

Publications

Client Alert: White Collar Crime Will Remain a DOJ Enforcement Priority

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On April 24, 2017, U.S. Attorney General Jeff Sessions announced that the Department of Justice (DOJ) will remain committed to enforcing laws relating to corporate misconduct and other white collar crime. The announcement is significant because there had been uncertainty as to the direction the new leadership at the department might take.

Speaking at the Ethics and Compliance Initiative Annual Conference, Attorney General Sessions specifically noted that a continued area of focus will be the Foreign Corrupt Practices Act (FCPA). He stated: “[w]e will continue to strongly enforce the FCPA and other anti-corruption laws. Companies should succeed because they provide superior products and services, not because they have paid off the right people.”

There will also be continuity in the department’s focus on the role of individual actors in corporate investigations (commonly referred to as the “Yates Memo”). In his speech, Sessions stated that “the Department of Justice will continue to emphasize the importance of holding individuals accountable for corporate misconduct” because “It is not merely companies, but specific individuals, who break the law.”

Finally, Sessions reiterated the department’s focus on compliance programs when exercising its discretion in corporate investigations. He noted, “when we make charging decisions, we will continue to take into account whether companies have good compliance programs; whether they cooperate and self-disclose their wrongdoing; and whether they take suitable steps to remediate problems.”

While the definition of cooperation and good compliance can be in the eye of the beholder, the remarks of Attorney General Sessions seem to make clear that existing DOJ guidance (including the Principles of Federal Prosecution of Business Organizations, the Resource Guide to the Foreign Corrupt Practices Act and the Fraud Section’s paper on the Department’s Evaluation of Corporate Compliance Programs) will remain part of the prosecutors’ playbook for the foreseeable future. The DOJ will expect companies to be familiar with these (and other) policies and to have a compliance objective as part of their everyday business plan.