

PUBLICATION

Department of Justice Proposes "No Piling On" Approach to Criminal Corporate Prosecutions

May 11, 2018

On May 9, 2018, Deputy Attorney General Rod Rosenstein announced a new Department of Justice policy that "encourages coordination among Department components and other enforcement agencies when imposing multiple penalties" in a speech to the New York City Bar White Collar Crime Institute (full remarks can be read here).

Using a football analogy, Rosenstein invoked a "no piling on" approach. This is especially important for companies in regulated industries supervised by multiple agencies. For them, Rosenstein cited "a risk of repetitive punishments that may exceed what is necessary to rectify the harm and deter future violations."

Piling on – over long time periods and geographies – can reduce "certainty and finality," said Rosenstein, and have collateral effects on employees, customers and investors. He emphasized that, while the policy is now found in the U.S. Attorney's Manual, the policy affords no private right of action to corporate defendants.

In an earlier, related development, officials of the Antitrust Division, speaking at the April 2018 American Bar Association Antitrust Spring Meeting, noted their efforts – because of similar concerns – to coordinate with foreign competition enforcement authorities when pursuing price fixing and other violations by corporate conspiracies touching many jurisdictions.

For more information on this or other matters, please contact any member of Baker Donelson's [Government Enforcement and Investigations Group](#).