

False Claims Act Enforcement in 2020: Four Areas to Watch

The recent announcement by the Department of Justice (DOJ) that it obtained more than \$3 billion in judgments and settlements under the False Claims Act (FCA) in FY 2019 underscores the ongoing enforcement risks companies face in the health care, defense and other industries.

The DOJ's statistics reflecting its total yearly recoveries under the FCA demonstrate that the department's civil fraud enforcement efforts continue to be robust, particularly in the health care and life sciences industries, which generated about \$2.6 billion of the recoveries last year. Qui tam actions filed by whistleblowers (relators) continue to be the source of most FCA payouts.

This article focuses on four important areas related to FCA investigations and litigation that companies and their counsel should be aware of: the DOJ's recent cooperation credit guidelines; cybersecurity and FCA liability; differing interpretations of the U.S. Supreme Court's Escobar decision and the DOJ's increased exercise of its authority to seek dismissal of FCA lawsuits.

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