

June 11, 2025

# DOJ Resumes FCPA Enforcement

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## Criminal Division Announces Guidance Narrowing FCPA Enforcement and Emphasizes Intent to Pursue “Meritorious” Corporate Enforcement Actions

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### SUMMARY

On June 10, 2025, Deputy Attorney General Todd Blanche issued a [memorandum](#) titled “Guidelines for Investigations and Enforcement of the Foreign Corrupt Practices Act (FCPA)” (FCPA Guidelines), ending a four-month “pause” of FCPA enforcement ordered by President Trump in a February 10, 2025 [Executive Order](#), which ordered the Attorney General to review FCPA guidelines and existing FCPA investigations and prosecutions. While the Department of Justice’s (DOJ) approach to the FCPA remained in question following the Executive Order, the FCPA Guidelines suggest that DOJ under the current administration may take a more active approach to FCPA enforcement than was expected after the issuance of the Executive Order.

On the same day, the Head of DOJ’s Criminal Division, Matthew Galeotti, in remarks at the American Conference Institute’s Conference on Global Anti-Corruption, Ethics & Compliance, offered commentary on both the FCPA Guidelines and expanded on DOJ’s approach under the Criminal Division’s May 12, 2025 [White Collar Enforcement Plan](#), which identified substantive areas of focus for DOJ. While Galeotti has previously [characterized](#) the Enforcement Plan and accompanying revisions to DOJ policies as geared towards ending “excessive enforcement and unfocused corporate investigations,” Galeotti’s June 10 remarks clarified that the Criminal Division views corporate enforcement as a priority and will continue to “vigorously pursue” white collar investigations.

### A. BACKGROUND

In recent months, 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

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operations of cartels” and transnational criminal organizations, which have historically made up a small portion of FCPA cases.

Shortly after, on February 10, President Trump issued an [Executive Order](#) titled “Pausing Foreign Corrupt Practices Act Enforcement to Further American Economic and National Security” (FCPA Executive Order), which directed the Attorney General to pause FCPA investigations and prosecutions, review all existing FCPA investigations and prosecutions, and review existing FCPA guidelines. The Executive Order emphasized that the review was intended to address “overexpansive and unpredictable FCPA enforcement.”

DOJ officials have additionally indicated that the Criminal Division intends to narrow the focus of white collar and corporate enforcement more broadly. For example, in May, Galeotti noted that recent white collar enforcement efforts “have come at too high a cost for business and American enterprise.” As another illustrative example, the Criminal Division’s Enforcement Plan explicitly instructs prosecutors to consider “all forms” of resolutions, including non-prosecution agreements (NPAs) and deferred prosecution agreements (DPAs), suggesting a shift away from the Biden Administration’s emphasis on corporate guilty pleas.

### B. FCPA GUIDELINES

The FCPA Guidelines’ stated purpose is to ensure that FCPA investigations are carried out in accordance with President Trump’s FCPA Executive Order by “(1) limiting undue burdens on American companies that operate abroad and (2) targeting enforcement against conduct that directly undermines U.S. national interests.” To that end, the FCPA Guidelines instruct prosecutors to consider four non-exhaustive factors.

- **Total Elimination of Cartels and Transnational Criminal Organizations.** In a January 20, 2024 Executive Order, President Trump directed the federal government to “revise existing strategies to pursue the total elimination of cartels and transnational criminal organizations (TCOs).” The FCPA Guidelines thus instruct prosecutors to determine—as a “primary consideration” in deciding whether to pursue an FCPA investigation or enforcement action—whether the alleged misconduct (1) is associated with the criminal operations of a cartel or 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 foreign officials who have received bribes from cartels or TCOs.
- **Safeguarding Fair Opportunities for U.S. Companies.** The FCPA Guidelines note that the “expansion of U.S. business opportunities abroad . . . is critical to safeguarding U.S. national security and economic prosperity.” Under the FCPA Guidelines, prosecutors are instructed to consider “whether the alleged misconduct deprived specific and identifiable U.S. entities of fair access to compete and/or resulted in economic injury to specific and identifiable American companies or individuals.” In his remarks, Galeotti noted that the Criminal Division considers this to be a “ripe” area for whistleblower tips and actively encouraged whistleblower tips regarding bribery that impacts competitive markets.
- **Advancing U.S. National Security Interests.** The FCPA Guidelines note that the Criminal Division’s FCPA enforcement will “focus on the most urgent threats to U.S. national security resulting from the bribery of corrupt foreign officials involving key infrastructure or assets.” At the event announcing the FCPA Guidelines, Galeotti offered bribery affecting rare earth minerals and bribery in the defense industry as examples of key national security interests that will be the focus of the Criminal Division’s FCPA enforcement.

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- **Prioritizing Investigations of Serious Misconduct.** The FCPA Guidelines emphasize that prosecutors should not penalize “routine business practices,” particularly “facilitating and expediting payments” for which the FCPA provides an explicit exception. Rather, the FCPA Guidelines instruct prosecutors to focus on “alleged misconduct that bears strong indicia of corrupt intent tied to particular individuals.” In his remarks, Galeotti said that the Criminal Division will target “specific conduct of individuals” rather than broader “collective knowledge theories.” Galeotti additionally noted that this aspect of the FCPA Guidelines is intended to provide companies with some comfort that they will not receive a “slap on the wrist” for routine practices, but advised companies to remain “careful” not to overstep or go “beyond” routine practices. It remains to be seen in practice what the Criminal Division will consider to be “beyond” routine practices under the new FCPA Guidelines.

The FCPA Guidelines direct prosecutors additionally to consider the “likelihood (or lack thereof)” that a foreign law enforcement authority would be willing and able to investigate and prosecute the same conduct in order to “prioritize cases that warrant investigations by U.S. authorities.”

Consistent with President Trump’s previous Executive Order, the FCPA Guidelines instruct prosecutors to consider conduct that deprives U.S. companies of a “fair” opportunity to compete, raising the question whether the Criminal Division will focus on prosecuting foreign companies. Galeotti, however, clarified that the FCPA Executive Order does *not* prevent DOJ from pursuing enforcement actions against U.S. persons. On the contrary, Galeotti clarified that the Criminal Division will evaluate whether the conduct at issue affects U.S. people and will pursue cases against targets from any jurisdiction—including the United States—that pursue such conduct.

Notably, Galeotti also clarified that the prosecution of cases under the Foreign Extortion Prevention Act (FEPA), which criminalizes officials’ request of bribes—often called the “demand side” of bribery—is consistent with the FCPA Executive Order. While the Criminal Division has not yet pursued an enforcement action under FEPA, both Galeotti and the FCPA Guidelines leave open the possibility of FEPA cases.

### C. WHITE COLLAR ENFORCEMENT PLAN

While Galeotti’s remarks focused on the FCPA Guidelines, he also provided some clarifying thoughts regarding the White Collar Enforcement Plan. Galeotti said that the Criminal Division was “happy” with the Enforcement Plan and the accompanying policy revisions, both of which had been issued roughly a month prior to Galeotti’s June 10 remarks, and reiterated that the Enforcement Plan is intended to “ensure fairness and justice” in white collar cases. But Galeotti emphasized the Criminal Division “will vigorously pursue” meritorious cases and that fighting corporate crime is an “important part” of the Division’s priorities. Galeotti clarified that “the Division has not and will not close meritorious cases.” Additionally, Galeotti encouraged companies to be “conscientious” in how and when they appeal decisions by line prosecutors to Division leadership, noting that seeking “premature relief” or “mischaracterizing prosecutorial action” may harm a company’s appeal.

Galeotti additionally reiterated that the Enforcement Plan and policy revisions seek to provide clear and “significant” benefits to companies that self-report misconduct and cooperate with DOJ. Galeotti, however,

clarified that the Criminal Division “will pursue cases vigorously but fairly” in instances in which companies, despite the incentives available, fail to self-report. Similarly, Galeotti noted that the Criminal Division will emphasize efficiency in reaching declinations or charging decisions, but said that the Division expects companies to play a role in efficiency, including by responding to requests and providing information quickly. Galeotti emphasized that arguments regarding “lack of efficiency will not resonate” where the company has not taken efforts to efficiently cooperate with prosecutors.

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### IMPLICATIONS

While the Trump Administration has previously indicated that it intended to narrow or deprioritize FCPA enforcement specifically and white collar enforcement more broadly, the FCPA Guidelines and Galeotti’s remarks signaled that the Criminal Division still plans to pursue corporate and FCPA enforcement, suggesting companies continue to face significant enforcement risks with respect to potential corruption matters.

In particular, Galeotti signaled that the Criminal Division may shift its focus to cases involving specific industries with national security implications, such as the defense industry, and geographic regions associated with cartel and TCO activity, such as Mexico. Companies should therefore consider how they could enhance their FCPA compliance programs to highlight and prioritize these areas of enforcement focus.

Notably, although DOJ’s review of all existing FCPA investigations and enforcement actions is ongoing, Galeotti noted that the Criminal Division has authorized some existing FCPA investigations to continue under the FCPA Guidelines, and public reporting has suggested that the Criminal Division does not anticipate dismissing any additional cases that have already been criminally charged.<sup>1</sup> Accordingly, companies and their counsel should not expect that their advocacy in any pending FCPA cases or investigations will result in a marked shift or reversal in position by DOJ.

While the Trump Administration has signaled that it intends to narrow FCPA enforcement specifically and white collar enforcement more generally, Galeotti’s remarks provide a warning that the Criminal Division will continue to pursue enforcement actions, particularly where corporations fail to self-report or cooperate with prosecutors.

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ENDNOTES

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- <sup>1</sup> Dave Michaels and Max Fillion, *Justice Department Resumes Foreign-Bribery Work but Cuts Cases After Trump's Pause*, WALL ST. JOURNAL, June 10, 2025. Available at: <https://www.wsj.com/us-news/law/justice-department-resumes-foreign-bribery-work-but-cuts-cases-after-trumps-pause-1b00b14d>

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