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DOJ Foreshadows Increased Prosecutions of Corporate Crime



In remarks to the ABA Institute on White Collar Crime, [U.S. Attorney General Merrick Garland](#) and [U.S. Assistant Attorney General Kenneth Polite Jr.](#) delivered a wakeup call: enforcement activity by the U.S. Department of Justice (DOJ) "will only accelerate as we come out of the pandemic," and federal prosecutors will focus more on white-collar criminal cases.

The DOJ's priority in these cases, AG Garland explained, is to hold accountable those individuals who commit and profit from corporate crime. And AAG Polite emphasized that the DOJ is committed to vindicating the rights of victims in white-collar cases who are too-often overlooked. **Areas of Increased Enforcement Actions** In promising more white-collar investigations and prosecutions, AG Garland and AAG Polite identified several areas of concern that are on the DOJ's radar. **Pandemic-Related Fraud.** AG Garland emphasized that the DOJ will continue prosecuting pandemic-related fraud, including fraud related to the Paycheck Protection Program and the Provider Relief Fund. To bolster these efforts, the DOJ anticipates receiving additional funding and assembling additional teams dedicated to prosecuting pandemic-related fraud. **Blockchain and Cryptocurrencies.** The cryptocurrency space, AAG Polite noted, is a burgeoning area of enforcement activity involving sophisticated issues of blockchain analysis, encryption, and cybersecurity. In scrutinizing these industries, the DOJ will focus on victims "exploited by other market participants." **Russian Sanctions.** The DOJ has launched an interagency task force that will focus on Russian oligarchs and persons seeking to evade U.S. sanctions. This task force will complement a similar multilateral task force that was recently [announced](#). **Price-Fixing and Antitrust Violations.** The DOJ's Antitrust Division has increased its enforcement actions related to price-fixing and other criminal antitrust violations. AG Garland reported that the last fiscal year saw the greatest number of criminal antitrust investigations and prosecutions in 30 years. **Healthcare Fraud.** According to AAG Polite, the DOJ will continue focusing on healthcare fraud cases, including those involving opioid-related fatalities and persons who illegally profit from individuals seeking addiction treatment. **Guidance Going Forward** In identifying these areas of concern, AG Garland and AAG Polite also provided some guidance for companies facing a criminal investigation or prosecution:

- **Maintain a proper compliance program.** Compliance programs should ensure that employees are "informed, trained and empowered to choose right over wrong" and should, in the event of wrongdoing, "immediately detect[], remediate[], discipline[], and then adapt[] to ensure that others do not follow suit."
- **Report all relevant information.** To receive any credit for cooperation, a company must give the DOJ "all relevant, non-privileged facts and evidence about the misconduct and all of the individuals involved"—regardless of "position, status, or seniority." Further, whenever a corporate crime is discovered, a company should closely examine the model, culture, and controls set by its leaders, and consider a change in leadership even when there is no direct evidence of wrongdoing by such leadership.
- **Promptly report wrongdoing.** Those who represent victims should promptly contact law enforcement to report any wrongdoing.
- **Account for the victims.** Consistent with the focus of his remarks, AAG Polite encouraged companies to consider victims as part of their presentations to the DOJ.

AG Garland's and AAG Polite's remarks are consistent with the DOJ's recent [warnings](#) of increased investigations and prosecutions of corporate crime. Based on these warnings, now is the time for companies to examine their compliance programs and to prepare to respond to allegations of wrongdoing.

Authors

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