

Sanctions are the new FCPA according to DAG Lisa Monaco

May 9, 2022 | Client Update | 3-minute read

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The DAG's discussion

At a recent New York City Bar Association event, Deputy Attorney General Lisa Monaco emphasized the centrality of national security to the Department of Justice's white collar enforcement efforts. In particular, Monaco pointed to the enforcement of sanctions evasion and export control violations as key to the Department's work to combat corporate crime. "One way to think about this is as sanctions being the new FCPA," she said. Although the Foreign Corrupt Practices Act (FCPA) has long been a focus of the Department's corporate enforcement efforts, criminal enforcement of sanctions laws (the Trading With the Enemy Act and the International Emergency Economic Powers Act) has not been as widely publicized as a Department priority for corporate enforcement. Monaco's remarks have thrown such enforcement under the spotlight.

During the moderated discussion, Monaco underscored the Department's commitment to enforcing the sanctions imposed in response to Russia's invasion of Ukraine and stressed the need for both financial institutions and international corporations to closely monitor these sanctions. More broadly, Monaco observed a growing overlap between corporate crime and national security, including with regard to money laundering to evade sanctions, terrorist group financing and cybercrime.

Further describing the key tenets of the Department's white collar enforcement work, Monaco highlighted the need for companies to enhance their due diligence and compliance programs.

Striking consistent themes

Monaco's remarks on sanctions and white collar enforcement aligned with a broader effort by the Biden administration to root out foreign corruption. Last year, the Biden administration published a national security memo and subsequent strategic plan outlining a whole-of-government approach to corruption, which included increased resources to combat money laundering and greater use of data analytics to detect corruption. And earlier this month, in the wake of Russia's invasion of Ukraine, the Administration [released](#) a proposal to improve the United States' ability to work with international partners to recover assets linked to foreign corruption. Similarly, Monaco's focus on compliance echoed the sentiment expressed in her prior speeches and announcements by other Department officials. Last October, Monaco announced revisions to the Department's corporate enforcement policies, and stressed the importance of a "commitment to compliance" and a "culture of compliance." In March of this year, Assistant Attorney General Kenneth Polite [spoke](#) about the Department's focus on compliance: "Support your compliance team now or pay later," he warned.

Key takeaways

The Department of Justice appears poised to aggressively enforce sanctions evasion and export control violations. It is unclear how the Department will ratchet up enforcement, but the announcement comes at a time that the tone of Department officials has turned much harsher on corporations, so it is certainly possible that the Department will look to impose harsher penalties and resolutions for violations of the sanctions laws.

In addition, the link between corruption and sanctions enforcement could lead to new overlap and collaboration by various enforcement authorities who investigate and prosecute such crimes, including the State Department, Commerce Department, Treasury Department (primarily through the Office of Foreign Assets Control), and Justice Department. In such a case, investigations and resolutions would become much more complicated to navigate.

Finally, the Department's continued emphasis on compliance sends a clear signal about its expectations, and the importance of investing in compliance now to mitigate bad outcomes later. Compliance and due diligence related to sanctions is similar and, in many ways, overlapping with that of anti-money laundering and anti-corruption, so the Department will likely look at a company's program with respect to all three areas in determining the effectiveness of such a program.

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