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Attorney General Bondi Reorients National Security Enforcement Resources to Focus on Illegal Immigration and Drug Trafficking

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Upon being sworn in on February 5, 2025, Attorney General Pamela Bondi immediately issued memoranda reorienting national security enforcement resources of the U.S. Department of Justice ("DOJ") to focus on addressing illegal immigration and narcotics trafficking. In particular, Attorney General Bondi issued a memorandum specifically targeting enforcement resources towards combatting drug cartels and transnational criminal organizations ("TCOs"). These new priorities at DOJ may result in changes to corporate law enforcement, including enforcement of U.S. economic sanctions, export controls, and the Foreign Agents Registration Act ("FARA").

This eUpdate summarizes these new enforcement priorities as they relate to national security. Please see our earlier eUpdate about Attorney General Bondi's memoranda covering a variety of other enforcement changes.

Targeting of Enforcement Resources to TCOs

Attorney General Bondi issued a memorandum titled the *Total Elimination of Cartels and Transactional Criminal Organizations* on February 5, 2025 (the "TCO Memo"). The TCO Memo states that the Trump Administration intends a "fundamental change" in DOJ's enforcement posture towards "eliminating these threats" to the United States. Attorney General Bondi instructs prosecutors to charge TCOs using a variety of authorities, including national security related statutes such as the International Emergency Economic Powers Act ("IEEPA"), the Foreign Narcotics Kingpin Designation Act, and other statutes related to international terrorism. The goal of these changes is to allow greater discretion in charging TCOs and affiliated individuals, and to use a broader array of legal authorities to address TCOs.

Attorney General Bondi announced DOJ will now allow U.S. Attorneys to include criminal charges under anti-terrorism statutes and IEEPA without approval of the National Security Division ("NSD") at DOJ headquarters in Washington, D.C. The TCO Memo encourages consultation with NSD to continue on such matters, but prosecutors are to move forward with charges under IEEPA where merited. IEEPA authorizes both civil and criminal penalties against persons who engage in prohibited activities, such as transactions involving sanctioned persons, including certain TCOs and individuals associated with them. Criminal penalties could apply to persons who willfully commit, attempt to commit, conspire to commit, or aid or abet such violations.

The U.S. Government has for years used IEEPA to target non-U.S. cartels and TCOs. Typically, IEEPA is used to block all property and interests in property that are within the jurisdiction of the United States through designation on the Specially Designated Nationals and Blocked Persons List ("SDN List"). The U.S. Department of the Treasury Office of Foreign Assets Control ("OFAC") administers the SDN List. The SDN List includes thousands of individuals, entities, and foreign government components. U.S. persons must freeze any property and property interests of persons who are subject to the SDN List blocking sanctions and report them to OFAC. Under the TCO Memo, DOJ will now use IEEPA, including designations of entities and individuals on the SDN List, as a basis for more aggressive criminal prosecutions of violations.

Abolishing the NSD Corporate Enforcement Unit

Attorney General Bondi also disbanded the NSD's Corporate Enforcement Unit. The Corporate Enforcement Unit was devoted to considering and initiating criminal proceedings against companies or individuals involved with criminal violations of IEEPA-based OFAC sanctions, U.S. export controls, and other crimes that implicate national security. Attorney General Bondi states that the resources of the NSD Corporate Enforcement Unit are needed to "address more pressing priorities." This policy change could result in a significant shift away from investigating potential criminal white-collar cases for violations of U.S. economic sanctions and export controls, and to focus more on TCOs and drug-related offenses under federal law. OFAC and the U.S. Department of Commerce Bureau of Industry and Security ("BIS") consider potential referrals to DOJ for criminal prosecution in the ordinary course of their civil enforcement of apparent violations of U.S. law. These criminal referrals are likely to continue, but to a different DOJ component.

Ceasing Most Criminal FARA Prosecutions

Attorney General Bondi issued a memorandum to revise DOJ's policies on charging, plea negotiations, and sentencing. With respect to national security, Attorney General Bondi ordered DOJ to limit criminal charges under FARA to alleged "traditional espionage" activities by "foreign government actors." The memorandum directs FARA enforcement resources to focus on civil enforcement, regulatory initiatives, and public guidance. Attorney General Bondi said the changes are warranted to "end risks of further weaponization and abuses of prosecutorial discretion."

As a result, DOJ appears poised to stall or even reverse the trend towards increased criminal prosecutions under FARA. In recent years, DOJ initiated criminal prosecutions under FARA against individuals who, the United States claimed, acted at the behest of foreign governments without disclosing those interests under FARA. These cases typically involve allegations that the accused person engaged in activities to sway U.S. public opinion or official government policies and decisions in favor of the foreign government.

October 7 Task Force

Attorney General Bondi also issued a memorandum to all DOJ employees creating a task force to coordinate efforts relating to the terrorist attack on Israel on October 7, 2023 (or "JTF 10-7"). The memorandum designates DOJ's NSD as leading the JTF 10-7 efforts to hold individuals and organizations responsible for the attack on Israel, and also directs NSD to provide support to, and assist in potential recovery of assets on behalf of, victims of the attack. In particular, DOJ will seek the arrest and extradition of Hamas leadership, and potentially bring criminal charges against persons involved in the planning of and attacks on Israel.

Conclusion

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