WINSTON & STRAWN LLP

BLOG

Cari's Legal Exchange: Regulatory Risks and Enforcement Realities — Part 3

OCTOBER 20, 2025

Part three of Cari's Legal Exchange explores Foreign Corrupt Practices Act (FCPA) enforcement, regulatory agency crossover, and the challenges of delisting from government sanctions lists. Cari and Matt share how to adapt compliance programs to shifting government priorities, respond to legal changes, and advocate for good corporate citizens facing designation issues.

Gain valuable guidance on navigating complex regulatory environments, building effective compliance strategies, and understanding the delisting process.

Cari Stinebower
That that brings up the crossover between the various regulatory agencies. So, sanctions enforcement, money laundering, corruption—at the beginning of this administration, the enforcement actions in the FCPA space were sort of put on hold.

We saw the June 5 memorandum coming out of Justice saying that FCPA is back.

What's your take on how and what the priorities will be for FCPA enforcement over the next couple of years?

Matt Graves
Yeah, so, I think this, what happened over the last six months, is a real cautionary tale to how much any company should adjust its compliance program based on announcements from the government and any administration, not just this administration, because everything is always subject to change.

So there was a pause, and I think people read into the pause that maybe resources would be stripped away from the FCPA.

You know, almost everybody I talked to in-house said when that happened, "we are going to have the same compliance program we've always had," which makes a lot of sense because there are regulators in other countries. Everything that is occurring now is within the statue of limitations of the next administration, whoever that administration might be, and they might have different enforcement priorities.

© 2025 Winston & Strawn LLP.

Except for and apart from that, these things are subject to change. As you know, the pause was lifted and while there was guidance provided in connection with lifting the pause, I think for the skilled FCPA prosecutors, who are in the Department of Justice, given the relatively broad parameters, I would expect a very large percentage of their existing cases, they're going to be able to articulate how they fit within those parameters.

And I think staffing levels in terms of people that focus on the FCPA, while slightly down, it's still a relatively large number of prosecutors.

So I don't think, at the end of the day, when we do a look back at the end of this administration, in terms of cases brought, we're going to see something that's *that* materially different than what we've seen in past administrations.

Cari Stinebower
That tends to be our take as well, before the June notice. I think we were also focused on the fact that the Department of Justice will often bring cases that cross into the different regulatory areas.

So even if you weren't focused on an FCPA case per se, the same type of activity could just as easily be sanctions evasion, export controls, or a money laundering case.

So, that, that is helpful, I think, from the perspective of building out compliance programs for the future.

On the flip side, under the last administration, we saw the *Loper Bright* case and we saw, soon after that, the Tornado Cash case, which eroded some of Treasury's broad authorities.

And then under this administration, we saw the Court of International Trade push back on the president's authorities under the International Emergency Economic Powers Act with respect to the fentanyl executive orders and the determination on the types of activities that could be linked to the declaration of the national emergency.

So for the good actors, for the good corporate citizens, that erosion of this extreme Chevron deference, is actually good news from my perspective.

What do you think that means for corporations who have excellent compliance programs and are good corporate citizens?

Is there an ability now for them to push back effectively against the broad national security designations like Treasury's Authority or Commerce's Authority?

Matt Graves
So I think in targeted ways there will be, right?

I think if the designation issue for instance, relates to a statutory interpretation and what for instance constitutes a transaction, that's when the value of being in a post-Chevron Deference world will be at its greatest.

Where we will continue to see challenges, even in a post-Chevron Deference world, from my perspective, is just kind of the garden variety of we're doing a factual analysis in terms of whether this person qualifies to be designated as an SDN, for instance. There, because it's a factual question as opposed to a statutory interpretation, I unfortunately think we're going to see what we've historically seen, which is a pretty low bar for designation and a fair amount of deference to the factual record as opposed to the legal interpretations of the agency.

And as you know from your experience, it is a challenge to get people delisted once they are listed.
You've been successful in doing so on several occasions. So congratulations to you because those victories are few and far between.

Cari Stinebower
They are indeed.

And I think that it continues to be a frustrating perspective for the person who sees themselves as a good actor, who's found themselves on the SDN list, because the criteria for delisting is change in circumstance or mistake.

© 2025 Winston & Strawn LLP.

And of course, no one typically expects the government will admit that it made a mistake.

So it's proving that change in circumstance, I think, that becomes a perpetual challenge.

And then of course, the fact that the agencies, both State and Treasury, that have the designation authorities have serious backlogs.

And so when you're looking at a delisting process, even where you're looking actively for engagement with the government, it's a multi-year process.

So the hope out there for some, for the good actors, who are inadvertently are Tier 2 or Tier 3 or people who are legitimately engaged in a change of circumstance, would be to use litigation as a way of speeding up that process.

There's been some cases over the last year or so where that's been successful, or at least we've seen the cases filed, the delisting has happened, and the cases have been dismissed.

But I think that at least from the private sector perspective, the agency, whether it's under prior administration or future administrations, focus on delistings never seems to be a top priority, which is why I think there's hope for people looking at, you know, the Tornado Cash example.

Matt Graves
Yes and I think if you can find a legal hook as opposed to, "the Treasury hasn't weighed the facts right," if there is something wrong with their legal theory here, that's when you're in your strongest. And I do think that is the avenue that's been open to give a little glimmer of hope.

Cari Stinebower
Well, on that positive note, thank you for your time today. Appreciate it. It's been great working with you over the last couple of weeks and I'm looking forward to many more together.

Matt Graves
Thank you so much.

Cari Stinebower
Thanks.

5 Min Read

Authors

Cari Stinebower

Matt Graves

Related Topics

Cari's Legal Exchange | Chevron | FCPA Enforcement | Sanctions | National Security

Related Capabilities

International Trade

© 2025 Winston & Strawn LLP.

Related Professionals

Cari Stinebower

Matt Graves

This entry has been created for information and planning purposes. It is not intended to be, nor should it be substituted for, legal advice, which turns on specific facts.

© 2025 Winston & Strawn LLP.