

New Fraud Division Flexes Might In Latest Enforcement Policy

By **Phillip Bantz**

Law360 (October 8, 2026, 4:47 PM EDT) -- The National Fraud Enforcement Division's new corporate enforcement policy emphasizes the quick pursuit of certain types of fraud through data analysis and staff resources, expands the target list beyond traditional healthcare providers and highlights the division's growing dominance within the U.S. Department of Justice, experts say.

Policy directives issued last week from the new Fraud Division, or NFED, also signal a potential uptick in certain types of federal white collar enforcement, which has generally slowed as the Trump administration has focused more on immigration enforcement and violent crime, according to white collar defense attorneys who spoke with Law360.

"The Department of Justice has been putting its resources into other areas and now they're saying, 'We're back in business in white collar and here are the specifics of what we're doing,'" said John Carney, co-head of BakerHostetler's white collar, investigations and securities enforcement and litigation team.

Since its launch in April, NFED has gained about 500 attorneys and support staff from various sections of the DOJ, including the Tax Section, Health Care Fraud Unit and parts of the Market, Government and Consumer Fraud Unit. More than 90 U.S. attorney's offices throughout the country also have assigned a prosecutor to the division, according to NFED head Colin McDonald.

The administration has been pouring resources into NFED "and now we have some guidance on what they expect from companies and how they're going to evaluate them," said Mark Bini, co-chair of investigations at Reed Smith LLP. "That really sets us up for the next step, which is going to be a lot of enforcement activity."

McDonald outlined in an Oct. 1 memo, which Law360 first reported, the factors that federal prosecutors should weigh when considering potential charges or resolutions in corporate fraud cases, along with the types of cases that should have top priority.

Those factors include executives being aware of or involved in the fraud, efforts to hide fraud from the government, schemes that span three years or more or that affect three or more federal districts, and threats to national security.

Other considerations include the impact on taxpayer-funded programs, schemes that harm 25 or more victims or result in \$25 million or more in loss, and fraud involving immigration offenses or the

movement of U.S. dollars to support foreign adversaries.

Fraud schemes involving the healthcare industry and government programs top the list of high-priority cases, along with violations of the Federal Food, Drug and Cosmetic Act, a statute the government commonly uses to investigate and prosecute companies that fall under Food and Drug Administration regulation.

"The target list is growing beyond traditional healthcare providers and the proof of that is the reference to the Food, Drug and Cosmetic Act," said Kevin Lowell, who recently joined Miller & Chevalier Chtd. after serving as deputy chief of the National Fraud Enforcement Division's Health Care Fraud Section.

That means FDA-regulated companies in the pharmaceutical, medical technology and life sciences industries, for example, are now under the microscope of the new Fraud Division, according to Lowell.

"If the idea is to have an impact across the broader healthcare and life sciences ecosystem in corporate enforcement, you would want to look at the full gamut of companies across that landscape," he told Law360.

In his recent memo, McDonald gave NFED prosecutors seven days to report any ongoing corporate investigations to the chief of the division's Corporate Enforcement Section, which will have "primary responsibility for evaluating a company's compliance with the terms of any corporate criminal resolution," McDonald's memo states.

The directive essentially establishes the division's "centralized control over corporate matters," and shows that it is taking inventory of pending cases to decide which are the strongest and should get the most attention from investigators and prosecutors, according to Lowell.

"Making this time-bound — and ordering every prosecutor to report every investigation — makes it clear that they want to execute on this vision. It's not just a broad, vague policy statement," he said.

Nicole Boeckmann, a partner at Bracewell LLP and former senior federal prosecutor, said McDonald's memo also indicates that he wants his division to "move quickly" and suggests that NFED is going to target not just large corporate fraud but also "smaller cases ... that they can move fast on."

"They want to keep these cases moving. They don't want two-year-long investigations," she said.

McDonald also has directed Fraud Division leaders and their "law enforcement partners" to come up with policies and programs that encourage more whistleblowers to alert the government to fraud.

At the same time, however, his memo states that NFED and the new National Fraud Detection Center are "proactively generating leads and opening new individual and corporate fraud investigations at a rapid pace." The center is a "prosecutor-led, multi-agency team" focused on collaborative, data-driven fraud investigations, according to a DOJ announcement in late August.

In other words, the Fraud Division isn't sitting around waiting for outside data miners and other whistleblowers to bring them potential cases, according to Lowell.

"They have a team of very sophisticated data analysts who can query that data quickly and generate case leads," he said.

McDonald told Law360 in an earlier interview that he is building NFED into a "full-fledged law firm" within the DOJ, complete with data analysts, other fraud investigators, prosecutors, appellate attorneys and support staff.

His recent corporate enforcement memo is "a bit of flex" of NFED's expanding capabilities and focus, according to former senior federal prosecutor Sandra Moser, co-leader of the white collar and investigations practice at Morgan Lewis & Bockius LLP.

"It's saying, 'We're handling this in-house,'" she said. "They're making it clear that they will not need to outsource this to the former [criminal] Fraud Section, which has really been the primary driver of corporate resolution over many years."

The DOJ renamed its longstanding Criminal Division Fraud Section as the White Collar and Corporate Enforcement Section in August. The extent to which the section will work with NFED remains unclear in the wake of McDonald's recent memo, according to Robert Luskin, a partner in the investigations and white collar defense practice at Paul Hastings LLP.

"What does this mean in terms of the division of labor? What does that mean in terms of where you go if you're going to make a voluntary disclosure? Do you call up the folks in the former Fraud section or do you call up the folks in the new Fraud Division?" Luskin said.

Also unclear, according to Luskin, is the extent to which NFED might "perform a gatekeeping function" over various U.S. attorney's offices in fraud investigations, prosecutions and resolutions.

"There are so many questions that are only going to play out in real life," Luskin said. "But these are really important questions, and they've got real consequences in terms of how you represent your clients."

--Editing by Linda Voorhis.