



Principal Deputy Assistant Attorney General Mizer on Yates Memo: “No Partial Credit for Cooperation that Doesn’t Include Information about Individuals”

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Principal Deputy Assistant Attorney General Benjamin C. Mizer’s remarks at the 16th Pharmaceutical Compliance Congress and Best Practices Forum highlighted the Department of Justice’s “renewed commitment to ensuring that individuals who engage in fraud schemes and other wrongdoing are held accountable.”¹

Mizer described the Yates Memo² as “reinforc[ing] the department’s commitment to pursuing not just the corporation or entity involved in fraudulent behavior, but the people whose decisions and actions caused that misconduct to occur.”³ He described the principles announced in the Yates Memo as “critical to strengthening the department’s ability to pursue individuals for corporate wrongdoing and to obtaining meaningful individual accountability.”⁴ Mizer emphasized three separate points regarding the policy articulated in the Yates Memo:

- First, a company’s cooperation is an all-or-nothing proposition. There is “no partial credit for cooperation that doesn’t include information about individuals.” For a company to obtain credit for cooperation, it must “identify all individuals involved in the wrongdoing” and “all relevant facts about the individual’s misconduct.” Companies that fail to do so will not “qualify for the reduced multiples provision under the False Claims Act.”
- Second, the Department will focus on individuals from the beginning of its investigation in order to “maximize [its] ability to gather the evidence as to the misconduct, obtain cooperation and potentially reach a resolution that includes not only the corporation but the actors involved in the decision-making and wrongdoing.”
- Third, “Department civil and criminal attorneys have been directed to cooperate to the fullest extent permitted by law at all stages of an investigation.” This makes the most of the Department’s “ability to bring to bear all of the remedies [it has] to pursue responsible individuals.”⁵

Mizer’s remarks continue to highlight the Department’s focus on individual responsibility for corporate wrongdoing.

¹ “Principal Deputy Assistant Attorney General Benjamin C. Mizer Delivers Remarks at the 16th Pharmaceutical Compliance Congress and Best Practices Forum,” Washington, DC, United States, October 22, 2015 (<http://www.justice.gov/opa/speech/principal-deputy-assistant-attorney-general-benjamin-c-mizer-delivers-remarks-16th>).

² <http://www.justice.gov/dag/file/769036/download>.

³ <http://www.justice.gov/opa/speech/principal-deputy-assistant-attorney-general-benjamin-c-mizer-delivers-remarks-16th>.

⁴ *Id.*

⁵ *Id.*

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