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WHITE-COLLAR CRIME

An 'America-First' White-Collar Enforcement Policy?

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The second Trump Administration has made substantial and controversial changes in many areas of public policy and law. In our own sphere of white-collar crime, we have observed a number of important developments, including a widely perceived decline in enforcement (though we acknowledge such high-level generalizations can be faulty), and the increased importance of pursuing review of local prosecutorial decisions and clemency in Washington, D.C.

In this article, we consider areas of white-collar enforcement that have been given the most attention by the Administration. From the vantage point of policy, we see that actions of the Administration can be explained, at least in part, by reference to the Administration's particular conception of the "national interest"—what it calls its program of putting "America First." This program is manifested in decisions about where to devote resources and what cases to bring, and in corresponding organizational changes.

In practice, that program has meant that federal law enforcement has devoted greater resources than in the past to trade, tariffs and customs enforcement, among other areas of particular interest to the Administration.

Courtesy photos

Elkan Abramowitz, left, and Jonathan Sack.

Administration policy has also led to institutional changes, notably, the establishment in August 2026 of a new National Fraud Enforcement Division of the Department of Justice, which will oversee Main Justice's efforts against federal program fraud. At the same time, the Administration has expressed opposition to what it has termed "regulation by prosecution"—cases involving complex financial transactions more appropriately subject to civil enforcement – and has notably reduced the size and caseload of the Justice Department's Public Integrity Section.

We begin with a brief discussion of early policy statements that describe the new Administration's approach to white-collar criminal enforcement. That discussion is followed by an overview of some of the enforcement initiatives and cases that reflect the Administration's idea of the national interest. Lastly, we conclude with observations about continuity as well as change in white-collar enforcement.

We make two further points at the outset. First, our analysis is not meant to suggest that routine white-collar enforcement has stopped, or that the Administration's priorities have displaced enforcement of the kinds of frauds and other schemes ordinarily the subject of criminal enforcement. The attention given to federal program fraud, particularly health care fraud, for example, is not new and, if anything, has increased.

Second, we are not opining on the merits of the policies we describe or the Administration's law enforcement policies more broadly. Instead, we attempt to make sense of how, from the standpoint of policy, the Administration is shaping the white-collar enforcement landscape in which we are working.

Administration Policy

On Feb. 5, 2025, Attorney General Pam Bondi issued a memorandum, "Total Elimination of Cartels and Transnational Criminal Organizations" (the TCO Memorandum), which set out a "fundamental change" in DOJ priorities. This change is characterized by increased attention to drug cartels, Transnational Criminal Organizations (TCOs), and national security threats, along with reduced attention to such traditional areas of white-collar enforcement as violations of the Foreign Corrupt Practices Act (FCPA) and Bank Secrecy Act and public corruption.

The TCO Memorandum followed Executive Order 14157 (the January 2025 EO), issued on the first day of the new Administration, which directed that certain international cartels and transnational organizations that pose an "unusual and extraordinary threat" to the United States be designated as foreign terrorist organizations (FTOs).

The Administration's new direction was reflected in the May 12, 2025 Memorandum issued by then-Criminal Division head Matthew R. Galeotti, "Focus, Fairness, and Efficiency in the Fight Against White-Collar Crime" (the "Galeotti Memorandum"). The Galeotti Memorandum listed 10 white-collar priority areas. The first three were waste, fraud, and abuse, including health care and other federal program and procurement fraud; trade, tariff, and customs fraud; and fraud through Chinese "variable interest entities." It was not until item four that the Memorandum mentioned "[f]raud that victimizes U.S. investors, individuals, and markets."

Foreign bribery and FCPA violations were the ninth item on the list. The following violations with a direct impact on national security were listed ahead of foreign bribery: sanctions violations and the activities of cartels, TCOs, hostile nation-states, and FTOs; conduct threatening national security; and material support to cartels, TCOs, FTOs, and hostile nation-states.

Alongside these new priorities, the Administration also sought to roll back what it viewed as prior excesses of enforcement. In an April 7, 2025 memorandum, "Ending Regulation by Prosecution," then-Deputy Attorney General Todd Blanche instructed prosecutors to cease "litigation or enforcement actions that have the effect of superimposing regulatory frameworks on digital assets" and criticized what it called a "reckless strategy of regulation by prosecution [by the prior Administration] which was ill conceived and poorly executed."

One month later, on May 9, 2025, President Trump issued Executive Order 14294, "Fighting Overcriminalization in Federal Regulations." This EO directs agencies to pursue civil and administrative rather than criminal enforcement for offenses that lack a mens rea element.

The spirit of the Administration's early policy statements was to direct criminal enforcement toward those areas this Administration deems most relevant to the national interest and away from matters that could also be addressed through civil enforcement.

The National Fraud Enforcement Division

The Administration's most significant structural change has been the creation of the National Fraud Enforcement Division (NFED)—the first substantial new component of DOJ since the 2006 establishment of DOJ's National Security Division. The NFED consolidates responsibility for fraud investigations and prosecutions that were previously distributed across multiple DOJ components, U.S. Attorney's Offices, and specialized sections. Under the new structure, NFED has broad jurisdiction over fraud matters organized into five priority areas: (1) public trust and financial integrity; (2) health care fraud; (3) tax fraud; (4) global trade and commerce; and (5) corporate misconduct.

According to an Aug. 13, 2026 memorandum of Colin M. McDonald, the first Assistant Attorney General to head up the NFED, the purpose of the new Division is to centralize expertise and resources and pursue fraud cases more aggressively and efficiently.

On Aug. 18, 2026, the DOJ published a final rule, which took effect on Aug. 24, which granted the NFED jurisdiction over criminal frauds, criminal tax, trade fraud, monies owed to or paid by the United States, health plan fraud, and controlled substances offenses, as well as any federal crime it discovers during an investigation. "Establishing the National Fraud Enforcement Division," DOJ Final Rule, 91 Fed. Reg. 53,357 (Aug. 18, 2026). The Criminal Division of DOJ retains the FCPA and Securities, Market, and Private Fraud Units, among others, in the new White Collar and Corporate Enforcement Section.

According to a July 30 Press Release, the NFED has already brought 17 cases, involving more than $350 million in intended losses, which arise from program and tax fraud, as well as additional cases involving more than $90 million in alleged losses and 12 named defendants. Units now housed within the NFED, such as Health Care Fraud, have recently taken down significant cases, but many of the cases preceded creation of the new Division.

Trade and Tariffs

The Administration's trade-related prosecutions surely reflect the centrality of trade policy to this Administration. In August 2025, the Administration established a Trade Fraud Task Force (the Task Force), comprised of DOJ and Department of Homeland Security (DHS) officials, to pursue criminal as well as civil enforcement of tariff and trade-related violations by companies and individuals. On July 14, 2026, DOJ reported that in less than one year the Task Force had surpassed $1 billion in civil and criminal recoveries, penalties, forfeitures, and "publicly charged losses." This latter concept refers to financial harm or evaded duties alleged in public criminal indictments or civil complaints.

Two cases illustrate this new and unprecedented emphasis on trade-related enforcement. In January 2026, the former chief operating officer of two plastic-resin distributors, David Guimond, pleaded guilty to conspiring to smuggle Chinese resin into the United States by falsifying manufacturer and country-of-origin information and routing or repackaging resin through Canada to avoid a 25% Section 301 tariff.

DOJ calculated the unpaid tariffs to be at least $497,249 and the offense carries a maximum five-year prison term. Sentencing is set for later this year. In April 2026, Boise Cascade Company pleaded guilty to a scheme to evade antidumping and countervailing duties on Chinese plywood – a felony violation of the Lacey Act. The company was sentenced to a $6.382 million fine (twice the gross profits from the scheme).

In July 2026, the Task Force published "A Resource Guide to Trade Fraud Enforcement" (the

Guide), a first-of-its-kind guide which outlines the civil, administrative, and criminal authority available to address customs and trade fraud, including false declarations concerning origin, value, classification, composition, and production conditions.

The Guide identifies Homeland Security Investigations as the lead investigative agency for customs violations and instructs companies to treat supply-chain compliance as a core risk-management function. The Guide was released alongside the announcement of a new Global Trade & Commerce Enforcement Section within DOJ's NFED.

Foreign Corrupt Practices Act

On Feb. 10, 2025, Trump signed Executive Order 14209, "Pausing Foreign Corrupt Practices Act Enforcement to Further American Economic and National Security." This EO directed a 180-day pause on all new FCPA investigations and enforcement actions, a review of existing FCPA matters, and the development of new enforcement guidelines. National security and American economic competitiveness were the stated reasons for the pause and review.

In June 2025, then-Deputy Attorney General Blanche issued "Guidelines for Investigations and Enforcement of the Foreign Corrupt Practices Act" (the "Blanche Memorandum"), which described the Administration's more targeted approach to FCPA enforcement in line with its focus on the country's national security and economic interests.

According to the Blanche Memorandum, FCPA enforcement would be devoted to misconduct by cartels and TCOs, and prosecutors would focus on cases in which competitors exploit corrupt officials to the detriment of the United States, thereby depriving American companies of fair competition or causing economic injury to American companies or individuals.

The Administration's more targeted approach to the FCPA is illustrated by a July 2026 deferred prosecution agreement (DPA) between DOJ and The Scoular Company (Scoular), an agricultural company.

Pursuant to the DPA, Scoular acknowledged having paid more than $400,000 to Mexican officials to facilitate shipments of corn and other products across the U.S.-Mexico border. According to DOJ, the illegal payments ultimately went to individuals associated with drug cartels, which jeopardized the nation's security and fair competition for American businesses.

Commentators have observed that FCPA enforcement has been reoriented toward cases that implicate national security, with the DOJ prioritizing cases involving cartels, threats to critical infrastructure, and harm to U.S. competitive interests. Although the FCPA Unit has been downsized, with prosecutors transferred to other units of greater relevance to this Administration, enforcement has not stopped, but it is more limited and targeted than in the past.

Sanctions

The Trump Administration has likewise made an important shift in the prosecution of sanctions evasion. In February 2025, the Administration dismantled the Biden Administration's initiatives directed specifically at Russia following the invasion of Ukraine—e.g., Task Force KleptoCapture—but has not ceased pursuing sanctions violations. The Administration's new approach was based on the President's January 2025 EO regarding cartels and TCOs, noted earlier, which signaled not an abandonment of sanctions enforcement but an enforcement rationale grounded in its particular view of national security.

This shift is illustrated by enforcement actions which targeted Venezuela. The Administration expanded sanctions against Venezuela-linked criminal groups and individuals, broadening the range of prohibited transactions and making it a crime to move goods, services, or funds through channels that were previously unregulated. The

December 2025 interdiction and seizure of two sanctioned oil tankers, followed by an in rem forfeiture proceeding, further highlighted the use of enforcement mechanisms against countries regarded as adversaries of the United States.

Russia and Iran remain enforcement priorities, although the focus has changed. OFAC's October 2025 designation of Rosneft and Lukoil shows that sanctions remain an important law enforcement tool despite elimination of a dedicated task force. With respect to Iran, the Administration has directed its efforts against the shadow fleet and other intermediaries helping to transport Iranian crude oil.

In May 2025, DOJ expanded its Corporate Whistleblower Awards Pilot Program to include information about sanctions violations. This is a priority of the Administration, and one that is shaped by the Administration's national security priorities.

Conclusion

While critics of the Administration point to significant departures from the policies and norms of prior administrations, we think it important to highlight continuity in at least one respect important to white-collar practitioners.

A centerpiece of white-collar enforcement in the Biden Administration was the harnessing of traditional enforcement tools (sanctions, export controls, FCPA, and money laundering prosecutions) as instruments of national security policy, as we previously explained. E. Abramowitz & J. Sack, "White-Collar Criminal Enforcement and National Security," N.Y.L.J. (Nov. 8, 2023). In the present Administration, the perspectives and priorities have most certainly changed but the means are the same—use of law enforcement to promote a particular conception of national security.

Hovering over any analysis of the Trump Administration is the issue of process and power—in particular, how much say the White House should have in the actions of DOJ. The question is posed by the Supreme Court's decision in *Trump v. United States*, 603 U.S. 593 (2024), which articulated an expansive understanding of the President's authority over prosecutorial decisions. The priorities and actions of DOJ without doubt reflect policies and priorities expressed by the White House. How matters of independence evolve will be of the utmost importance to federal law enforcement during the remainder of this Administration and in the future.

In the meantime, as these important issues of power play out, we see the Administration's present focus on national security and the national interest, described by the Administration as "America First," as not brand new, but rather a distinctive reshaping and tailoring of enforcement to the worldview and priorities of the present Administration.

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