

Corporate Enforcement in the Fight Against Fraud: Key Takeaways from the DOJ Fraud Division's New Directive

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Introduction

On Oct. 1, 2026, Colin M. McDonald, the assistant attorney general leading the Department of Justice ("DOJ") National Fraud Enforcement Division (the "Fraud Division"), issued [Directive 26-12, Corporate Enforcement in the Fight Against Fraud](#) (the "Directive"). The [Fraud Division](#) is a new component of the DOJ, after the White House announced its creation on Jan. 8, 2026, before it was formally established on April 7, 2026.

Although the Fraud Division is separate from the Criminal Division, it assumed operational control of several former Criminal Division components, including the Health Care Fraud Unit, the Market, Government and Consumer Fraud Unit,¹ and the Tax Section (which had handled criminal tax prosecutions only since the Tax Division's criminal functions were reassigned to the Criminal Division in late 2025).² The Directive identifies four enforcement priorities, establishes ten factors that prosecutors must weigh heavily in corporate charging and resolution decisions, and emphasizes data analytics and whistleblower-driven case generation.

The Directive builds on, but is distinct from, the [May 12, 2025, memorandum](#) issued by the former Criminal Division head Matthew Galeotti (the "Galeotti Memo"), which predated the creation of the Fraud Division and set priorities for the Criminal Division. The Directive follows the Fraud Division's [initial announcement of investigative priorities](#)³ and is the Division's first detailed statement of its corporate enforcement policy. Compared with the Galeotti Memo, the Directive concentrates on fewer priority areas and, more importantly, provides a list of aggravating considerations for corporate charging and resolution decisions.

Practical Takeaways

The Directive's most immediate practical significance lies in its four priority areas: (1) health care fraud; (2) procurement and government-contracts fraud; (3) significant evasion of internal or external revenue; and (4) tariff evasion, importation fraud and forced labor.

Health care fraud, procurement fraud and tariff and customs fraud were already among the "high-impact areas" identified for the Criminal Division in the Galeotti Memo, and the units that prosecuted them now sit within the Fraud Division. Their inclusion in the Directive confirms that they are likewise central to the Fraud Division's corporate enforcement agenda. Companies in the health care, life sciences and government contracting sectors, along with importers, should keep treating compliance in these areas as a top priority. That includes billing and claims practices, controlled substance and FDCA compliance, contract pricing and performance representations, and customs classification and valuation.

Two areas have no direct analogue from the Galeotti Memo: significant evasion of internal or external revenue and forced labor in supply chains. Their elevation suggests that companies should

increase compliance efforts there. Because “external revenue” likely includes customs duties, tariff-related exposure may now be a double priority, falling under both the trade and revenue categories. Companies with significant tax, import or international sourcing activity should consider reassessing their tax and customs controls, strengthening supply-chain diligence for forced-labor risk and confirming that these areas get resources and oversight that reflect their new enforcement profile.

Key Provisions and Announced Priorities

The Directive opens with a declaration that the Fraud Division is “committed to combating the ongoing and rampant fraud against the United States and American taxpayer dollars” and will “take an aggressive, all-tools approach to investigating and prosecuting our health care, government, tax, and trade fraud priorities.” At the same time, it pledges to “firmly guard against overbroad corporate enforcement—rightly dividing between shades of corporate malfeasance—lest we interfere with legitimate business operations.” This restraint language tracks the Galeotti Memo’s similar warning that “overbroad and unchecked corporate and white-collar enforcement burdens U.S. businesses and harms U.S. interests.”

All Fraud Division prosecutors are directed to follow the Principles of Federal Prosecution of Business Organizations, codified at Justice Manual (“JM”) § 9-28.000, and the Department-wide *Corporate Enforcement and Voluntary Self-Disclosure Policy* (“CEP”) from March 10, 2026. The CEP governs the framework under which companies may receive credit for voluntary self-disclosure, cooperation and remediation. The Directive codifies the role of the Corporate Enforcement Section, created earlier in 2026, which must be involved “at all phases of corporate investigations, from case intake through completion of any corporate resolution or litigation.” A corporate resolution is a negotiated outcome that may take the form of a deferred prosecution agreement, a non-prosecution agreement or a guilty plea. According to the Directive, all ongoing corporate investigations must now be reported to the section chief within seven days, and the section will now have “primary responsibility for evaluating a company’s compliance with the terms of any corporate criminal resolution.”

On case origination, the Directive asserts that the Fraud Division is “proactively generating leads and opening new individual and corporate fraud investigations at a rapid pace” through the National Fraud Detection Center’s data analytics capabilities. The Directive also directs Fraud Division leadership to design and implement policies that “appropriately incentivize whistleblowers to bring forward credible information pertaining to fraud,” including protections for whistleblowers “who participated in the criminal conduct.” These incentive programs are forthcoming but not yet in place.

Comparing the Directive to Prior Guidance

Investigative Priorities

The Directive identifies four investigative priorities, all of which appeared in some form in the Fraud Division’s initial priorities memo: (1) health care fraud, including distribution of controlled substances and violations of the Federal Food, Drug and Cosmetic Act (“FDCA”), the federal statute governing the safety and labeling of drugs, medical devices and other products; (2) procurement fraud, government contracts fraud and schemes affecting other government functions; (3) significant evasion of internal or external revenue; and (4) tariff evasion, importation fraud and forced labor.

Although the Galeotti Memo set priorities for a different division, a comparison between that memo and the new Directive clarifies the DOJ’s overall priorities, because the Fraud Division inherited a

substantial part of the Criminal Division's portfolio. Health care fraud, procurement and government-program fraud, and tariff and customs fraud will carry over, in part because the units that handled them (including the Health Care Fraud Unit) moved to the Fraud Division. Significant revenue evasion and forced labor are new, in part because criminal tax enforcement sat in the [Tax Division](#) at the time the Galeotti Memo was published, not the Criminal Division. Tariff and customs fraud also carries over, while forced labor is new. The overlapping priorities between the Directive and the Galeotti Memo have been recurring themes for the current administration,⁴ suggesting that the Directive reflects a [broader, multi-agency administration initiative](#) rather than McDonald's individual priorities.

Disposition Factors

The Directive's most consequential innovation is its list of 10 factors on which prosecutors "must place great weight" in deciding whether to bring charges and while negotiating plea or other agreements. The Principles of Federal Prosecution of Business Organizations already list 11 factors to consider in charging decisions of business organizations,⁵ but these factors are framed as "illustrative" and expressly "not an exhaustive list" with no single factor typically dispositive. The Directive's list is likewise non-exhaustive, but it carries mandatory weighting language and contains no mitigating factors.

Several of the Directive's factors restate established principles: Factor 1 (management involvement) tracks JM § 9-28.300(2) and § 9-28.500; Factor 2 (concealment and obstruction) tracks JM § 9-28.730 and the Galeotti Memo's emphasis on obstruction; and Factor 8 (harm to 25 or more victims, or \$25 million or more in losses) quantifies the Galeotti Memo's "demonstrable loss" and the JM's "interests of victims."

Other factors introduce more specific thresholds. Factor 3 addresses conduct lasting three or more years, while Factor 7 addresses conduct affecting three or more federal districts. Those thresholds give companies concrete criteria to assess when evaluating potential enforcement exposure. The JM itself recognizes that national enforcement policies may require different weight to be given to particular considerations.

Significantly, the Directive's "great weight" list omits the JM's mitigating factors: cooperation, compliance program adequacy, voluntary self-disclosure, remediation, collateral consequences and adequacy of civil remedies.⁶ It also omits one of the JM's aggravating factors: history of misconduct.⁷

The Directive also provides that prosecutors "shall also follow and implement the CEP" in "all circumstances." Thus, voluntary self-disclosure, cooperation, remediation and other mitigating considerations remain relevant under the CEP and the JM even though they do not appear in the Directive's weighted list.

Implications for Companies

The 10-factor framework gives companies a practical way to identify facts that may increase charging or resolution risk. At the same time, although the Directive's weighted list focuses on aggravating considerations, companies should continue to be mindful of the mitigation considerations set forth in the CEP and JM § 9-28.300, including voluntary self-disclosure, cooperation, remediation and compliance-program considerations.

The Directive's emphasis on data analytics and forthcoming whistleblower incentives increases the importance of promptly investigating credible issues and evaluating whether voluntary self-disclosure under the CEP is appropriate.

The Directive also centralizes Fraud Division corporate matters in the Corporate Enforcement Section, which must be involved from case intake through resolution or litigation and has primary responsibility for evaluating compliance with corporate criminal resolutions. The Directive does not extend to matters assigned to a District Fraud Counsel by a U.S. Attorney's Office that are not also supervised by the Fraud Division.

For importers and companies with international supply chains, the express focus on tariff evasion, revenue evasion, importation fraud and forced labor warrants particular attention to trade, customs and supply-chain compliance.

Conclusion

Directive 26-12 sharpens the Fraud Division's corporate enforcement framework by identifying four priority areas and directing prosecutors to place great weight on 10 aggravating factors. At the same time, the CEP and Justice Manual continue to supply the framework for voluntary self-disclosure, cooperation, remediation and other mitigating considerations. Companies in the health care, government contracting, tax and trade sectors should assess their exposure against the new factors and ensure that their compliance, reporting, investigation and disclosure processes are positioned to address the Directive's priorities.

¹ See *id.*

² 90 F.R. 57139 (Dec. 10, 2025).

³ See also Haynes and Boone LLP, *DOJ's National Fraud Enforcement Division Announces Enforcement Priorities – What You Need to Know*, (Aug. 14, 2026), <https://www.haynesboone.com/news/alerts/dojs-national-fraud-enforcement-division-priorities-what-you-need-to-know>.

⁴ See Dep't of Just., *False Claims Act Settlements and Judgments Exceed \$6.8B in Fiscal Year 2025* (Jan. 16, 2026) (discussing "the Department's focus on key enforcement areas, including combating fraud in the federal health care system and in the government's procurement, loan, and grant programs and redressing the improper avoidance of tariffs and customs duties that are owed."); see also, e.g., Dep't of Just., *National Health Care Fraud Takedown Results in 324 Defendants Charged in Connection with Over \$14.6 Billion in Alleged Fraud* (June 30, 2025); *National Health Care Fraud Takedown Results in 455 Defendants Charged in Connection with Over \$6.5 Billion in Alleged Fraud* (June 23, 2026).

⁵ See JM § 9-28.300.

⁶ See JM §§ 9-28.300(4)-(9).

⁷ See *id.* § 9-28.300(3).