

# DOJ will “surge resources” to corporate enforcement, official says

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*John Carlin, a senior official in the Deputy Attorney General's Office. (Credit: Morrison & Foerster )*

John Carlin announced that the Justice Department will “surge resources” for corporate enforcement, including a new FBI squad that will work inside the Criminal Division’s fraud section at Main Justice.

Carlin, the principal associate deputy attorney general, made his remarks on 5 October at GIR Connect New York.

“I think you’ll see in the days and months to come that we are building up to surge resources for corporate enforcement,” he said. “That has begun, and we have started to redouble the department’s commitment to white-collar enforcement.”

In describing just one example of the resources surge, Carlin said a new squad of FBI agents will be designated to work full time within the Fraud Section. “We’ve seen that partnership bear fruit in the past, and it’ll give us more freedom and flexibility to pursue white-collar matters nationwide,” he said.

The DOJ is also going to switch gears in its enforcement approach, Carlin said. “We will continue to assess our practices and make some changes regarding the prosecution of corporate crime”, he said.

Changes will occur in the department's use of corporate resolutions, policies affirming the need to hold individuals accountable for white-collar crime, and the weight it gives to companies' cooperation. Carlin added that the department is interested in feedback over other areas that it could potentially review.

There's more news to come, Carlin said. "You should expect to hear more formal announcements in the days and weeks to come from the deputy attorney general."

He also mentioned specific target areas, including sanctions and export control enforcement. Carlin emphasised the "critical" nature of sanctions enforcement, highlighting that there are about 150 open sanctions and export control investigations at the moment, a "significant" increase over the past few years. "Expect that trend to continue," he said. Carlin also noted that 70% of the sanctions and export control cases focus on four countries: Iran, China, North Korea and Russia.

"I think you will also see us continue to use new tools in export and sanctions cases including leveraging asset forfeiture in ways to have the maximum disruptive effect," he said. He noted that last year the department seized over one million barrels of Iranian oil that was bound for Venezuela.

Another area "ripe for innovation and vigorous enforcement" is cryptocurrency cases, Carlin continued. He highlighted that cryptocurrency is used prominently in a wide variety of criminal activity from ransomware and fraud to terrorist financing, and that Bank Secrecy Act compliance is going to be "a key tool in the crypto space".

There will soon be more information about increasing the DOJ's capacity and changing its structure for cryptocurrency enforcement, he said.

Carlin also emphasised that the DOJ will be firm with companies when they don't comply with government agreements.

"We're going to continue to use NPAs, DPAs and guilty pleas, but that is not the end of an obligation for a company, and to the contrary, it's just the start. And particularly now with scrutiny on the use of those agreements, we'll need to make sure that those who get the benefit of such an arrangement comply with their responsibility. And if not, you should expect to see serious repercussions," he said.

### **DOJ resource surge is "significant"**

Following Carlin's speech, WilmerHale partner Stephanie Avakian, who until early this year led the US Securities and Exchange Commission's enforcement division, chaired a panel on enforcement so far under the Biden administration. Panelists were immediately struck by Carlin's comments.

The decision to place an FBI squad in the Fraud Section "has the potential to be a major, major game changer," said Mark Mendelsohn, a partner at Paul Weiss Rifkind Wharton & Garrison. "For [the Fraud Section] to have an FBI

squad at its disposal to investigate its market manipulation and healthcare fraud, FCPA cases is a huge change."

Dan Kahn, a former senior Criminal Division official who left the DOJ last week for Davis Polk & Wardwell, said Carlin's comments indicate an important shift at the department. "That's significant and I think it signals that this administration is committed to bolstering resources and enhancing enforcement," said Kahn, when talking about the FBI squad placement.

"The fact that we're talking now about surging resources, enhancing policies to strengthen enforcement, I think just foreshadows that there is going to be increased enforcement in all these areas," Kahn said.

The event was chaired by Debevoise & Plimpton's Bruce Yannett and Gibson Dunn & Crutcher's Joe Warin.

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