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October 13, 2025

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DOJ Policy Updates

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1. Revamped DOJ Criminal Fraud Section and New Cross-Agency Task Force Signal Aggressive Trade and Customs Fraud Enforcement

In July, the U.S. Department of Justice (DOJ) **announced** major changes to its Criminal Division's Fraud Section, reflecting a heightened focus on tariff fraud. The Market Integrity and Major Frauds Unit (MIMF Unit)—initially created to investigate financial fraud—received additional personnel and a new name: the Market, Government, and Consumer Fraud Unit (MGC Unit). In addition to its historic focus on market-based fraud and manipulation and procurement and program fraud offenses, MGC is now also tasked with prosecuting "individuals and companies who orchestrate criminal schemes to circumvent tariff and trade rules and regulations designed to protect American consumers and businesses." As such, MGC is part of the recently announced **Trade Fraud Task Force**, comprising attorneys from DOJ's Criminal and Civil Divisions and the Department of Homeland Security.

Both the revamped MGC Unit and the Task Force are consistent with the Trump administration's broader enforcement shifts, and align with DOJ's White Collar Enforcement Plan that **specifically outlined** "trade and customs fraud, including tariff evasion" as a high-priority area for enforcement.

2. DOJ and HHS Announce False Claims Act Working Group

On July 2, DOJ and the Department of Health and Human Services (HHS) **announced** the relaunch of a DOJ-HHS False Claims Act (FCA) Working Group, initially formed in 2020 under the first Trump administration. The announcement comes amidst heightened enforcement of the FCA as detailed in the **Civil Rights Fraud Initiative** and the **Civil Division Enforcement Priorities**.

The announcement highlights six enforcement priorities: (i) Medicare Advantage fraud; (ii) drug, device, or biologic pricing; (iii) kickbacks; (iv) unsafe, defective medical devices; (v) the manipulation of health records to defraud Medicare; and (vi) barriers to patient access. As part of the Working Group, HHS will make recommendations to DOJ regarding potential fraud risk and the two agencies will aim to collaborate to make ongoing investigations more efficient. Notably, the two agencies emphasized that they will more strongly rely on HHS resources and data mining tools to identify potential fraud, rather than depending primarily on *qui tam* cases, signaling a goal to source even more FCA investigations.

3. Antitrust Division Introduces First Ever Whistleblower Rewards Program

DOJ's Antitrust Division **announced** a new Whistleblower Rewards Program in partnership with the U.S. Postal Service (USPS) and USPS Office of Inspector General (USPS OIG), encouraging individuals to report "antitrust crimes and related offenses that harm consumers, taxpayers, and free market competition across industries from healthcare to agriculture." The program, which DOJ describes as "expand[ing] upon the Division's long-standing efforts to detect and prosecute cartels and criminal collusion," is currently limited to violations affecting USPS, though it remains to be seen how broadly DOJ and USPS will define the terms of the program.

Unlike other DOJ divisions that have existing whistleblower programs, the Antitrust Division has historically relied on its **Leniency Program**. The Leniency Program was created in 1993 and provides protections to organizations and individuals who self-report involvement in antitrust violations. In contrast to the Leniency Program, this new whistleblower program will allow individuals who come forward to potentially receive "substantial monetary rewards of up to 30% of any criminal fines recovered."

SEC Policy Updates

October 13, 2025

1. SEC, CFTC Aim to Foster Regulatory Collaboration

In a **joint statement**, Paul Atkins, Chair of the SEC, and Caroline Pham, the acting Chair of the Commodity Futures Trading Commission (CFTC), announced a new collaborative effort to achieve "greater harmonization" of their agencies' respective regulatory frameworks. The agencies stressed that coordination is especially critical now, as markets for securities and non-securities increasingly overlap, making their jurisdictions more intertwined and further underscoring the need for a unified approach.

Additionally, on September 29, 2025 the SEC and CFTC hosted a joint roundtable to discuss how to collaborate on new regulatory frameworks. **Topics** discussed included regulatory harmonization, including unlocking economic value for platforms while continuing to protect investors and increasing choices for market participants while reducing costs for investors. Nonetheless, questions remain about how the collaboration will translate into concrete rules or frameworks, even as it marks a significant step toward a more coordinated approach to market regulation.

2. SEC Enforcement Division Gets New Director

On September 2, 2025, Judge Margaret Ryan was sworn in as Director of the SEC Enforcement Division. **Prior to her appointment**, Judge Ryan served as a senior judge on the Armed Services Appellate Court since 2006, having been nominated by President George W. Bush. Judge Ryan succeeds acting Director Sam Waldon, who returned to his previous role as Chief Counsel of the Enforcement Division.

3. New Cross-Border Task Force Reinforces SEC's Focus on Foreign Company Oversight

On September 5, 2025, the SEC **announced** a new initiative—the Cross-Border Task Force— which will be part of the Enforcement Division and responsible for bringing enforcement actions against foreign-based companies committing fraud in U.S. markets and undermining U.S. investors.

The Cross-Border Task Force will: (i) target "pump and dump" and "ramp and dump" schemes, which involve illegally manipulating or inflating a stock's price to generate artificial gains before selling for profit; (ii) scrutinize gatekeepers—auditors, underwriters, and other intermediaries—who work with foreign companies and serve as the connection between them and U.S. capital markets; and (iii) focus on traditional securities law violations with a sharper cross-border lens, concentrating on foreign companies entering U.S. markets.

Notable Case Updates

October 13, 2025

1. SEC Dismisses FCPA Charges against Ex-Cognizant Executives

On the heels of DOJ's decision in April to dismiss FCPA charges against ex-Cognizant executives Steven Schwartz and Gordon Coburn, the SEC followed suit on July 15, 2025, dismissing its case against the executives. The case, which began in February 2019, alleged that the executives authorized a bribe to an Indian official in exchange for a permit to build a multi-million-square-foot office in Chennai, India. In 2019, Cognizant paid more than $30 million to resolve similar charges with the SEC and DOJ. The SEC described its decision to dismiss the case against the two executives as policy-based and not merits-based, suggesting that the SEC may be acting in step with the recently issued DOJ FCPA Guidelines.

Gina Castellano, Martin Weinstein, and Laura Perkins recently wrote an article in Corporate Compliance Insights about the SEC dismissal. Read more ***here****.*

2. CEO Convicted in First FCPA Trial Since Enforcement Resumed

On September 15, 2025, Carl Alan Zaglin was **convicted** for his role in a five-year bribery and money laundering scheme, marking the conclusion of the first FCPA trial since FCPA enforcement resumed in June. Zaglin, the CEO and owner of Atlanco, LLC (Atlanco), a Georgia-based manufacturer of law enforcement uniforms and accessories, was accused of laundering money and bribing the Honduran state entity responsible for procuring goods for the Honduran national police to secure contracts worth over $10 million.

The jury found Zaglin guilty of one count of conspiracy to violate the FCPA, one count of violating the FCPA, and one count of conspiracy to commit money laundering. He faces a maximum sentence of up to 30 years in prison.

3. Two Corporate Enforcement Policy Declinations in Two Months: DOJ Declines Prosecutions of Liberty Mutual and Bank of America

On August 7, 2025, DOJ and the U.S. Attorney's Office for the District of Massachusetts, **announced** that they will not prosecute Liberty Mutual for FCPA violations in connection with conduct by its Indian subsidiary. This marks the first FCPA **Corporate Enforcement and Voluntary Self-Disclosure Policy** (CEP) declination by the current administration and since DOJ resumed FCPA enforcement in June 2025. According to DOJ, between 2017 and 2022, a Liberty Mutual subsidiary in India paid $1.47 million in bribes to state-owned banks to secure referrals of customers to its insurance products. The scheme generated roughly $9.2 million in revenue and $4.7 million in profit, which Liberty Mutual agreed to disgorge.

On September 18, 2025, DOJ **announced** its decision not to prosecute Bank of America Securities (BoAS), a North Carolina-based financial institution, for alleged market manipulation schemes. Between November 2014 and April 2020, two BoAS traders placed more than 1,000 spoof orders (*i.e.*, orders placed without the intent to execute them at the time they were placed) on the secondary market and, for one of the employees, the futures market for U.S. Treasuries. In connection with the declination, BoAS agreed to disgorge $1.96 million and contribute $3.6 million to a victim compensation fund, which BoAS will establish and administer. This declination follows the guilty plea in April 2022 of one of the involved traders.

Both decisions not to prosecute come under the Criminal Division's updated CEP and have been touted by DOJ leadership as demonstrating DOJ's commitment to the "will decline" language in the CEP, as opposed to the presumption of a declination in prior iterations of the CEP.

4. DOJ Settles with Illumina over Alleged FCA Cybersecurity Violations

On July 31, 2025, DOJ **announced** a $9.8 million settlement with biotechnology company Illumina, Inc. (Illumina) to resolve alleged FCA violations related to cybersecurity vulnerabilities in its medical device software that endangered the government agencies with which it contracted. The case was initially filed by Illumina's former Director of Platform Management, a *qui tam* whistleblower.

The **settlement agreement** alleges that between February 2016 and September 2023, Illumina submitted false claims for payment to federal agencies, failed to implement adequate security programs in its technologies, and sold genetic sequencing products with significant software shortcomings to DOJ, VA, HHS, DHS, and NASA. Importantly, the settlement agreement contends that the claims were false "regardless of whether any actual cybersecurity breaches

occurred." According to DOJ, Illumina's knowing failure to correct design vulnerabilities and incorporate cybersecurity measures into the development, installation, and use of its products was enough to constitute a false claim.

This marks the first DOJ settlement involving failures to meet cybersecurity requirements by a medical device manufacturer, signaling that the government is broadening its cybersecurity focus beyond defense contractors to include other federal contractors.

5. Interactive Brokers Settles with OFAC

On July 15, 2025, Office of Foreign Assets Control (OFAC) **announced** an $11.8 million settlement with Interactive Brokers, a Connecticut-based brokerage platform, for alleged sanctions violations involving China, Cuba, Iran, Russia, Syria, and Venezuela. Between 2016 and 2024, Interactive Brokers processed thousands of transactions for customers in sanctioned countries and on behalf of sanctioned individuals. Despite supposed restrictions, customers in restricted regions could still log in and trade, including securities trading linked to a Chinese water firm associated with a paramilitary group accused of human rights abuses as well as dealings with sanctioned Russian banks. Interactive Brokers self-disclosed the conduct to OFAC and has since restructured its compliance program by enhancing its geo-blocking capabilities and introducing internal testing measures to strengthen oversight.

6. FirstEnergy Suit Turns into Fight over Attorney-Client Privilege

On October 3, 2025, the Sixth Circuit **vacated** a discovery order requiring FirstEnergy, Ohio's largest utility company, to disclose internal investigative documents prepared by outside counsel. The decision follows a District Court in the Southern District of Ohio **granting** a request for investigative materials, finding the documents were not protected by attorney-client privilege because they were created primarily for business- and human resources-related purposes as opposed to legal ones.

The Sixth Circuit unanimously granted the writ of mandamus and vacated the discovery order, finding that the requested materials were covered by both the attorney-client privilege and attorney work product doctrine. In doing so, the Sixth Circuit relied on the Supreme Court's seminal decision in *Upjohn Co v. United States*, which held that the attorney-client privilege "applies when a company seeks legal advice to assess risks of civil and criminal liability."

7. Second Circuit Narrows Wire Fraud Statute in NFT Insider Trading Prosecution

In *United States v. Chastain*, a split panel of the Second Circuit reversed the conviction of a former senior manager of OpenSea, finding the district court had improperly instructed the jury and holding that confidential business information must have commercial value to the company in order to constitute a traditional property interest under the wire fraud statute.

Chastain comes after a 2022 decision by the Second Circuit to rein in the reach of the wire fraud statute. In *United States v. Blaszczak*, the Second Circuit vacated wire fraud convictions, holding that confidential information from a federal agency was not "property" under the wire fraud statute because the information did not have commercial value to the government. However, **as reported last quarter**, the Supreme Court expanded the reach of criminal wire fraud liability to claims with no economic loss. It remains to be seen how courts will interpret the Supreme Court's recent expansion of the fraudulent inducement theory of wire fraud at the same time that the Second Circuit has been paring back the reach of the statute.