



## White Collar, Government & Internal Investigations ADVISORY ■

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### The DOJ Criminal Fraud Section's "Year in Review" and the Continued Prioritization of Corporate Criminal Enforcement

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On February 15, 2023, the U.S. Department of Justice's Criminal Fraud Section released its annual "[Year in Review](#)" report, summarizing the Fraud Section's accomplishments in 2022. The Fraud Section is composed of more than 150 attorneys and investigates and prosecutes a variety of complex fraud, market manipulation, health care fraud, and Foreign Corrupt Practices Act (FCPA) violations across the United States. It is also a leader of the DOJ's corporate enforcement efforts, not least through its exclusive focus on white-collar criminal conduct, its primary jurisdiction over FCPA prosecutions, and its substantial role in the design and implementation of DOJ corporate enforcement policies. For all of these reasons, the activity of the Fraud Section is often seen as a bellwether of the DOJ's commitment to corporate criminal enforcement.

Key highlights of the Fraud Section's work in 2022 include:

- 7 corporate resolutions (4 deferred prosecution agreements and 3 guilty pleas), involving over \$2 billion paid to U.S. and foreign criminal and civil authorities
- 2 declinations pursuant to the DOJ's Corporate Enforcement Policy
- 280 individuals charged
- 342 individuals convicted
- 51 cases tried across 22 federal districts

These figures are roughly comparable to those reported by the Fraud Section for 2021, which included eight corporate resolutions (involving over \$3 billion paid to U.S. and foreign criminal and civil authorities), 333 individuals charged, and 329 individuals convicted. However, the Fraud Section's 51 trials in 2022 is especially notable – it is more than double the number of Fraud Section trials in 2021 and reflects not only the significant number of individuals charged by the Fraud Section over the past several years but also the progress courts around the country continue to make in clearing COVID-19-related backlogs.

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Also notable is the significant uptick in FCPA enforcement actions in 2022. Although the number of individuals charged and convicted in FCPA-related matters remained relatively constant when compared with 2021, the Fraud Section nearly doubled the number of corporate enforcement actions in 2022 and nearly quadrupled the amount of fines, penalties, and other amounts paid to U.S. and foreign criminal and civil authorities.

The Fraud Section's results are announced against the backdrop of what appears to be a pivot by the DOJ from a largely confrontational and punitive tone in its corporate enforcement messaging to one that offers more clear and quantifiable benefits to companies evaluating whether to self-report potential misconduct and cooperate with the DOJ's investigative efforts. In remarks just days ago, Deputy Assistant Attorney General Lisa Miller – who oversees the Fraud Section – claimed that [“the carrots we offer have never been juicier”](#) and echoed comments by other senior DOJ officials in recent months that suggest the DOJ will take a more nuanced approach to corporate criminal enforcement than was suggested in the initial [“Monaco Memo”](#) of October 2021.

We see in the DOJ's 2022 results a continuing effort to ramp up corporate criminal investigations and prosecutions, but confidence in the DOJ's willingness to follow through on promises of “juicier carrots” will only come through a more sustained and voluminous amount of enforcement activity by DOJ prosecutors that demonstrates adherence to those promises. What is certain is that despite the plethora of other enforcement priorities identified by the DOJ – from export controls and sanctions to cybercrime and beyond – corporate criminal enforcement, and in particular, FCPA enforcement, remains a key area of focus for DOJ prosecutors and leadership.

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