

Thinking About Indemnity Protections after the "Yates Memo"

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On November 16, 2015, Deputy Attorney General Sally Quillian Yates gave a speech regarding the implementation of the Department of Justice's recent policy initiatives to facilitate the prosecution of individuals in corporate cases outlined in the "Yates Memo," issued on September 9, 2015. There is some debate about what is new in the Yates memo and what the potential implications for companies and their directors and officers may be, but one thing is clear - the question of individual liability is on the front burner once again.

As evidence, note that Assistant Attorney General for the Antitrust Division William Baer recently emphasized the potential for increased civil accountability for individuals as a result of the Yates Memo, and stated that the Antitrust Division in particular was assessing whether there should be more individual liability in civil antitrust investigations. Unsurprisingly, we are now increasingly advising clients on the implications for individual indemnity protections and D&O insurance policies.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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