



Preet Bharara's Exit Won't Mean Free Ticket for Wall Street

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The U.S. Attorney of the Southern District of New York was [ousted from his post over the weekend](#), along with dozens of other Obama appointees. Dubbed the man "busting Wall Street" in 2012 by Time Magazine, Bharara made a name for himself as a [securities fraud](#) and insider trading enforcer. Following his exit, it is unlikely his office will make a major change of course, at least on financial matters.

Bharara's temporary successor is Joon Kim, deputy U.S. Attorney who [returned](#) to the Manhattan U.S. attorney's office in 2013 after spending seven years at law firm Cleary Gottlieb Steen & Hamilton LLP. Kim is not expected to depart significantly from Bharara, a longtime colleague and friend, and is well familiarized with all of the office's major ongoing cases and investigations.

Onlookers expect the securities fraud unit to continue at pace, regardless of who is appointed as Bharara's permanent replacement.

"Historically, U.S. attorneys for the Southern District of New York, whether Republican or Democrat, have made financial crime central to the mission of the office," said Arlo Devlin-Brown, partner at Covington & Burling LLP and former chief of Bharara's public corruption unit.

"The Southern District of New York will always be at the forefront of financial crimes investigations, so I think we will continue to see them focusing on securities fraud, insider trading, money laundering, banking violations and those sorts of things that have been the office's bread and butter for years," said Matthew Schwartz, partner at the law firm Boies, Schiller & Flexner and a former prosecutor under Bharara.

In fact, there could soon be an uptick in insider trading cases, regardless of who is in charge.

The Supreme Court in December [ruled](#) in favor of prosecutors in an insider trading case, *Salman v. United States*, saying that confidential information passed on to friends or relatives counts as gifts that violate securities laws. The decision makes it easier to prosecute insider trading cases.

It rejected a 2014 decision in a separate case, *United States v. Newman*, that found prosecutors must be able to prove that the insider giving the information received some sort of financial benefit. The decision put a damper on insider trading prosecutions, because prior to it, it had been widely assumed that a non-financial benefit to the insider was sufficient.

Bharara applauded the Supreme Court's December decision in a [statement](#). "The Court stood up for common sense and affirmed what we have been arguing from the outset -- that the law absolutely prohibits insiders from advantaging their friends and relatives at the expense of the trading public. Today's decision is a victory for fair markets and those who believe that the system should not be rigged," he said.

"The *Salman* decision brings some considerable clarity to insider trading law and is likely going to result in an increase in enforcement action in that area," said Devlin-Brown.

A change in party leadership generally results in a smaller shift in securities fraud priorities among the Department of Justice and U.S. attorneys in comparison to, for example, the Securities and Exchange Commission. Generally speaking, cases that result in criminal charges are the result of significant fraud, where investors are being deceived or individuals are manipulating capital markets. They tend to be situations that both liberals and conservatives believe need to be addressed in order for capital markets to function properly.

New York Magazine [reported](#) on Sunday that Rupert Murdoch, **News Corp (NWSA)** CEO and former chief executive of **21st Century Fox (FOXA)**, could benefit from Bharara's exit. The Southern District of New York's office is in the midst of a high-profile probe into Murdoch's Fox News looking at a number of potential crimes, including some tied to the Roger Ailes sexual harassment scandal.

Both Murdoch and Ailes are allies of Trump. Marc Mukasey, one of the attorneys rumored to be on Trump's shortlist as Bharara's successor, has ties to Ailes.

"I would be very surprised if the replacement for the U.S. attorney a., had anything to do with particular cases or investigations and, b., would result in decision-making that was affected by politics," said Schwartz.

In other words, Bharara or not, enforcement out of the Manhattan U.S. attorney isn't slowing down anytime soon, in Wall Street matters or otherwise.

"That office has been the premier financial enforcement prosecutor for decades and decades, going back to insider trading in the '80s and all sorts of other white collar prosecutions," said Schwartz.