Stanford Law School

Foreign Corrupt Practices Act Clearinghouse

a collaboration with Sullivan & Cromwell LLP

2025 Q2 Report

The FCPA Clearinghouse's quarterly report provides an overview of some of the more notable trends and statistics in FCPA enforcement activity to emerge during the second quarter of 2025.

Typically, these quarterly reports begin with a discussion of enforcement actions initiated or announced in the preceding three months, followed by an accounting of new investigations disclosed in the same period. However, just as in Q1, there are no new enforcement actions or investigations to report in Q2. Much of the second quarter fell between President Trump's order pausing FCPA enforcement on February 10 and the issuance of new FCPA enforcement guidance by Deputy Attorney General Todd Blanche on June 9. Accordingly, the bulk of this report will explore the numerous policy changes that the Trump administration has announced in recent months.

Guidelines for Investigations and Enforcement of the Foreign Corrupt Practices Act (FCPA)

On February 10, 2025, President Trump signed an executive order that paused enforcement of the FCPA for up to 180 days while the Attorney General reviewed all pending FCPA investigations and enforcement actions and updated guidelines and policies governing prospective investigations and enforcement actions. The President directed the Attorney General to update the guidelines to promote the President's authority to conduct foreign affairs and prioritize American interests, competitiveness, and the efficient use of federal law enforcement resources. Just shy of four months later on June 9, Deputy Attorney General Todd Blanche issued a memorandum outlining the new guidelines, officially lifting the enforcement pause and resuming DOJ's FCPA enforcement but with a potentially narrower scope.

The new guidelines are intended to align FCPA investigations and prosecutions with the directive in President Trump's executive order by "(1) limiting undue burdens on American companies that operate abroad and (2) targeting enforcement actions against conduct that directly undermines U.S. national interests." In carrying out this directive, the guidelines instruct prosecutors to focus on individual misconduct "and not attribute nonspecific malfeasance to corporate structures." In a June 10 speech before the American Conference Institute, Head of the DOJ's Criminal Division Matthew Galeotti further clarified that the DOJ will prioritize the specific misconduct of individuals, rather than "collective knowledge" theories, which may represent a shift in the DOJ's approach to corporate liability. The new guidelines also instruct prosecutors to proceed as expeditiously as possible in their investigations and consider collateral consequences of an investigation and resolution to a business and its employees.

In the memorandum outlining the new guidelines, Blanche laid out six factors for prosecutors to consider when determining whether to pursue an FCPA investigation or enforcement action:

(1) Whether the alleged misconduct (1) is associated with or connected to the criminal operations of a cartel or transnational criminal organization (TCO); (2) utilizes money launderers or shell companies that engage in money laundering for cartels or TCOs; or (3) is linked to employees of state-owned entities or other foreign officials who have received bribes from cartels or TCOs.

(2) Whether the alleged misconduct prevents U.S. entities from being able to compete fairly for business or results in "economic injury to specific and identifiable American companies or individuals."

(3) Whether the alleged corruption threatens U.S. national security interests, particularly in the defense, intelligence, or critical infrastructure sectors. In his June 10 speech, Galeotti clarified that "the Criminal Division will enforce the FCPA — firmly but fairly — by bringing enforcement actions against conduct that directly undermines U.S. national interests without losing sight of the burdens on American companies that operate globally."

(4) Whether the alleged misconduct bears "strong indicia of corrupt intent tied to particular individuals, such as substantial bribe payments, proven and sophisticated efforts to conceal bribe payments, fraudulent conduct in furtherance of the bribery scheme, and efforts to obstruct justice" as opposed to "routine business practices or . . . de minimis[1] or low-dollar, generally accepted business courtesies." The guidelines remind prosecutors to be mindful of the Act's facilitating payments exception and reasonable and bona fide expenditures affirmative defense.

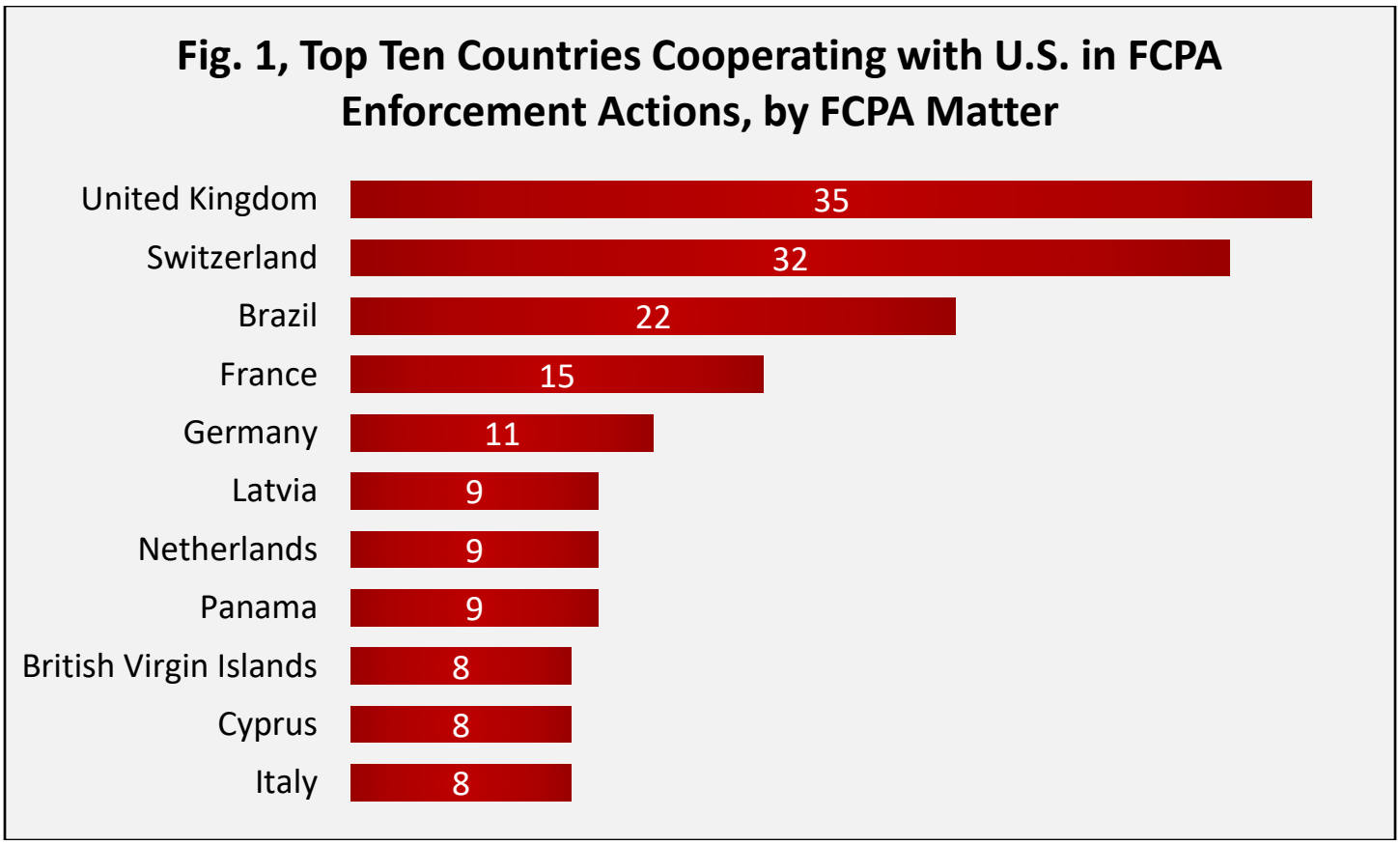
(5) The likelihood that a foreign law enforcement authority is willing and able to investigate and prosecute the same alleged misconduct. In his June 10 speech, Galeotti clarified the guidelines' impact on the scope of enforcement, noting that "conduct that genuinely impacts the United States or the American people is subject to potential prosecution by U.S. law enforcement," while "[c]onduct that does not implicate U.S. interests should be left to our foreign counterparts or appropriate regulators."

(6) Other applicable policies and factors as outlined in the Principles of Federal Prosecution.

On a procedural front, the new guidelines require that all new FCPA investigations and enforcement actions are authorized by the Assistant Attorney General for the Criminal Division or a more senior DOJ official, whereas the Department's previous policy had allowed the DOJ's Fraud Section and the FCPA Unit to open and pursue investigations. This new requirement will allow DOJ leadership to ensure that FCPA enforcement is conducted consistently with the guidelines and administration priorities.

The potential impact of the guidelines on FCPA enforcement remains unclear. While the SEC may choose to follow a similar path as the DOJ, the Commission has not formally articulated any changes to its FCPA enforcement policy. In addition, it is not clear whether the guidelines' explicit focus on U.S. interests could lead the DOJ to focus more attention on foreign companies, or lead foreign authorities to increase scrutiny of U.S. companies. It also remains to be seen whether and how U.S. authorities will continue to cooperate with foreign jurisdictions and whether the U.S. will more frequently defer to a foreign regulator that is willing to take the lead on an investigation. The U.S. has a long history of cooperating with other countries in the development of FCPA investigations and enforcement actions. Over the last ten years, the DOJ and SEC have called out at least 54 foreign countries for providing assistance or conducting their own related investigation or enforcement action, with U.K. authorities most frequently cited for cooperation. Indeed, on June 27, the U.K. Serious Fraud Office issued a statement following a meeting between its director, Nick Ephgrave, and Galeotti that reaffirmed the intention of the two enforcement authorities to continue to cooperate on fraud, bribery, and corruption matters. Figure 1 shows, over the life of the FCPA, the top ten countries that U.S. authorities have recognized for assisting with a U.S. enforcement action or conducting their own related enforcement action or investigation.

[1] Although there is no explicit de-minimis exception to the FCPA, historically the DOJ does not appear to have wasted its enforcement resources pursuing low dollar or de minimis bribery, even if small bribes may get caught up in larger bribery schemes.



Updates to the DOJ's Corporate Enforcement Policy

On May 12, 2025, Head of the Criminal Division Matthew R. Galeotti announced revisions to the DOJ Criminal Division's Corporate Enforcement Policy (CEP) aimed at "simplify[ing] the policy and clarify[ing] the outcomes that companies can expect." The revisions loosen the requirements for companies to receive a declination under the CEP. Previously, companies that voluntarily disclosed misconduct, fully cooperated, thoroughly remediated, and lacked any aggravating circumstances would receive a *presumption* of a declination; now, companies that meet those same criteria will automatically receive a declination. Additionally, companies that self-disclose, cooperate, and remediate but for which there may be aggravating factors are still eligible for a declination depending on the severity of those aggravating factors.

The revisions also provide clarity and benefits to companies that self-disclose, albeit not in a timely manner. Going forward, companies that in good faith self-disclose either not quickly enough or (unbeknownst to them) after the Department has already become aware of the misconduct are still eligible to receive a non-prosecution agreement with a term of less than three years, a 75 percent reduction of the criminal fine, and no imposition of an independent monitor. For companies that do not self-disclose, prosecutors will retain "discretion to recommend a resolution of any form, with a three-year term, monitor and up to 50 [percent] reduction in the fine."

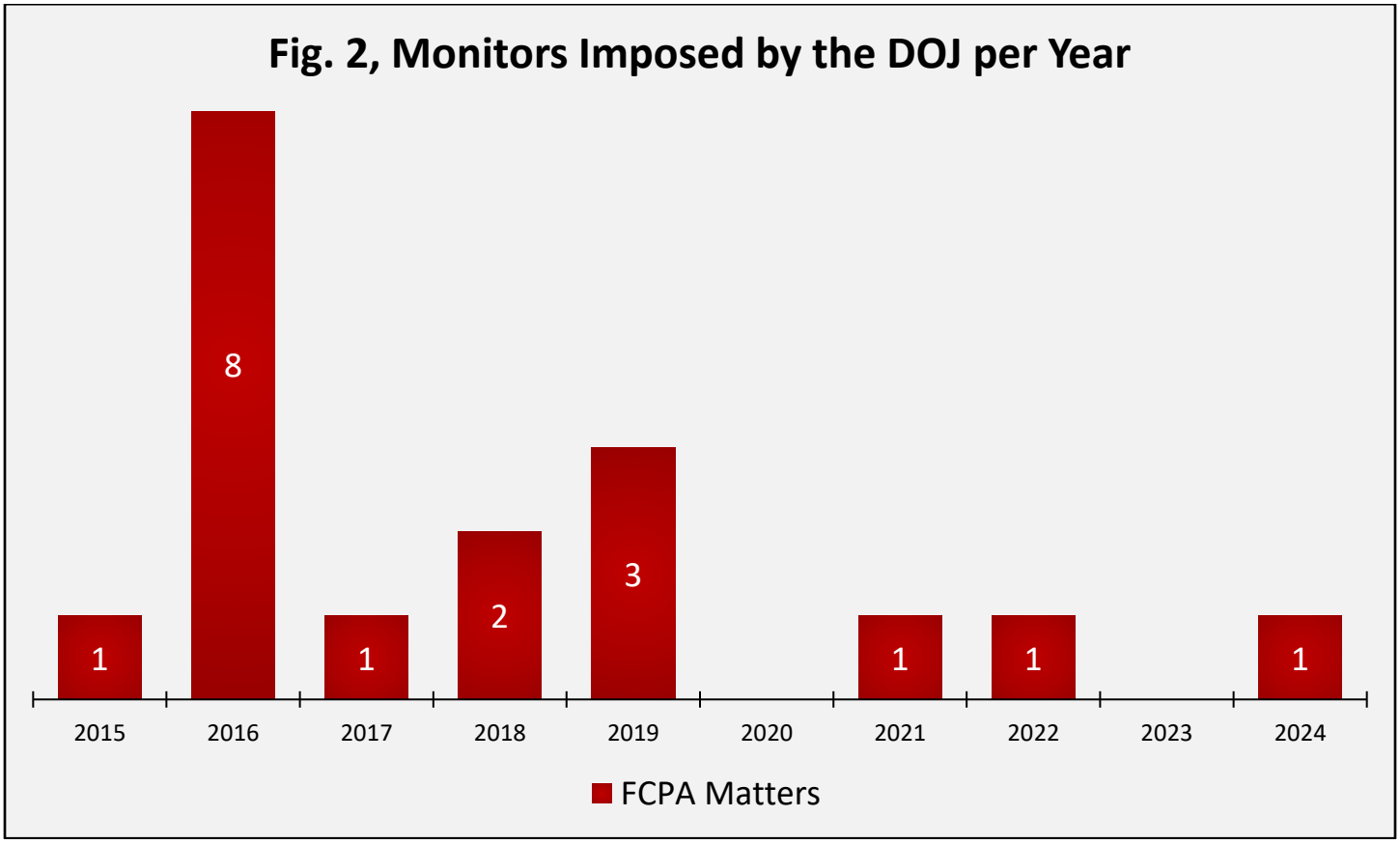
Updates to the DOJ's Monitor Selection Policy

In his May 12 speech, Galeotti also outlined updates to the Criminal Division's policy on the selection of independent monitors. First and foremost, Galeotti indicated that the public should expect to see fewer monitors going forward. As justification for the change, Galeotti noted that the value monitors add is often outweighed by the costs they impose, and that "unrestrained monitors can be a burden on businesses" and "can create an adversarial relationship with the companies they monitor, impose significant expense[s], stray from their core mission, and unduly interfere with business."

Nonetheless, Galeotti did suggest that in limited circumstances, narrowly tailored monitorships can be useful for providing independent oversight for companies struggling to implement effective compliance programs on their own. Consistent with these principles and concerns, Galeotti identified the following factors prosecutors must consider when deciding whether to impose a monitor and to narrowly scope and tailor the monitor's mandate when a monitor is imposed: (1) the nature and seriousness of the misconduct and the risk of recidivism, (2) the availability of independent government oversight, (3) efficacy of the company's compliance program and culture of compliance at the time of resolution, and (4) the quality of the company's internal controls and its ability to test and update its compliance program.

In all circumstances, the benefits of the monitor should outweigh its costs - both monetary costs, as well as burdens on the business' operations – and should be proportionate to the severity of the underlying conduct, the profits of the company, and the company's present size and risk profile.

The symbolic weight of these changes may outweigh their practical effect, at least in the FCPA context. The DOJ's reliance on independent monitors as a component of FCPA resolutions has decreased in recent years after peaking in 2016. In the last five years, for example, the DOJ imposed a monitor in only three out of 25 FCPA Matters involving corporate defendants. Figure 2 shows the number of FCPA Matters where the DOJ imposed an independent monitor over the last 10 years.



Enforcement Activity

As noted above, neither the DOJ nor the SEC announced any new FCPA-related enforcement actions between April and June of this year, continuing the trend observed in the first quarter. Despite this lack of new activity, at least 76 enforcement actions remain ongoing (though many are long-running cases involving fugitive defendants). Two defendants pled guilty during the second quarter, three were sentenced, and enforcement actions against five defendants were resolved (three at sentencing, and two by dismissal). Figure 3 shows the enforcement actions with significant activity in the second quarter.

Fig. 3, Enforcement Activity in Q2

Case	Date Initiated	Q2 Activity
U.S. v. Tim Leissner	June 7, 2018	• Leissner sentenced on May 29, 2025
U.S. v. Gordon J. Coburn and Steven Schwartz	Feb. 14, 2019	• District of NJ U.S. Attorney Alina Habba moved to dismiss case on Apr. 1, 2025 • Case dismissed on Apr. 3, 2025
SEC v. Gordon J. Coburn and Steven E. Schwartz	Feb. 15, 2019	• Parties jointly moved to stay dismissal to explore potential resolution on Apr. 10, 2025
U.S. v. Esteban Eduardo Merlo Hidalgo, et al.	July 14, 2022	• Defendant Cristian Patricio Pintado Garcia pled guilty on Apr. 23, 2025 and sentenced on June 24, 2025
U.S. v. Carl Alan Zaglin, et al.	Nov. 18, 2023	• Superseding information filed against defendant Aldo Nestor Marchena on June 4, 2025 • Marchena pled guilty on June 9, 2025 • Defendant Carl Alan Zaglin moved to dismiss charges on grounds that they were contrary to President Trump's executive order
U.S. v. Deepak Sharma	June 24, 2024	• Sharma sentenced on June 30, 2025

Investigations

According to information disclosed in SEC filings and other public documents, as of June 30, 2025, at least 31 companies appeared to be the subject of ongoing FCPA-related investigations by U.S. authorities. Media reports indicate that the DOJ has closed half of its FCPA-related investigations since the release of Trump's February 10 Executive Order. If that is true, then company disclosures either have not yet reflected those closures or the closed investigations were never publicly disclosed in the first instance. FCPAC data indicates that in the second quarter, four entity groups reported that either the SEC, DOJ or both agencies had resolved publicly disclosed investigations into potential FCPA violations by the companies. The DOJ closed four publicly-disclosed investigations without pursuing any further action (Digicel Group Limited, PetroNor E&P ASA, Stryker Corporation, and Toyota Motor Corporation), and the SEC concluded one (Inotiv, Inc.). The executive order was explicitly cited as a factor in the closure of only the Digicel investigation.

Looking Ahead

Though the issuance of the new FCPA enforcement guidelines officially marked the end of the enforcement pause initiated by President Trump' executive order on February 10, the continuing lack of new enforcement actions or publicly disclosed investigations suggest that enforcement numbers are likely to remain depressed through the end of the year. Moreover, the guidelines leave many key questions unanswered, leaving many to wonder how often, how aggressively, against which companies, and by which regulators foreign corruption laws will be enforced in the coming years. Stay tuned.