

PANORAMIC

GOVERNMENT INVESTIGATIONS 2025

Contributing Editor

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Panoramic guide (formerly Getting the Deal Through) enabling side-by-side comparison of local insights, including into enforcement agencies; forms of liability; requirements and trigger events for investigations; whistle-blower and employee protections; document preservation and production (including data protection, privacy, and legal privilege limitations); investor notification; cooperation with enforcement agencies; resolution of investigations; potential civil and criminal penalties; and recent trends.

Generated on: July 19, 2024

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Global Overview

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Corporate criminal law enforcement is evolving more rapidly than usual as enforcement agencies confront new challenges including enhancements in digital technology and dynamic national security threats.

Holding corporations accountable for misconduct has been a rising priority for many law enforcement agencies. In the United States, enhanced efforts include new government policies designed to incentivise companies to self-report misconduct and cooperate with authorities, with potential benefits ranging from reduced penalties to zero penalties. Authorities, likewise, are working to improve communication with victims and to ensure that wrongdoers pay full restitution to victims.

Authorities are not relying solely on self-reports and traditional law enforcement detection. The US Department of Justice will be launching a new rewards programme to offer payment to whistle-blowers who report corporate misconduct under certain circumstances. The programme will likely be modeled after successful programmes developed by the US Securities and Exchange Commission and US Commodity Futures Trading Commission that have had major impacts on civil enforcement of securities and commodities laws.

Government agencies have been responsive to criticisms that corporate penalties often harm innocent shareholders. They are seeking to increase accountability for individuals within corporations who break the law, with expectations that such accountability will deter future misconduct by others. Corporations seeking reduced penalties are typically expected to assist the government in actions against all culpable individuals.

Businesses simultaneously face increased risks of being victims of crimes, particularly cybercrimes, including attacks originating in foreign nations and motivated by global conflict. Authorities are encouraging companies to cooperate when victimised by crime while companies address potential obligations for reporting cyberattacks. Agencies are also convening experts to both harness the potential of artificial intelligence to support their efforts and to prepare to respond to the crime risks that increased development and accessibility of artificial intelligence tools present.

Trade sanctions and export controls have been key components of national security strategies. Prosecutions of companies that break criminal laws on these issues will remain a priority. Likewise, prosecutors will continue to work with counterparts across borders to investigate and prosecute international corruption. US authorities have a new law available to them, the Foreign Enforcement Prevention Act (FEPA). FEPA prohibits officials in other countries from demanding, seeking, receiving, accepting or agreeing to receive or accept anything of value from certain parties, sometimes called the 'demand' side of bribery. FEPA supplements the US Foreign Corrupt Practices Act (FCPA), targeting the 'supply' side of bribery. Prosecutors may be eager to bring FEPA charges when evidence supports them, and its legal reach and effectiveness is likely to be tested in the coming years.

While regulatory authorities grapple with approaches to cryptocurrency, law enforcement continues to investigate a variety of allegations affecting the industry. US authorities brought impactful cases over the past year and are not likely to reduce the resources dedicated to cryptocurrency concerns.

Authorities in the United States also dedicated substantial effort to addressing the rampant fraud that plagued the government's covid-relief programmes. Continuing investigation and prosecution of fraud in those programmes will continue to consume significant resources in the coming year.

The year 2024 is an election year in the United States, which as usual brings the prospect of changing law enforcement priorities. Based on past experience, while presidential appointees will highlight different law enforcement initiatives, corporate criminal and civil enforcement is not likely to change on a wide scale as a result of the outcome of the election.

We hope that you find this Panoramic title to be a useful guide in advising global corporations and that it helps you prepare for an interesting year ahead.



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