

Clients & Friends Memo

DOJ's False Claims Act Message for the Year Ahead

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In 2025, the U.S. Department of Justice ("DOJ") wielded the False Claims Act ("FCA") to obtain the highest dollar value of settlements and judgments in the statute's history: \$6.8 billion. Qui tam activity was just as striking at 1,297 filings in only one fiscal year, up from 980 in 2024, and 712 the year before that.¹ Brenna Jenny, the Deputy Assistant Attorney General for DOJ's Civil Division's Commercial Litigation Branch, issued remarks on FCA enforcement priorities for the year ahead at ACI's 13th annual Advanced Forum on False Claims and Qui Tam Enforcement last month, signaling that the FCA investigations pipeline is strong and expanding. The 2025 FCA statistics and 2026 priorities are instructive as companies tailor risk assessments, fine-tune compliance programs, and respond to internal reporters, whistleblowers, and government-facing investigations.

Whistleblowers Remain Key to FCA Enforcement

DOJ's 2025 numbers make one point very clear: the FCA remains a whistleblower-driven statute, even as DOJ continues to initiate its own investigations. In 2025, there were 401 government-initiated (non-qui tam) matters, down from 425 in 2024, with most recoveries resulting from qui tam cases—about \$5.34 billion out of the \$6.89 billion total.

FCA Focus Areas: Healthcare Remains Dominant, but Trade, Cybersecurity and Discrimination Persist

FCA enforcement in 2025 focused on four key areas that serve as helpful guideposts for 2026: (i) healthcare, (ii) trade fraud, (iii) cybersecurity, and (iv) discrimination.

Healthcare: Healthcare remained the dominant FCA enforcement area last year. DOJ reported that more than \$5.7 billion, or roughly 84% of total FCA recoveries involved the healthcare industry. Three areas within the healthcare industry were of particular focus: Managed Care (especially Medicare Part C programs), Prescription Drugs (including drug pricing, dispensing, and kickbacks),

¹ In January of this year, DOJ released detailed information relating to its fiscal year 2025 enforcement of the FCA, including a [fact sheet](#) and [statistics sheet](#) relating to settlements and judgments.

and Medically Unnecessary and Substandard Care (relating to topics like skin substitutes, defective medical devices, and substandard skilled nursing services). Looking ahead, the government also appears poised to deepen its interagency coordination in this space, as DOJ and the U.S. Department of Health and Human Services (“HHS”) recently reestablished their DOJ-HHS False Claims Act Working Group. Taken together, this suggests healthcare will remain a central focus in 2026.

Trade Fraud: Jenny made clear that trade fraud is no longer a niche FCA enforcement area. DOJ has explicitly flagged tariff and customs avoidance as an enforcement priority and announced a cross-agency Trade Fraud Task Force with the U.S. Department of Homeland Security, signaling that tariff evasion will be treated as a core enforcement focus, in line with the current administration’s stated priorities. DOJ has also demonstrated its willingness to use both civil and criminal penalties in the trade fraud space as demonstrated by its civil settlement and Corporate Enforcement and Voluntary Self-Disclosure Policy declination with MGI International, LLC, and the related criminal charge against MGI’s former chief operating officer. The broader takeaway is that trade compliance risk is increasingly being evaluated through an FCA lens, especially where alleged schemes involve misclassification, undervaluation, or country-of-origin misrepresentations.

Cybersecurity: Cybersecurity was another area highlighted in both DOJ statistics and Jenny’s remarks. Critically, companies should be aware that FCA exposure exists even where no cyber breach has occurred. Rather, DOJ is emphasizing holding contractors accountable for knowingly violating applicable cybersecurity requirements where controls only exist on paper. Jenny noted that these cases are increasingly being brought forward by whistleblowers, particularly from IT and security personnel. Consistent with this trend, FY 2025 included nine cybersecurity-related resolutions totaling approximately \$52 million, with the number of settlements increasing over the past two years.

Discrimination: Jenny noted that DOJ is actively investigating government contractors for potential discrimination-related issues as to race and sex, with a focus on compensation and hiring practices.

DOJ’s Dismissal Authority and the Constitutionality of Qui Tam Provisions

One of the most notable points Jenny emphasized that goes beyond what DOJ typically includes in its annual statistics is DOJ’s approach to managing the qui tam pipeline through dismissals. In a record filing environment, dismissal authority is a practical tool for docket management and for protecting DOJ’s interests when a case does not warrant continued litigation. During her keynote, Jenny emphasized that DOJ is increasingly prepared to use its authority under 31 U.S.C. § 3730(c)(2)(A) where cases are meritless or the government is already investigating and the

relator does not materially add to the case. She highlighted that DOJ will review relator cases for both intervention and dismissal.

DOJ's dismissal authority, and use thereof, is arguably of heightened importance given the increased attention on the constitutionality of the qui tam mechanism itself—including constitutional challenges arguing that relator-driven litigation can intrude on executive authority. Against that backdrop, a more active dismissal posture is one of the clearest ways DOJ can reinforce that it retains control over FCA litigation and, ultimately, has the final say over whether a whistleblower case proceeds.

Key Takeaways

Taken together, DOJ's 2025 numbers suggest that 2026 will continue to see aggressive FCA enforcement, both through whistleblowers and through DOJ's increased use of data-driven investigations as highlighted in Jenny's remarks. Though not meant for "all-purpose fraud," Jenny described the FCA as a tool that allows DOJ to flexibly respond to priorities and trends.

Between DOJ's emphasis on bringing more matters using data analytics, ongoing constitutional challenges to the qui tam mechanism, and the continued central role of whistleblowers reflected in FY 2025 recoveries, the enforcement landscape is likely to remain dynamic in the year ahead. In practice, this posture has translated into increased FCA activity over the past year – a trend that is expected to continue into 2026. Practically, companies should keep reporting channels strong, investigate concerns promptly, and institute remedial actions that lend credibility to the compliance program.

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If you have any questions, please feel free to contact any of the following Cadwalader attorneys.

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