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Criminal probe puts dent in Valeant's recovery efforts

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The revelation that Valeant Pharmaceuticals International Inc. is under criminal investigation in the United States has complicated the company's fragile turnaround effort.

The Wall Street Journal reported late Wednesday that the U.S. attorney's office in Manhattan is probing the Laval, Que.-based drug maker over allegations that it defrauded insurers when it concealed its ties to Philidor RX Services LLC, a now-defunct mail-order pharmacy.

Valeant CEO says no funds set aside for legal settlements (BNN Video)

Chief executive officer Joseph Papa, who took the job in May, has been trying to rebuild the company's credibility with investors and lenders after it was exposed last year for poor disclosure and questionable accounting practices.

The stock has fallen more than 90 per cent since its peak last summer. Investors have grown particularly concerned about Valeant's debt of more than \$30-billion (U.S.), and the company is attempting to sell off assets to pay it down.

Mr. Papa said the company is looking to sell assets that it says are worth up to \$8-billion to raise capital. In the meantime, Valeant has tried to ease concerns about its indebtedness by persuading some of its lenders to agree to more relaxed covenants, with one related to its interest coverage ratio.

It is uncertain whether the criminal investigation will lead to charges, but it has the potential to worsen Valeant's legal and financial woes.

"The criminal probe increases the probability of financial damages/settlements and complicates renegotiation with lenders," *Veritas* analyst **Dimitry Khmelnitsky** wrote in a research note to clients. "This development is not surprising to us given the multiple revelations of alleged insurance and billing irregularities."

Valeant shareholders have been whipsawed this week by dramatic price swings. On Tuesday, the stock surged 25 per cent in New York trading after Mr. Papa outlined his vision for revamping the company's business and outlined the progress it has made so far to stabilize itself. On a conference call after releasing second-quarter results, he reaffirmed Valeant's earnings outlook for the year, saying it would produce between \$4.8-billion and \$4.95-billion in earnings before interest, taxes, depreciation and amortization this year.

But the rally was short-lived. Valeant's shares fell 3 per cent on Wednesday and plunged another 10 per cent on Thursday after The Journal report, which said the Department of Justice is pursuing Valeant for defrauding insurers in the U.S. The company responded hours later through a formal statement.

"Valeant previously disclosed in October 2015 that the United States Attorney's Office for the Southern District of New York commenced an investigation involving Valeant," the statement said. "We do not comment on rumours about investigations, and cannot comment on or speculate about the possible course of any ongoing investigation."

In October, the company disclosed in a filing to the Securities and Exchange Commission that it had received two subpoenas requesting information on or around Oct. 14 from the U.S. attorney's offices for the District of Massachusetts and the Southern District of New York.

Valeant said that the materials requested related to its patient assistance programs, through which it tried to help patients with financial constraints buy its drugs, as well as the rationale behind its pricing decisions and the distribution of its products.

It has not provided more details about the status of these investigations.

Lawyers in the U.S. attorney's office in Manhattan are investigating whether Philidor made false statements to insurers about its connection to Valeant and potentially abused the insurance reimbursement system for medicine, the Journal said.

Companies convicted of a criminal offence can be fined, ordered to pay restitution and potentially barred from conducting certain types of business activity. Fines are the most common penalties.

In 2008, Siemens AG agreed to pay a \$450-million fine to the U.S. Department of Justice to settle criminal charges. Pfizer Inc. also agreed to pay \$2.3-billion in 2009 to resolve criminal and civil liability related to the illegal promotions of certain drugs.

But even a large fine could be detrimental to Valeant, which is trying to pay down debt and fend off shareholder lawsuits and has not yet set aside any money for legal settlements, Mr. Papa told BNN on Thursday.