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Barr Touts SEC and DOJ Coordination but Urges Discernment in Choosing Cases

In a recent [speech](#) at the SEC's Criminal Coordination Conference, Attorney General William Barr highlighted the strong working relationship between the SEC and DOJ and how it helps to protect investors. "The DOJ has long considered the SEC an indispensable partner in protecting markets and investors, promoting lawful commerce around the world, and deterring misconduct," he said. "Our two agencies have closely coordinated on a wide range of matters, and our cooperation has only grown as financial matters have become increasingly complex and globalized."

The coordination of enforcement efforts is one way the SEC and DOJ's relationship has become more productive. He held up the [Mobile TeleSystems](#) (MTS) settlement as an example of a case where the two agencies were "able to work closely together to investigate and resolve the matter."

The DOJ's FCPA [Corporate Enforcement Policy](#) (CEP) allows the SEC and DOJ to coordinate their efforts in order to promote ethical business practices, Barr suggested. A critical element of the CEP is that, "if a company meets the benchmarks of good corporate behavior, the DOJ can use its discretion to act in deference to an SEC parallel resolution," he explained. For example, [Cognizant](#) recently earned a DOJ declination in light of the company's SEC settlement.

Barr also touted the "[policy against piling-on](#)" which was announced by former Deputy Attorney General Rod Rosenstein in 2018. Since Barr took over the DOJ in February of 2019, DOJ prosecutors have continued to follow the policy "with my full support," Barr said. He cited the MTS case once again as a positive example of how this policy can work in practice.

While these policies have helped the two agencies to work together, Barr also suggested that both agencies "must be mindful of the significant time that our investigations can take and the limited resources we have to pursue them." They can do this by moving efficiently in investigations but also by "employ[ing] a discriminating eye on the front end when deciding which cases to pursue [and] making better choices about the use of our limited time and resources," he said. "By focusing on high-quality matters in the first instance, we can ensure that each case gets the attention it deserves and that our investigations move forward expeditiously."

Do you agree with Barr that both the SEC and DOJ should be more discriminating in deciding which cases to pursue? We would love to hear your thoughts on the Attorney General's comments and how coordination between the SEC and DOJ is affecting your company and your clients.

Warmly,

Megan Zwiebel
Senior Editor