

# New DOJ Guidelines Mark the End of the FCPA Enforcement “Pause”

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On June 9, 2025, Department of Justice (“DOJ”) Deputy Attorney General Todd Blanche issued the highly anticipated “Guidelines for Investigations and Enforcement of the Foreign Corrupt Practices Act (FCPA)” (the “Guidelines”), which focus on furthering U.S. interests abroad and mark an early end to the FCPA enforcement “pause” ordered by President Trump in February 2025. While representing a notable shift in the DOJ’s FCPA enforcement priorities, the Guidelines confirm that multinational companies—particularly those operating in regions at high-risk for cartels and Transnational Criminal Organizations (“TCOs”), in certain sectors deemed critical to U.S. national security interests, and non-U.S. companies that compete with U.S. businesses—should remain vigilant in ensuring their compliance programs are appropriately tailored to address renewed enforcement risks.

## Background

On February 10, 2025, President Trump issued an Executive Order (the “Executive Order”) that “paused” FCPA enforcement by DOJ for 180 days while DOJ reviewed past and existing FCPA actions and issued revised guidance. The Executive Order asserted that enforcement of the FCPA had been “stretched beyond proper bounds and abused in a manner that harms the interests of the United States,” including by “actively harm[ing] American economic competitiveness and, therefore, national security.” The Executive Order further instructed Attorney General Pam Bondi to conduct a review of the DOJ’s historical and ongoing FCPA enforcement actions “to restore proper bounds on FCPA enforcement and preserve Presidential foreign policy prerogatives.”

Even before the Executive Order, however, Attorney General Bondi had signaled a shift in DOJ FCPA enforcement priorities in a February 5, 2025 memorandum, entitled “Total Elimination of Cartels and Transnational Criminal Organizations” (the “Bondi Memorandum”). That memorandum directed the DOJ’s Criminal Division to “prioritize investigations related to foreign bribery that facilitates the criminal operations of Cartels and TCOs.”

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## Revised Goals and Priorities Under the Guidelines

The Guidelines ended the 180-day FCPA enforcement “pause” and established certain principles, consistent with the Executive Order and Bondi Memorandum, that will govern all current and future DOJ FCPA investigations and enforcement actions.

The stated goal of the Guidelines was “to ensure that FCPA investigations and prosecutions are carried out in accordance with President Trump’s directive 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.” The Guidelines further direct prosecutors to:

- “[F]ocus on cases in which individuals have engaged in criminal misconduct and not attribute nonspecific malfeasance to corporate structures;”
- Conduct investigations “as expeditiously as possible;” and
- “[C]onsider collateral consequences, such as the potential disruption to lawful business and the impact on a company’s employees, throughout an investigation, not only at the resolution phase.”

The Guidelines also set forth several “non-exhaustive factors,” based on the Executive Order, that prosecutors *must* consider when determining whether to bring or pursue an FCPA action, namely:

- **Total Elimination of Cartels and Transnational Criminal Organizations:** Consistent with the Executive Order and Bondi Memorandum, the Guidelines reflect the Trump Administration’s focus on eliminating cartels and TCOs. Accordingly, taking perhaps a broader view than initially reflected in the Bondi Memorandum, the Guidelines direct prosecutors to consider whether the alleged misconduct: (i) is associated with the criminal operations of a cartel or TCO; (ii) utilizes money launderers or shell companies that engage in money laundering for cartels or TCOs; or (iii) is linked to employees of state-owned entities or other foreign officials who have received bribes from cartels or TCOs.
- **Safeguarding Fair Opportunities for U.S. Companies:** The Guidelines prioritize the investigation and prosecution of conduct that undermines business opportunities for U.S. companies. Indeed, in parallel remarks at the American Conference Institute’s Global Anti-Corruption, Ethics & Compliance Conference, Matthew Galeotti, Head of the DOJ Criminal Division, asserted that the “through-line is that these Guidelines require the vindication of U.S. interests.” To this end, the Guidelines state that “[e]conomic growth and expansion of U.S. business opportunities abroad—including U.S. companies’ competitiveness—is critical to safeguarding U.S. national security and economic prosperity.” According to the Guidelines, corruption can put “law-abiding competitors, including U.S. companies, at a serious economic disadvantage,” and “corrupt competitors [can] skew markets and disadvantage law-abiding U.S. companies and others for many years.” The Guidelines thus instruct prosecutors 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.”<sup>[1]</sup>
- **Advancing U.S. National Security:** The Guidelines direct prosecutors to focus on “the most urgent threats to U.S. national security resulting from the bribery of corrupt foreign officials involving key infrastructure or assets,” such as critical minerals, deep-water ports, defense, intelligence, and “critical infrastructure.” Note, however, that the

directive to prioritize prosecution of foreign bribery with U.S. national security implications is broad, and the parameters may shift over time.

- **Prioritizing Investigations of Serious Misconduct:** The Guidelines specify that the focus should be on “misconduct that bears strong indicia of corrupt intent tied to particular individuals.” Relevant factors in identifying “corrupt intent” include: (i) substantial bribe payments; (ii) sophisticated efforts to conceal bribe payments; (iii) fraudulent conduct in furtherance of the bribery scheme; and (iv) efforts to obstruct justice. By contrast, referencing the Executive Order’s admonishment that FCPA enforcement “should not penalize ‘American citizens and business’ for ‘routine business practices in other nations,’ and the FCPA statutory exception for facilitation payments, the Guidelines provide that FCPA enforcement “shall not focus on alleged misconduct involving routine business practices or the type of corporate conduct that involves de minimis or low-dollar, generally accepted business courtesies.” Notably, while DOJ may de-prioritize certain actions involving “routine business practices” or “generally accepted business courtesies,” the Securities and Exchange Commission (“SEC”) may continue to pursue internal controls and accounting actions relating to such conduct going forward.
- **Deference to Foreign Authorities:** The Guidelines further provide that prosecutors should consider “the likelihood (or lack thereof) that an appropriate law enforcement authority is willing and able to investigate and prosecute the same alleged misconduct.” In his remarks, Galeotti elaborated that the DOJ’s FCPA enforcement priorities are “not about the nationality of the subject or where the company is headquartered. In plain terms, conduct that genuinely impacts the United States or the American people is subject to potential prosecution by U.S. law enforcement. Conduct that does not implicate U.S. interests should be left to our foreign counterparts or appropriate regulators.”

## Key Takeaways

While the Executive Order and Bondi Memorandum initially may have raised questions about the future of DOJ FCPA enforcement under the Trump Administration, the Guidelines and Galeotti’s parallel remarks make clear that FCPA enforcement will continue, albeit with a more directed focus. In particular, the Guidelines signal a targeted, risk-based approach to DOJ FCPA enforcement, with an explicit focus on efficiency and limiting undue burden on U.S. companies that operate abroad while also safeguarding U.S. interests and prosecuting individual misconduct.

In light of the Guidelines, multinational companies should consider the following:

- **Increased Risk for Companies and Individuals Operating in Regions with Cartels/TCOs:** Given the focus on cartels and TCOs, multinational companies and individuals operating in countries with high risk for cartel/TCO activity should anticipate greater FCPA scrutiny. As discussed below, multinational companies should reassess their risk profiles and remain vigilant to ensure they have risk-based compliance programs and internal controls in place to detect and prevent FCPA and accounting violations.
- **Increased Risk in Sectors Impacting U.S. National Security:** Multinational companies operating in sectors with potential U.S. national security implications also can expect greater FCPA scrutiny. These sectors may include: defense, intelligence, critical minerals, sensitive technology, transportation and logistics, critical infrastructure, and financial services.
- **Heightened Risks for Non-U.S. Companies and Individuals:** The Guidelines suggest

that non-U.S. companies and individuals may be a focus of anti-corruption enforcement efforts going forward, to the extent that their alleged conduct may be viewed as disadvantaging U.S. interests abroad. The Guidelines state that enforcement will not be focused on particular individuals or companies on the basis of their nationality, but note that “[t]he most blatant bribery schemes have historically been committed by foreign companies,” and, as Galeotti reiterated in his remarks, the Guidelines “require the vindication of U.S. interests.”

- **Heightened Foreign Enforcement Risks:** Galeotti also stressed in his remarks that “[c]onduct that does not implicate U.S. interests should be left to our foreign counterparts or appropriate regulators.” Galeotti also suggested that, in cases where DOJ defers, the DOJ Criminal Division would cooperate with its foreign counterparts to provide assistance and “and ensure that those countries and regulators can vindicate their interests and pursue their mandates.” The Guidelines and Galeotti’s remarks come amid renewed global efforts in anti-corruption enforcement. Indeed, the recent creation of an International Anti-Corruption Prosecutorial Task Force to address international bribery and corruption between the United Kingdom, France, and Switzerland previews increased cooperation in international enforcement efforts. In addition to risks to non-U.S. companies and individuals, such cooperation efforts could result in foreign enforcement actions against U.S. companies and individuals even in cases where the DOJ defers.
- **The FCPA Law Remains Unchanged:** Importantly, as we noted in our previous eUpdates on the [Executive Order](#) and [Bondi Memorandum](#), the FCPA statute remains in effect. U.S. authorities can—and have—initiated anti-corruption investigations and enforcement actions years after the underlying conduct, given the five-year statute of limitations (or longer under certain circumstances).
- **SEC Enforcement Policies Remain Unchanged to Date:** The Guidelines do not alter any SEC enforcement policies. In a hearing of the Senate Appropriations Subcommittee on June 3, 2025, SEC Chair Paul Atkins stated that the agency has not been “directly affected” by the FCPA enforcement “pause” under the Executive Order. SEC officials previously had stated that the SEC would “follow the lead of the DOJ” in enforcing the FCPA. It remains to be seen whether and to what extent the SEC will adopt the Guidelines when considering FCPA enforcement going forward. Notably, U.S. and foreign companies that trade shares on U.S. exchanges remain subject to SEC jurisdiction, including with respect to the accounting provisions of the FCPA. Issuers must maintain accurate books and records and implement a system of internal controls sufficient to, among other things, provide reasonable assurances that transactions are executed, and assets are accessed and accounted for, in accordance with management’s authorization.
- **Reassessment of Risk Profiles:** Multinational companies should take this opportunity to assess the effectiveness of their compliance programs in light of their risk profiles and the DOJ’s updated enforcement priorities, particularly focused on cartels and TCOs and sectors that could implicate U.S. national security risks. This may include undertaking a risk assessment to understand the company’s corruption risk in regions that are at higher risk for enforcement under this new policy, including any potential risks relating to cartels and TCOs, among others; the risk profiles of any customers/merchants, agents, vendors, and other third parties acting on the company’s behalf; and whether the existing compliance program is reasonably designed to detect and prevent misconduct in light of those risks.
- **Continuation of Risk-Based Anti-Corruption Compliance Programs:** In light of the Guidelines and risks discussed above, multinational companies would be well-served to avoid any roll-back of their anti-corruption compliance programs, and to continue reinforcing their commitment to compliance through tone at the top, trainings, and messaging—which could include clarifying any misunderstandings as to the future of

FCPA enforcement that may have arisen as a result of the FCPA “pause.”

[1] Prosecutors also must direct enforcement efforts under the Foreign Extortion Prevention Act (“FEPA”), which criminalizes the “demand side” of foreign bribery, to alleged bribe demands by foreign officials that harmed “specific and identifiable U.S. entities or individuals.”