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What DOJ Fraud Division Rule Resolves, And What It Doesn't

By **Kendall Day, Amy Feagles and Oleh Vretsona** (August 31, 2026, 1:16 PM EDT)

When Vice President J.D. Vance announced the creation of a new, dedicated anti-fraud office in January, commentators immediately raised a series of questions about the intent, scope and authority of the then-inchoate office.

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On Aug. 18, the U.S. Department of Justice published a final rule laying to rest many of those questions and officially conferring authority on this new prosecuting office, the National Fraud Enforcement Division.

The Fraud Division represents the first significant new DOJ component since the creation of the National Security Division in 2006, and it will have a lasting effect on federal criminal law enforcement.

The rule, which took effect on Aug. 24, caps a process that began with the White House's January announcement of the Fraud Division's creation.[1] In March, the U.S. Senate confirmed Colin McDonald as the assistant attorney general overseeing the Fraud Division.

Following McDonald's confirmation, then-acting Attorney General Todd Blanche issued an April 7 memorandum to formally direct the Fraud Division's creation — including by directing the transfer of over 150 prosecutors from the Criminal Division to the Fraud Division and setting timelines for further actions related to the establishment of the Fraud Division.[2] McDonald followed with an Aug. 13 memorandum, outlining the Fraud Division's enforcement priorities.[3]

Until the Aug. 18 rule publication, however, the precise contours of the Fraud Division's prosecutorial mandate within the DOJ remained the subject of speculation.

The Aug. 18 final rule provides welcome clarity on this topic. It describes the Fraud Division's mandate to "investigat[e] and prosecut[e] fraud against taxpayer dollars and taxpayer-funded programs,"[4] and pairs that mandate with catchall provisions that allow the remit to grow further, thus underscoring the central role that the Fraud Division will play in advancing the administration's criminal enforcement priorities.

What the rule does not resolve is how that authority will be divided in practice, because it leaves the Fraud Division and the Criminal Division with concurrent jurisdiction over many fraud offenses.

Additionally, the rule does not clarify the role of Main Justice components, including the Fraud Division, vis-à-vis U.S. attorney's offices, although we anticipate the division of responsibilities will continue alongside the lines established by the Criminal Division and U.S. attorney's offices where there has been shared jurisdiction.

Below, we discuss what the rule resolves, what it leaves open, and the practical implications for companies and individuals.

The Rule's Allocation of Prosecutorial Authority

The rule — which amends Title 28 of the Code of Federal Regulations, Section 0.70 — grants the Fraud Division jurisdiction over six enumerated enforcement areas.

Criminal Frauds

Criminal fraud offenses generally, aside from conspiracy matters assigned to the Antitrust Division, will now be under the Fraud Division's authority.

The amended rule leaves overlapping Fraud Division and Criminal Division enforcement authority over fraud prosecutions generally, except for tax fraud and health plan fraud, which the rule assigns exclusively to the Fraud Division.[5]

Criminal Tax

All criminal proceedings under the internal revenue laws now fall under the exclusive purview of the Fraud Division, completing the migration of criminal tax enforcement that began in December 2025 with the dissolution of the Tax Division.[6]

Trade Fraud

Criminal proceedings related to trade fraud matters, including schemes involving imported goods, customs duties, tariffs and foreign commerce, are now part of the Fraud Division's authority.[7]

As with other nontax, non-health plan fraud categories, trade fraud authority now spans both the Fraud Division and the Criminal Division.

Monies Owed to or Paid by the U.S.

The rule grants the Fraud Division authority over cases involving money owed to, or paid by, the federal government, capturing procurement fraud, grant fraud and benefits program fraud.[8]

Health Plan Fraud

"[C]riminal proceedings involving fraud or abuse with respect to health plans" are within the Fraud Division's exclusive authority, according to the new rule.[9] Notably, the rule does not define "fraud with respect to health plans," nor offer an explanation on how it differs from healthcare fraud, which is highlighted in the McDonald memo as a priority for the Fraud Division.

Although the rule itself does not specifically delineate that all criminal proceedings related to healthcare fraud — which is broader than health plan fraud — are moved to the Fraud Division, the rule does dissolve the Criminal Division's jurisdiction over such cases.[10]

The full carveout of health plan cases, combined with the sharing of healthcare fraud cases, is likely to prompt debate about where the line between the two categories should be drawn — especially because the Fraud Division has made Medicare and Medicaid fraud a prominent enforcement focus, including through recent nationwide and Minnesota-specific takedowns.[11]

Controlled Substances Offenses

The rule grants the Fraud Division authority over criminal proceedings related to Controlled Substances Act offenses, including schemes involving the diversion or unlawful distribution of controlled substances.[12]

The rule expressly modifies the Criminal Division's controlled substances authority to make it nonexclusive, "such that the Fraud Division may bring such charges where authorized to do so."[13]

Catchall or Elastic Provisions

Beyond the assignment of enumerated enforcement areas to the Fraud Division, the rule grants the Fraud Division the sweeping authority, in any proceeding under its stated jurisdiction, to prosecute any federal crime it discovers during an investigation in one of the enumerated areas.[14]

This provision could have significant implications for the Fraud Division's ability to operate independently of other DOJ components.

Under the rule, the Fraud Division can, in theory, pursue child pornography or other computer-related offenses, for example, if it identifies those in the course of executing search warrants on the computer of a fraud-related investigation target.

For companies facing the Fraud Division investigations, that means a single set of prosecutors can expand an inquiry into adjacent conduct without a required referral to other DOJ components — a step that previously created a natural checkpoint and an opportunity to argue the investigation's scope.

Questions remain, however, about how the Fraud Division will deconflict matters that would ordinarily be handled by other DOJ components. The department's components have typically coordinated investigations in the past when a need arises for expertise in multiple subject matter areas, and that practice could serve as a baseline for the Fraud Division's own practices.

Some of these questions surrounding deconfliction may eventually be answered through practice or even through revisions to the Justice Manual.

Additionally, the rule allows the attorney general or the deputy attorney general to assign the Fraud Division any case or category of cases, "notwithstanding any other provision" of the rules governing the organization of the DOJ, and to assign the Fraud Division any other duties or functions in the same manner.[15]

The Fraud Division's substantive remit will therefore track the assignment decisions of DOJ leadership, and may extend well beyond the six enumerated areas.

Additionally, the Fraud Division can take on any case by agreement with the assistant attorney general for the DOJ division that otherwise has authority over the case, which could permit transfer of cases from one component to another without the need for formal assignment by the attorney general or the deputy attorney general.[16]

How this flexibility is deployed will become clear only as future assignments accumulate.

Changes to the Process of Fraud Prosecutions

In addition to laying out the Fraud Division's substantive focus areas, the rule and related guidance specify the process by which the Fraud Division's authority will be exercised and its prosecutions conducted.

U.S. Attorney's Offices

The Blanche memo directs each of the 93 U.S. attorney's offices to place a detailee within the Fraud Division, and gives each U.S. attorney's office and FBI field office additional resources for Fraud Division-focused work.[17]

National Fraud Detection Center

The Fraud Division will **house** a National Fraud Detection Center, a multiagency, data-driven operation intended to identify fraud through analytics, in coordination with the Task Force to Eliminate Fraud, **established** by Executive Order No. 14395.

The Aug. 13 McDonald memo indicated that prosecutors will "deploy the full arsenal of criminal tax tools paired with data analytics, financial forensics, and nationwide coordination," and the rule directs the Fraud Division to fulfill its mission "using advanced, data-driven investigative techniques."[18]

Special Grand Jury Authority

The Fraud Division's assistant attorney general may now certify under Title 18 of the U.S. Code, Section 3331, that criminal activity in a district necessitates a special grand jury,[19] which is a grand jury that can serve longer than 18 months and also has the ability to publish a report following its investigation.[20]

Key Areas to Watch

Several dynamics warrant tracking as the Fraud Division becomes fully operational and carries out its mandate.

Justice Manual Revisions

The DOJ has not yet publicly announced specific revisions to the Justice Manual. Nevertheless, the Blanche memo directed the Office of Legal Policy, following the department's Fraud Division "realignment determination ... [to] review the Justice Manual" and related DOJ guidance for updates, and to submit any recommended changes for prompt action.[21]

Companies should monitor forthcoming Justice Manual revisions for revised guidance on the Fraud Division's enforcement priorities, expectations and possibly deconfliction.

Continued Evolution of the Interplay Between the Fraud Division and the Criminal Division

The rule redraws the jurisdictional lines between the Fraud Division and the Criminal Division in ways that seem to be clear on paper, but concurrent authority over most fraud means the operative boundary will be set by practice, not text.

Particularly in areas where the two divisions retain concurrent authority, such as general fraud and controlled substances cases, the overlap may produce parallel investigations, case-by-case allocation, potential disagreements between different DOJ components or some combination of the above.

Companies and individuals thus may face two sets of prosecutors with an interest in the same conduct before either resolves its position.

The Criminal Division's Fraud Section was also renamed the White Collar and Corporate Enforcement Section on Aug. 10, possibly suggesting its remaining focus will tilt toward corporate conduct outside of the Fraud Division's fraud mandate.[22]

Notably, the reorganization maintained the Foreign Corrupt Practices Act Unit and kept its present leadership structure intact, potentially indicating that FCPA enforcement will continue along the guidelines **announced** in Blanche's June 2025 memorandum.[23]

Impact on Voluntary Self-Disclosure

The Fraud Division falls under the departmentwide corporate enforcement policy that the DOJ announced in March.

The CEP standardized voluntary self-disclosure requirements across the DOJ, but given the broad sweep of investigatory powers granted to the Fraud Division under the new rule, the choice of self-disclosure recipient now carries added meaning. Where the Fraud Division and the Criminal Division have overlapping authority, under the new CEP, both components will be considered appropriate components to which a company can self-disclose.

The CEP expressly provides that "disclosure must be made to the appropriate component of the Department," but clarifies that a "[g]ood faith disclosure to one component where the matter is later brought to another appropriate component for investigation will also qualify."[24]

This cross-crediting provision gives companies a measure of flexibility when disclosing in areas of overlapping Fraud Division and Criminal Division authority.

To the extent that companies still may face internal DOJ resistance to conferring credit for eligible disclosures, there will be a premium on understanding how the divisions' overlapping authority is being allocated within the DOJ and exercised across other enforcement matters, relative to the specific issue area that a given disclosure implicates.

Data Analytics as an Investigative Starting Point

The Fraud Division's emphasis on data-driven enforcement may increasingly enable the government to identify potential misconduct before any whistleblower report, voluntary self-disclosure or other nongovernment lead. Companies should consider whether their own data-mining capabilities allow them to proactively identify conduct that could attract DOJ scrutiny.

Trade and Tariff Fraud as a Stand-Alone Enforcement Priority

The express inclusion of trade and tariff fraud gives an area that previously lacked a clear home in the DOJ's organizational regulations a more prominent enforcement footing.

That prominence was indeed evident before the rule: In July, the interagency Trade Fraud Task Force **published** "A Resource Guide to Trade Fraud Enforcement," a detailed treatment of customs enforcement authorities, common fraud typologies and forced labor obligations, cosigned by McDonald.[25]

Companies with significant import activity should monitor how broadly the Fraud Division pursues this mandate and consider treating trade compliance as a standing component of their compliance programs — for example, by reassessing trade-related exposure as part of their broader risk priorities, rather than leaving it solely to operational or customs-brokerage functions.

Parallel Civil Proceedings

The Blanche memo provided for a 120-day period in which DOJ components not initially identified for inclusion in the Fraud Division would be evaluated for inclusion. Given the Fraud Division's stated prioritization of healthcare fraud enforcement, there has been speculation about whether the Fraud Division would absorb the Fraud Section of the Civil Division's Commercial Litigation Branch.

That section enforces the False Claims Act, which is the government's chief civil tool for combating fraud on the government fisc, and the enforcement of which occurs predominantly in the healthcare space.

The new rule leaves FCA enforcement undisturbed — and therefore in the hands of the Civil Division — while transferring sole authority over criminal health plan fraud investigations, and nonexclusive authority over healthcare fraud matters, to the Fraud Division. This combination of criminal shifts and civil status quo could affect the DOJ's approach to parallel criminal and civil investigations related to both healthcare and other areas the FCA reaches, such as procurement fraud.

One likely result is the need for coordination between the Fraud Division and the Criminal Division on criminal healthcare enforcement priorities that were previously internal to a single division; another is that an entity resolving with one of the two divisions should not assume that the resolution binds the other.

Perhaps more notably, the new rule and the McDonald memo also suggest that the Fraud Division may become involved earlier and more frequently in matters traditionally handled exclusively by the Civil Division.

Conclusion

The Aug. 18 rule affords much-needed clarity on the bounds of the Fraud Division's prosecutorial authority within the DOJ. At the same time, the rule leaves certain questions open, most notably the allocation of authority between the Fraud Division and the Criminal Division in areas where they now have overlapping mandates.

Companies should be prepared for these overlaps to manifest in various ways, including through parallel investigations and possible divergences of viewpoint between multiple sets of prosecutors working on a given matter.

The new rule highlights a number of other areas companies should monitor going forward, including the implications for voluntary self-disclosures of crimes that could be brought to either the Fraud Division or the Criminal Division, and the risks and opportunities that the Fraud Division's stated focus on data analytics creates for in-house compliance programs.

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[1] The White House, Fact Sheet: President Donald J. Trump Establishes New Department of Justice Division for National Fraud Enforcement (Jan. 8, 2026), https://www.whitehouse.gov/fact-sheets/2026/01/fact-sheet-president-donald-j-trump-establishes-new-department-of-justice-division-for-national-fraud-enforcement/; Memorandum from Todd Blanche, Acting Att'y Gen., U.S. Dep't of Just., Establishment of the National Fraud Enforcement Division (Apr. 7, 2026) [hereinafter Blanche Memo], https://www.justice.gov/ag/media/1435311/dl?inline.

[2] Blanche Memo, supra note 1.

[3] Memorandum from Colin M. McDonald, Assistant Att'y Gen., Nat'l Fraud Enf't Div., U.S. Dep't of Just., The Fraud Division's Enforcement Priorities (Aug. 13, 2026) [hereinafter McDonald Memo], https://www.justice.gov/opa/media/1457756/dl?inline.

[4] Establishing the National Fraud Enforcement Division, 91 Fed. Reg. 53,357 (Aug. 18, 2026) (to be codified at 28 C.F.R. pt. 0).

[5] 91 Fed. Reg. 53,357 (to be codified at 28 C.F.R. §§ 0.55; 0.70(a)).

[6] 91 Fed. Reg. 53,357 (to be codified at 28 C.F.R. §§ 0.55; 0.70(b)).

[7] 91 Fed. Reg. 53,357 (to be codified at 28 C.F.R. § 0.70(c)).

[8] 91 Fed. Reg. 53,357 (to be codified at 28 C.F.R. § 0.70(d)).

[9] 91 Fed. Reg. 53,357 (to be codified at 28 C.F.R. § 0.70(e)).

[10] 91 Fed. Reg. 53,357 (to be codified at 28 C.F.R. § 0.55).

[11] Press Release, U.S. Dep't of Just., Minnesota Health Care Fraud Takedown Results in Charges Against 15 Defendants for Over $90M in Fraud (May 21, 2026), https://www.justice.gov/opa/pr/minnesota-health-care-fraud-takedown-results-charges-against-15-defendants-over-90m-fraud; Press Release, U.S. Dep't of Just., National Health Care Fraud Takedown Results in 455 Defendants Charged in Connection with Over $6.5 Billion in Alleged Fraud (June 23, 2026), https://www.justice.gov/opa/pr/national-health-care-fraud-takedown-results-455-defendants-charged-connection-over-65.

[12] 91 Fed. Reg. 53,357 (to be codified at 28 C.F.R. § 0.70(f)).

[13] 91 Fed. Reg. 53,357 (to be codified at 28 C.F.R. § 0.55).

[14] 91 Fed. Reg. 53,357 (to be codified at 28 C.F.R. §§ 0.70(j)-(k)).

[15] 91 Fed. Reg. 53,357 (to be codified at 28 C.F.R. §§ 0.70(g), (l)).

[16] 91 Fed. Reg. 53,357 (to be codified at 28 C.F.R. § 0.70(h)).

[17] Blanche Memo, supra note 1.

[18] McDonald Memo, supra note 3.

[19] 91 Fed. Reg. 53,357 (to be codified at 28 C.F.R. § 0.71).

[20] 91 Fed. Reg. 53,357 (to be codified at § 0.71; U.S. Dep't of Just., Criminal Resource Manual §§ 158-59 (2020)).

[21] Blanche Memo, supra note 1.

[22] U.S. Dep't of Just., Crim. Div., White Collar and Corporate Enforcement ("White Collar") Section, https://www.justice.gov/criminal/criminal-white-collar (last visited Aug. 20, 2026).

[23] In a separate, FCPA-specific memorandum issued in June 2025, Deputy Attorney General Blanche directed that "[a]ll current and future investigations and enforcement actions shall be governed by these guidelines and other applicable policies," suggesting that FCPA enforcement will continue consistent with the priorities laid out in that memorandum. See Memorandum from Todd Blanche, Deputy Att'y Gen., Guidelines for Investigations and Enforcement of the Foreign Corrupt Practices Act (FCPA) (June 9, 2025), https://www.justice.gov/dag/media/1403031/dl.

[24] U.S. Dep't of Just., Corporate Enforcement and Voluntary Self-Disclosure Policy at 2 n.5 (Mar. 10, 2026), https://www.justice.gov/dag/media/1430731/dl?inline=.

[25] U.S. Dep't of Just. & U.S. Dep't of Homeland Sec., Trade Fraud Task Force, A Resource Guide to Trade Fraud Enforcement (July 2026), https://www.justice.gov/fraud/media/1452331/dl?inline.