CLIENT ALERTS & INSIGHTS

DOJ's National Fraud Enforcement Division Issues Corporate Enforcement Directive, Signaling Heightened Scrutiny of Corporate Fraud

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Authors: Marisa T. Darden, Robert J. Kolansky, Briana Cowman, Matthew G. Wulf

Featured Practices: White Collar, Government Investigations & Regulatory Compliance, Litigation

Key Takeaways

- DOJ's new enforcement framework reinforces that corporate fraud investigations will remain a significant enforcement priority, particularly in healthcare, government contracting, tax and international trade.
- Companies should expect prosecutors to focus on factors such as management involvement, efforts to conceal misconduct, multi-jurisdictional conduct and significant financial harm when evaluating potential charges and resolutions.
- Organizations should proactively assess compliance programs, strengthen internal reporting channels and evaluate disclosure protocols to address areas likely to draw increased attention under the Directive.

On October 1, 2026, the Department of Justice's ("DOJ") National Fraud Enforcement Division ("NFED") issued *Directive 26-12: Corporate Enforcement in the Fight Against Fraud* (the "Directive"),[1] a sweeping new memorandum from Assistant Attorney General Colin M. McDonald that establishes the NFED's framework for investigating and prosecuting corporate fraud. The Directive centralizes corporate enforcement within the NFED's Corporate Enforcement Section, introduces ten weighted factors that prosecutors "must place great weight" on in charging decisions, and signals that DOJ will take "an aggressive, all-tools approach" to healthcare, government, tax and trade fraud.[2]

The Directive comes less than two months after the NFED announced its five enforcement priorities in August 2026[3] and represents the most concrete articulation yet of how DOJ intends to exercise corporate enforcement authority under this administration. For companies operating in regulated industries-particularly healthcare, government contracting, international trade and tax-the implications are immediate and significant.

Key Insights

- DOJ's NFED has issued a formal corporate enforcement directive that centralizes all corporate fraud investigations through its Corporate Enforcement Section, requiring prosecutors to report ongoing investigations within seven days.
- Prosecutors must now place "great weight" on ten enumerated factors when making charging and plea decisions, including specific thresholds of $25 million in loss or 25 or more victims, multi-district conduct, national security implications, and immigration offenses.
- The NFED's National Fraud Detection Center is using advanced data analytics to proactively generate leads and open investigations "at a rapid pace," and DOJ is developing new whistleblower incentive programs-raising the stakes for internal reporting.
- Companies in healthcare, government contracting, trade/customs, and tax should immediately assess compliance programs against the Directive's enumerated factors and evaluate whether voluntary self-disclosure under the Corporate Enforcement and Voluntary Self-Disclosure Policy ("CEP") is warranted.

Background: Creation of the NFED and Its Enforcement Priorities

On April 7, 2026, DOJ created the NFED, a new organizational unit whose leaders report directly to Vice President JD Vance's Task Force to Eliminate Fraud.[4] The Division reflects the administration's stated policy that "no fraud is small enough or big enough to look away from."[5] By August 2026, the NFED had grown to approximately 500 attorneys and staff, with plans for rapid expansion through 2028.[6]

In August 2026, AAG McDonald released a memorandum establishing the NFED's five enforcement priorities: (1) public trust and financial integrity, encompassing procurement fraud, defective pricing, bid rigging, bribery, and public benefit program fraud; (2) healthcare fraud; (3) internal revenue (tax fraud); (4) global trade and commerce, including transshipment schemes, country-of-origin fraud, duty evasion, sanctions evasion, and forced labor; and (5) corporate misconduct, to be pursued in coordination with the newly created Corporate Enforcement Section.[7] As Benesch previously wrote, these priorities placed the private sector on notice to review and strengthen compliance programs across a broad range of regulated activities.[8]

What the Directive Says

The Directive commits DOJ to "an aggressive, all-tools approach" to fraud enforcement while guarding against "overbroad corporate enforcement," and requires prosecutors to follow the Principles of Federal Prosecution of Business Organizations and the Department-wide Corporate Enforcement and Voluntary Self-Disclosure Policy ("CEP"), signaling DOJ's continued expectation that companies will self-disclose misconduct and cooperate with investigations.[9] On the operational side, the Directive centralizes all corporate fraud work through the NFED's Corporate Enforcement Section, which will oversee investigations, monitor compliance with corporate resolutions, and receive reports of ongoing matters within seven days. The Directive also highlights the NFED's use of data analytics to proactively generate leads "at a rapid pace" and directs the development of new whistleblower incentive programs-including for individuals who participated in the misconduct.[10] Most significantly, the Directive establishes four corporate investigation priorities and enumerates ten factors on which prosecutors "must place great weight" when making charging and plea decisions:

Corporate Investigation Priorities

The Directive instructs prosecutors to prioritize corporate investigations in four areas:

1. Fraud schemes involving the healthcare industry, including healthcare fraud, distribution of controlled substances, and violations of the Federal Food, Drug, and Cosmetic Act;
2. Fraud schemes involving the public trust or financial integrity of Americans and markets related to procurement, government contracts, and other government functions;
3. Fraud schemes involving significant evasion of internal or external revenue; and
4. Fraud schemes involving tariff evasion, importation of goods or services, or forced labor.

Ten Weighted Factors for Charging and Plea Decisions

The Directive enumerates ten factors on which prosecutors "must place great weight" when recommending charges or negotiating plea agreements:

1. Knowledge of or involvement in fraud scheme by corporate management;
2. Efforts to conceal fraud from government agencies or auditors or otherwise impede or obstruct a government function or oversight;
3. Conduct that furthers the scheme lasting three years or more;
4. Actions that threaten the safety or security of Americans, including military readiness;
5. Conduct that causes substantial financial hardship to a taxpayer-funded program or government function;
6. Conduct that affects multiple taxpayer-funded programs or government functions;
7. Conduct that affects three federal districts or more;

8. Conduct that results in financial harm to 25 or more victims or $25 million or more in loss;
9. Conduct that involves the exfiltration of American dollars to support foreign adversaries; and
10. Conduct that involves immigration offenses.

The Directive describes this list as "non-exhaustive," permitting prosecutors to consider any other relevant factor consistent with the Justice Manual, though the breadth of the enumerated factors leaves relatively little uncovered. What the list does make clear is this administration's current priorities: factors like threats to military readiness, exfiltration of funds to foreign adversaries, and immigration offenses signal that corporate fraud enforcement will advance national security and immigration objectives alongside traditional deterrence.

What the Directive Signals

Focus on Larger, Multi-Jurisdictional Schemes. Several of the ten weighted factors-particularly the $25 million loss threshold, the 25-victim threshold, and the requirement that conduct affect three or more federal districts-suggest that, for corporate cases, the NFED will concentrate resources on larger, multi-jurisdictional fraud schemes. This stands in notable contrast to the NFED's pursuit of small-dollar individual fraud prosecutions, such as SNAP benefit cases, suggesting a dual-track approach.

National Security and Immigration Overlay. The inclusion of factors relating to military readiness, exfiltration of funds to foreign adversaries, and immigration offenses reflects this administration's emphasis on integrating national security priorities into white-collar enforcement. Companies with international supply chains, foreign operations, or workforce compliance issues should take particular note.

Trade and Tariff Enforcement as a Corporate Priority. The Directive explicitly includes tariff evasion, forced labor, and importation fraud among its corporate investigation priorities-building on the August memo's emphasis on global trade and commerce. Companies involved in international trade should anticipate heightened scrutiny of customs valuation, country-of-origin documentation, and supply chain due diligence.

What This Means for Companies

In light of the Directive, companies, particularly those in the NFED's priority sectors, should consider the following actions:

- **Assess Compliance Programs Against the Ten Factors.** Map existing compliance programs and internal controls against the Directive's weighted factors, prioritizing gaps around management oversight, concealment risks, and multi-jurisdictional operations.
- **Strengthen Internal Reporting.** With new whistleblower incentive programs on the horizon, robust internal reporting channels are the first line of defense against employees going directly to DOJ.

- **Audit Government-Facing Operations.** Organizations with government contracts, federal healthcare billing, or customs obligations should audit billing practices, procurement processes, and country-of-origin documentation.
- **Evaluate Voluntary Self-Disclosure.** The Directive's emphasis on the CEP signals DOJ's expectation that companies will self-disclose misconduct. Self-disclosure can significantly reduce penalties and should be evaluated in light of the Directive's priorities.

Benesch's White Collar, Government Investigations & Regulatory Compliance team is closely monitoring developments at the NFED and is available to help clients assess the impact of the Directive on their operations, evaluate voluntary self-disclosure options, and strengthen compliance programs. For questions about how these developments may affect your organization, please contact the authors or your regular Benesch contact.

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[1] Memorandum from Assistant Attorney General Colin M. McDonald, Directive 26-12: Corporate Enforcement in the Fight Against Fraud (Oct. 1, 2026) (hereinafter "*McDonald Directive*"), available at https://www.law360.com/articles/2532588/attachments/0.

[2] *Id.* at 1.

[3] Memorandum from Assistant Attorney General Colin M. McDonald, The Fraud Division's Enforcement Priorities (Aug. 13, 2026), available at https://www.justice.gov/opa/media/1457756/dl?inline.

[4] Todd Blanche, Acting Att'y Gen., Memorandum on Creation of the National Fraud Enforcement Division for Department Personnel (Apr. 7, 2026), available at https://www.justice.gov/ag/media/1435311/dl?inline.

[5] *Devlin Barrett, Little Thefts, Big Charges: Trump's Justice Dept. Targets Lesser Fraud*, N.Y. Times (Aug. 14, 2026).

[6] Memorandum from Assistant Attorney General Colin M. McDonald, The Fraud Division's Enforcement Priorities (Aug. 13, 2026), available at https://www.justice.gov/opa/media/1457756/dl?inline.

[7] *Id.* at 3-5.

[8] *Marisa T. Darden, et al., The Devil is in the Details: DOJ Provides New Insights Regarding National Fraud Enforcement Division's Priorities*, Benesch (Apr. 23, 2026), https://www.beneschlaw.com/insight/the-devil-is-in-the-details-doj-provides-new-insights-regarding-nation
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[9] *McDonald Directive* at 1-2.

[10] *See DOJ Envisions 'Full-Fledged Law Firm' To Combat Gov't Frau*d, Law360 (Oct. 2, 2026) (noting that increased interagency collaboration, the consolidation of DOJ resources, and the expanded use of data analytics to identify potential fraud are driving a rise in fraud investigations and prompting more companies to uncover potential misconduct internally, and quoting Benesch's Marisa Darden), https://www.law360.com/articles/2533462?e_id=08ad4f6c-488f-4548-9577-fefb28e8178e&utm_source=eng
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