



SPEECH

Deputy Attorney General Lisa O. Monaco Delivers Keynote Remarks at 2022 GIR Live: Women in Investigations

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Remarks as Prepared for Delivery

Good afternoon. It's great to be with you. I'm glad to be joining you virtually although I wish I were there in person. Thank you for inviting me to speak with you today – this is a terrific gathering and a great forum, particularly for women leading investigations and enforcement work around the world. I'm especially glad to be joining this discussion among a broad group of practitioners, in house counsel and regulators.

I want to use my time with you all to speak about trends in the department's approach to corporate criminal enforcement, with a particular focus on sanctions enforcement. Before I get to sanctions let me start by updating you on some of the department's most recent work when it comes to corporate criminal enforcement – it has been a very active time.

In the span of the last month and a half, the department's investigators and prosecutors have:

- Charged the founder of Archegos and three other executives with racketeering and fraud related to market manipulation that caused more than \$100 billion in market cap losses when Archegos collapsed; and

- The department announced four corporate guilty pleas — by Allianz Global Investors, Glencore International AG, Glencore Ltd. and Fiat Chrysler — who collectively agreed to pay over \$7 billion in criminal penalties.

Between these five cases, we have charged 12 individuals, including a CEO, a CFO, three portfolio managers and three traders. While the number of charged defendants and penalty size alone don't tell the whole story, the department is committed to a data-driven assessment of our work on corporate criminal enforcement, to identify what works and what does not.

When it comes to corporate criminal enforcement, our mission is to enforce the criminal laws that govern corporations, executives, officers and others, in order to protect jobs, guard savings and maintain our collective faith in the economic engine that fuels this country. We will hold those that break the law accountable and we will promote respect for the laws designed to protect investors, consumers and employees.

Our resolve is strengthened by another accelerating trend: corporate crime increasingly implicates national security in ways that are all-too-relevant to this group and in this current moment.

Corporations that pay bribes and kickbacks to foreign governments, that pay terrorist groups for protection, or that launder funds for sanctions evaders — they profit from crimes at the expense of our collective peace and prosperity.

Today, the geopolitical landscape is more challenging and complex than ever. The most prominent example is of course Russia's invasion of Ukraine — which is nothing less than a fundamental challenge to international norms, sovereignty and the rule of law that underpins our society. Our collective security and prosperity face further challenges from other countries, such as those that sponsor the rampant theft of trade secrets, subject ethnic minority groups to forced labor or prop up regimes through institutional corruption.

Increasingly, you and your clients are on the front lines in responding to these geopolitical realities. We recognize that the complicated geopolitical environment forces companies to constantly make tough and sometimes costly decisions. As advisors to the companies and institutions confronting this landscape, you can help your clients navigate this terrain and make the right decisions in this complex environment. The department wants to support those that do — such as the many companies who have made the tough and costly decision to depart from Russia in recent months.

To use the vernacular of national security lawyers, our goal is not only to hold people accountable, but to disrupt these threats using all the tools available to us. And we continue to develop new tools to do so every day. Just last week, the department announced the issuance of seizure warrants for two U.S. manufactured luxury jets owned by a Russian oligarch — the first such warrants issued based on violations of commerce regulations governing the reexport of

U.S. aircraft to Russia. We will continue to develop creative tools to hold people, regimes and companies accountable.

An all-tools approach to corporate criminal enforcement includes enlisting the private sector to help watch out for misconduct within companies. For those truly committed to promoting a corporate culture that values and invests in compliance — rather than begrudges or under-resources it — the department stands ready to work with you to do what we can to promote and reward such cultures.

One tool that is increasingly prominent at the intersection of national security challenges and corporate criminal enforcement is the department's work on sanctions enforcement.

For years, the department has targeted sanctions evasion — so we're by no means starting on a blank canvas. Three sanctions cases in the last decade have each involved over \$1 billion in collective civil and criminal penalties.

But what you have seen in the last few months is something completely different. The United States has shown leadership in galvanizing broad, multilateral networks to meet today's challenges. The scope of the sanctions imposed on Russia by the United States and its allies and partners are of a new order of magnitude. Recognizing the critical need to enforce these sanctions with unprecedented intensity, the department launched Task Force KleptoCapture to pursue Russian sanctions evasion, particularly by oligarchs and other cronies who have propped up and enabled the Russian regime responsible for the unjustified and unprovoked aggression against Ukraine. We are pouring resources into sanctions enforcement, and you have seen and will continue to see results.

But it's not just the war in Ukraine that has prompted a new level of intensity and commitment to sanctions enforcement. We have turned a corner in our approach. Over the last couple of months, I've given notice of that sea change by describing sanctions as "the new FCPA."

The growth of sanctions enforcement follows the path that the FCPA traveled before it. Both FCPA and sanctions enforcement are relevant to an expanding number of industries. They have extended beyond just U.S. actions to an increasingly multilateral enforcement regime. And they both reward companies that develop the capacity to identify misconduct within the organization, and then come forward and voluntarily disclose that misconduct to the department. Let me expand on each of those points.

First, sanctions enforcement is relevant to an expanding number of industries. Sanctions have been considered by some as a concern mainly for banks and financial institutions. As companies grapple with the fallout of Russian aggression and the new intensity of sanctions enforcement, though, they are recognizing that the risk of sanctions violations cuts across industries and geographic regions.

For any multinational corporation — indeed, for any business with an international supply chain — sanctions should be at the forefront of its approach to compliance. Every company needs to be pressure-testing its sanctions compliance program, for instance through risk assessments, technology upgrades and industry benchmarking. Every board of directors of such a company should be inquiring whether it is conducting necessary oversight of the company's sanctions controls. Every corporate officer should be committed to ensuring they have the programs, culture, personnel and counsel to identify problem areas and navigate the rapidly changing landscape. And for anyone who seeks to evade sanctions, the warning is simple: the Justice Department is coming for you.

Our sanctions enforcement is also more and more a multinational team sport. Just as the last decade saw the world of FCPA enforcement expand to foreign partners and counterparts, the months and years ahead will see the department's sanctions teams work hand-in-glove with civil and law enforcement agencies across the world. The multilateralization of our sanctions work follows the same trajectory as our FCPA history, which grew from a largely unilateral effort by the United States to a worldwide movement to combat international corruption.

From Spain to Fiji, we have relied on local counterparts in our early successes against Russian sanctions evasion, and we will continue to need similar partnerships. The Attorney General and I frequently speak with counterparts in partner countries about our collective work on sanctions, including with our friends in the United Kingdom.

In addition to our own KleptoCapture task force, the department is working cooperatively with our international partners through the multilateral Russian Elites, Proxies, and Oligarchs (REPO) Task Force — an international collaboration between the United States and European Union to cooperate at an unprecedented level on multilateral sanctions enforcement to isolate international actors undermining the world's security, stability and international norms. Such partnerships are sure to continue and expand.

The multilateral growth in FCPA and sanctions enforcement has also allowed us to go after those who profit from corruption and crime around the world — whether they are sanctions-evading oligarchs or office-holding bribe recipients. Working with our partners, we can ensure that corrupt regimes will be held responsible — whether we're seizing yachts or freezing slush funds.

Finally, we aim for our sanctions enforcement to incentivize companies to come forward and voluntarily disclose discovered misconduct. As with the FCPA, the department — through the National Security Division I had the privilege to lead earlier in my career — has a self-disclosure program to address potential criminal sanctions violations. We drew on the model from the FCPA with this self-disclosure program and since the relevant NSD guidelines were revised in 2019, the number of voluntary self-disclosures is increasing.

The National Security Division continues to refine the program, and last year the department had its first resolution under its Voluntary Self-Disclosure program. That resolution — involving SAP — rewarded the company for its self-disclosure and cooperation with no fine and only disgorgement of the revenue the company earned. Contrast the form of that resolution to the four recent corporate guilty pleas over the last month or so, which carried collective criminal penalties of nearly \$7 billion. The math is simple: self-disclosure can save a company hundreds of millions of dollars.

For any company that thinks it may have a sanctions problem, I have a clear, unequivocal message for you: pick up the phone and call us. Do not wait for us to call you.

In closing, you can expect to see more action in sanctions enforcement, both by the U.S and by our international partners. And I hope and expect to see a new level of sophistication and resource commitment to sanctions compliance at companies across the globe. Thank you for having me today.

Speaker

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