

Risk of False Claims Act (Qui Tam) Cases Turning Criminal Now Very Real

At the end of last year, the Chief of the Criminal Division in the United States Department of Justice announced that federal criminal prosecutors will now get early access to all Qui Tam claims filed under the federal False Claims Act (FCA) to determine whether or not a criminal investigation is warranted. The focus of this new initiative includes the healthcare and financial services industries.

This is a very serious new development because many FCA claims have often involved potential criminal violations that allegedly caused substantial amounts of monetary losses to the Government. In addition to facing monetary penalties, FCA violators now run the increased risk of also being criminally charged with conduct carrying substantial prison sentences based on federal fraud sentencing guidelines that, even if no longer mandatory, are still consulted by federal judges and are heavily driven by the amount of the actual or intended loss.

It is expected that Qui Tam relators will start reaching out to criminal prosecutors as well as to civil FCA attorneys. With a parallel criminal investigation commenced at an early stage, companies and individuals will most certainly face proactive criminal investigation operations, such as recorded telephone conversations and meetings, wiretaps and search warrants.

Companies in the healthcare and financial services fields will have to take greater proactive steps to ensure that they have effective compliance and ethics programs. If they suspect that they are the target of a criminal investigation, companies will have to take the necessary steps to identify all prosecution risks and prepare to hopefully avoid criminal prosecution or, if not, develop a criminal defense.

Our law firm's attorneys have extensive experience representing health care providers and other companies in civil and criminal False Claims Act investigations. For more information, please contact Alfredo F. Mendez, Esq., Director of our [White Collar Criminal Defense and Governmental Investigations Department](#).