Relatively consistent approach to enforcement since the Guidelines came out:**
 - Typical corporate resolutions with no clear indication of narrower focus
 - Continued individual cases

Securities and Exchange Commission Enforcement Trends

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Statistics and priorities

- **Drop in enforcement actions**
 - 456 enforcement actions (2025) vs. 583 enforcement actions (2024)
- **Shift in priorities**
 - Enforcement will center on traditional securities violations like fraud and market manipulation
 - Cross-Border Task Force created in September 2025 to address foreign fraudsters threats
 - Cyber and Emerging Technologies Unit created in February 2025 to complement the work of the Crypto Task Force by combatting securities-related misconduct involving blockchain, AI, etc.
 - Emphasis on individual accountability aligns with focus on direct investor harm
 - 2/3 of the Commission's standalone actions filed in 2025 involved actions against individuals
 - Atkins supports "the move away from using enforcement as a tool for policymaking, and the return to the Commission's historical norms"

Enforcement Manual updates

- Updates to Enforcement Manual for first time since 2017
 - **A more transparent Wells process**
 - Recipients of a Wells notice will now have four weeks to make submissions and will meet with “senior leadership” within four weeks of receipt of a submission, which should focus on disputed factual or legal issues, address why the evidence will not satisfy the required legal elements, and assess litigation, policy, or programmatic risks posed by potential charges
 - Staff required to be “forthcoming” about the contents of the investigative file and make “reasonable efforts” to allow recipients to review relevant, non-confidential parts of the file
 - **Procedural changes that promote flexibility and predictability**
 - For example, the staff is asked to focus on specific aspects of securities laws when converting MUIs to investigations, adopt a more objective standard for action memos, avoid duplicative investigations, send termination letters to parties that made significant productions, protect witnesses’ sensitive information on background questionnaires, etc.