

February 12, 2025

President Trump Issues Executive Order Pausing FCPA Enforcement

Executive Order Requires Attorney General to Review FCPA Enforcement Guidelines and Current and Past FCPA Enforcement Actions

SUMMARY

On February 10, 2025, President Trump issued an [Executive Order](#) directing the Attorney General to pause Foreign Corrupt Practices Act (FCPA) investigations and prosecutions pending the review of all FCPA guidelines and past and existing FCPA investigations and actions. Following this 180-day review period, the Attorney General is directed to issue revised FCPA enforcement guidance that will govern all future or existing FCPA investigations and prosecutions. These revised guidelines will require the Attorney General to “specifically authorize” future FCPA investigations and prosecutions. The Executive Order requires the Attorney General to determine if any “remedial measures” are warranted to address “inappropriate past FCPA” actions.

The Executive Order, titled “Pausing Foreign Corrupt Practices Act Enforcement to Further American Economic and National Security,” states that the mandated review is intended to address “overexpansive and unpredictable FCPA enforcement.” The [fact sheet](#) accompanying the Executive Order states that “U.S. companies are harmed by FCPA overenforcement because they are prohibited from engaging in practices common among international competitors, creating an uneven playing field.”

A. Background

The FCPA generally prohibits the offer or payment of bribes to foreign officials to obtain or retain business. The Act contains both anti-bribery provisions, which prohibit making corrupt payments to foreign officials, and accounting provisions, which require U.S. issuers to make and keep accurate books and records and to devise and maintain an adequate system of internal accounting controls. While the accounting provisions

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apply only to U.S. issuers, the anti-bribery provisions cover a broader set of persons, including U.S. issuers, U.S. persons and companies, and non-U.S. persons and companies engaged in prohibited conduct within the territory of the United States. The FCPA provides for both civil and criminal penalties, the latter of which include imprisonment, criminal fines, and disgorgement up to twice the benefit gained from violations of the anti-bribery provisions.

Over the last 10 years, the DOJ has brought an average of 20 FCPA prosecutions per year, including 17 prosecutions in 2023 and 22 prosecutions in 2024. The DOJ has generally sought high penalties from companies for FCPA violations—including multiple cases with fines over \$1 billion. Notably, a large share of FCPA corporate enforcement actions pursued by the DOJ and/or the Securities Exchange Commission (SEC) in recent years has been against foreign companies (45% in 2024 and 50% in 2023).

FCPA enforcement has been the focus of controversy. Supporters of FCPA enforcement generally point to the Act as providing a strong incentive against bribery worldwide, while critics have noted that a single act of wrongdoing by a non-U.S. company with shares registered in the United States can result in expensive investigations and large fines. Prior to the issuance of the Executive Order, the Trump Administration indicated that it intended to narrow the focus of foreign corruption enforcement. Soon after her confirmation on February 5, Attorney General Pam Bondi issued a [memo](#) directing the DOJ FCPA unit to prioritize cases involving foreign bribery “that facilitates the operations of cartels” and transnational criminal organizations, which have historically made up a small portion of FCPA cases. These recent events signal a departure from the first Trump Administration, during which FCPA actions increased as compared with the preceding administration.

B. Executive Order

The Executive Order requires the Attorney General to take three specific actions during a 180-day period, which can be extended an additional 180 days if determined “appropriate” by the Attorney General.

First, the Attorney General must pause any “new” FCPA investigations and prosecutions, unless the Attorney General determines that an individual exception should be made. It remains to be seen how this Executive Order will affect ongoing FCPA investigations and prosecutions, or what specific criteria Attorney General Bondi will consider in determining whether to grant an exception.

Second, the Attorney General must review all existing FCPA investigations and prosecutions and take “appropriate action” to “restore proper bounds on FCPA enforcement.”

Third, the Attorney General must issue revised FCPA guidelines and policies. Under these guidelines, all newly initiated or continuing FCPA investigations or prosecutions “must be specifically authorized by the Attorney General.”

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The Executive Order additionally provides that, following the issuance of the revised guidelines, the Attorney General “shall determine” whether “remedial measures with respect to inappropriate past FCPA investigations and enforcement actions” are warranted. It is unclear specifically which “remedial measures” are contemplated, but the Executive Order clarifies that the Attorney General may recommend presidential action, such as pardons.

The February 10 Executive Order ostensibly applies only to the DOJ, and not to the SEC, which maintains civil enforcement authority with respect to the FCPA, although a similar enforcement pause at the SEC seems likely. Similarly, the Executive Order does not address investigations and prosecutions brought under the Foreign Extortion Prevention Act, which criminalizes the requesting or accepting of bribery by foreign officials.

IMPLICATIONS

Notwithstanding the Executive Order, companies will continue to face significant enforcement risks with respect to potential corruption matters.

First, the Executive Order makes clear that FCPA actions are only paused for the review period. The Executive Order does not guarantee immunity for FCPA violations or overturn the FCPA, which, as a federal law passed by Congress, cannot be repealed by executive order. And, in any event, the Administration still retains the discretion to prosecute companies or individuals, particularly those that engage in high-profile or egregious corruption.

Second, the statute of limitations is five years for the FCPA’s anti-bribery provision and six years for criminal violations of the accounting provisions, with the possibility of a further extension if the United States seeks evidence in other countries. As such, even if FCPA remains a low priority for the Trump Administration, and enforcement continues to be paused, subsequent administrations would still be able to pursue cases based on conduct that occurred during the enforcement pause.

Third, depending on the specific fact pattern at issue, companies and individuals could still face investigation or prosecution under other applicable criminal statutes or charging theories. FCPA prosecutions frequently include additional non-FCPA criminal charges, such as wire fraud and money laundering.

Fourth, notwithstanding the Executive Order and resulting enforcement pause, financial institutions will remain subject to Suspicious Activity Report filing obligations for suspected FCPA violations.

Finally, companies are still subject to anti-corruption enforcement regimes in other jurisdictions. Although the United States was the first country to pass a law targeting foreign bribery, numerous countries have since followed suit. The Organization for Economic Cooperation and Development (OECD)’s Anti-Bribery Convention currently has 46 signatories, many of whom routinely pursue foreign bribery-related

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enforcement actions. For example, the United Kingdom, India, South Africa, and numerous European Union countries, among others, pursued foreign bribery-related enforcement actions in 2024.

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