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In 135 Words or Less: Our Quick Take on the DOJ Memo Urging Dismissal of Meritless False Claim Act Cases

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The memorandum represents a significant policy change by the Department of Justice (DOJ) in relation to qui tam actions where the DOJ does not intervene. This change has likely been brewing since at least October 2017 when the public was unofficially put on notice during the Health Care Enforcement Compliance Institute in Washington D.C., but to memorialize this policy change in great detail is significant and welcoming. It is likely that the DOJ may first limit the application of this policy shift to matters that appear facially invalid or meritless, but it will likely not take long until we see the DOJ pushing the envelope with this policy on many of the qui tam cases that it does not intervene in and using this as a tool to shape the FCA landscape.