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ALERT MEMORANDUM

Justice Department Shuffles Enforcement To Fraud Division With New Regulations and Priorities

August 19, 2026

On August 18, 2026, the U.S. Department of Justice (DOJ) published a rule officially establishing the National Fraud Enforcement Division (the Fraud Division).[1] The rule, which takes effect on August 24, 2026, grants the Fraud Division authority over criminal proceedings in six categories: (1) criminal frauds, except cases assigned to the Antitrust Division for violation of antitrust law; (2) matters arising under the internal revenue laws; (3) trade fraud matters; (4) cases involving monies owed to or paid by the United States; (5) fraud or abuse with respect to health plans; and (6) health care fraud and controlled substances distribution and diversion schemes.[2] These authorities are further informed by the recent "The Fraud Division's Enforcement Priorities" Memorandum (the Priorities Memorandum), published on August 13, 2026, which emphasized the Fraud Division's focus on public trust and financial integrity; healthcare; tax; global trade and commerce; and corporate misconduct.[3]

If you have any questions concerning this memorandum, please reach out to your regular firm contact or the following authors

WASHINGTON D.C.

Christopher Kavanaugh
+1 202 974 1867
ckavanaugh@cgsh.com

Tom Bednar
+1 202 974 1836
tbednar@cgsh.com

SILICON VALLEY

Matthew M. Yelovich
+1 650 815 4152
myelovich@cgsh.com

NEW YORK

Rahul Mukhi
+1 212 225 2912
rmukhi@cgsh.com

Joon H. Kim
+1 212 225 2950
jkim@cgsh.com

Elizabeth Hanft
+1 212 225 2150
ehanft@cgsh.com

[1] Establishing the National Fraud Enforcement Division, AG Order No. 7108-2026, 28 CFR Part 0, Fed. Reg. Doc. No. 2026-16846 (published Aug. 18, 2026), effective August 24, 2026.
[2] *See* 28 C.F.R. § 0.70(a)–(f).
[3] Colin M. McDonald, Memorandum, "The Fraud Division's Enforcement Priorities" (August 13, 2026), available at https://www.justice.gov/opa/pr/assistant-attorney-general-colin-m-mcdonald-issues-memorandum-national-fraud-enforcement.

This rule formalizes the reorganization reflected in recent announcements from the Criminal Division. Days before the Priorities Memorandum, the Criminal Division renamed its longstanding Fraud Section the "White Collar and Corporate Enforcement Section," handling what DOJ described as fraud that does not involve U.S. public funds. When considered with the new rule and recent Priorities Memorandum, this reorganization indicates a division of labor between the Fraud and Criminal Divisions, in which the Fraud Division focuses on fraud involving taxpayer dollars and government-funded programs, while the Criminal Division addresses corporate and financial fraud in the private sector.

The Fraud Division's powers do not stop with fraud schemes and offenses. The new rule also grants the Fraud Division sweeping authority to prosecute any federal criminal offenses related to or uncovered in investigations brought under the Division's core authorities. This is a clear signal that non-fraud offenses identified in the course of a fraud investigation may be charged without referral to another DOJ component, thereby setting up a potential collision course with other components if a Fraud Division investigation yields evidence of tax evasion, national security, environmental, civil rights, or other offenses typically the province of other DOJ components. The rule permits these prosecutions by the Fraud Division regardless of whether such prosecutions fit within the six enumerated categories, which could help avoid delays or coordination challenges that can arise from inter-divisional referrals.

The rule also provides the Fraud Division with robust tools to further its expanded investigative authority. The Assistant Attorney General for the Fraud Division has delegated authority to certify special grand juries under 18 U.S.C. § 3331, enabling the Fraud Division to empanel investigative grand juries anywhere in the country. The rule also empowers the Fraud Division to pursue penalties in the form of injunctions, restitution, seizures or forfeitures of property, and damages.

These developments have several practical implications for potential targets of fraud or fraud-adjacent investigations. The Fraud Division's broad charging authority and nationwide grand jury power allow DOJ to open investigations more quickly, including those that span multiple jurisdictions and encompass conduct that might previously have been handled by different DOJ components or U.S. Attorney's Offices. Companies and individuals under investigation may face increasingly complex proceedings involving parallel civil and criminal tracks, multiple federal offices, and overlapping federal and state authorities. The Fraud Division's authority to charge non-fraud offenses also creates risk for entities or individuals who may not be typical targets of fraud enforcement but whose activities intersect with conduct under investigation.

Key Takeaways

The Fraud Division's expanded authorities, together with the administration's overall stated focus on fraud and abuse as one of its priority areas, create a heightened enforcement environment for corporate activity touching on government funds, tax, and healthcare. Companies at elevated risk of scrutiny include those involving government contracting and procurement, recipients of federal grants or benefits, healthcare delivery and billing, international trade or customs activities, and businesses in the tax preparation or advisory space. The Priorities Memorandum also notes the Fraud Division's goal to use data analytics and interagency coordination to identify fraud schemes, increasing the possibility that companies with large volumes of government billing data, customs declarations, or tax filings may be subject to algorithmic or pattern-based screening.

Companies can take several steps to limit their exposure to potential fraud investigations and enforcement actions.

— First, companies should assess whether existing compliance programs can detect the kinds of patterns that enforcement authorities will flag.

— Second, companies should evaluate exposure to the Fraud Division's priority areas and consider whether internal compliance monitoring adequately covers interactions with government-funded programs and related reporting requirements.

— Third, the Priorities Memorandum explicitly reaffirms DOJ's encouragement of voluntary self-disclosure, cooperation, and remediation under DOJ's Corporate Enforcement and Voluntary Self-Disclosure Policy.[4] Companies that discover potential misconduct within the Fraud Division's purview should carefully consider whether to self-report and to whom they should report.

— Finally, companies with ongoing government investigations should monitor whether their matters may be reassigned to or coordinated through the Fraud Division, and should remain attentive to the evolving division of responsibility between the Fraud Division, the Criminal Division's White Collar and Corporate Enforcement Section, and various U.S. Attorneys' Offices.

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[4] Alert Memorandum, "DOJ Releases First Department-Wide Corporate Enforcement Policy", (March 13, 2026), available at https://client.clearygottlieb.com/36/4024/uploads/2026-03-13-doj-releases-first-department-wide-corporate-enforcement-policy.pdf