



Client Alert

FCPA Enforcement Resumes:
The United States Department of Justice
Issues New Guidelines

Background

As part of our Firm's continued efforts to provide timely and practical insights on global compliance developments, we would like to bring to your attention the recent resumption of the United States (U.S.) Foreign Corrupt Practices Act (**FCPA**). This development follows the news of the previously issued 180-day enforcement pause instituted by Executive Order 14209 in February 2025.

On February 10, 2025, President Donald Trump ordered a pause in the enforcement of the FCPA. The pause was introduced by an Executive Order - 14209, which mandated a temporary suspension of all new FCPA investigations and enforcement actions. The stated objective was to ensure that the statute was not being applied in a manner that compromised U.S. economic competitiveness or extended beyond its intended scope, particularly in relation to routine business practices conducted in other foreign jurisdictions. The move prompted significant debate across the global compliance industry, raising questions about the future of international anti-corruption efforts and the potential impact on multinational businesses operating in other jurisdictions.

Following this suspension, the U.S. Department of Justice (**DOJ**) on 9th June 2025, issued new guidelines¹ announcing the formal resumption of enforcement activities under the FCPA. The updated enforcement guidelines reflect a strategic realignment in the DOJ's approach to FCPA enforcement, one that narrows its focus to conduct that poses a demonstrable threat to U.S. national security, foreign policy, and economic competitiveness.

¹ Guidelines for Investigations and Enforcement of the Foreign Corrupt Practices Act (FCPA), <https://www.justice.gov/dag/media/1403031/dl> [Accessed 14th June 2025].

Key Highlights of the Revised FCPA Enforcement Guidelines

While the enforcement of the FCPA has resumed, the DOJ has indicated a departure from the conventional broad-based enforcement style to a more targeted and specific approach, prioritising cases with direct implications to U.S. national interests, economic harm to American companies operating abroad and links to transnational criminal organisations. The guidelines emphasise four core areas of focus:

1. Combating Foreign Bribery Involving Transnational Criminal Organisations:

The DOJ will now prioritise investigations where foreign bribery is linked to the operations of cartels or transnational criminal organisations (TCOs).

This includes bribery schemes that facilitate organised criminal activities or rely on shell companies and money laundering networks associated with TCOs.

Given that such criminal structures often operate in fragile or poorly regulated jurisdictions, the DOJ's emphasis signals increased scrutiny of companies operating in high-risk environments, particularly where public procurement processes may be susceptible to influence by organised crime.

2. Addressing Unfair Competitive Disadvantages to U.S. Companies:

Another significant feature of the revised approach is the DOJ's focus on protecting the economic interests of U.S. companies. Enforcement actions will be prioritised where there is evidence that a foreign bribery scheme has deprived identifiable U.S. companies of fair business opportunities. This underscores the DOJ's intent to restore market integrity and ensure that lawful enterprises are not disadvantaged by corrupt competitors who secure contracts or licenses through unlawful means.

3. Preserving U.S. National Security Interests:

The new FCPA enforcement will seek to advance U.S. national security by focusing on corruption involving key infrastructure or assets, particularly in sectors like defense, intelligence and critical infrastructure.² Following this development, the DOJ will place particular emphasis on foreign bribery involving strategic assets or high-risk regions. For multinational companies active in these sectors, compliance failures may now trigger scrutiny not only from a regulatory standpoint but also within the broader context of U.S. national security.

4. Focus on Serious and High-Impact Misconduct:

The DOJ has clarified that enforcement will not be directed at low-level or culturally accepted business practices involving minor expenditures. Rather, prosecutorial resources will be concentrated on cases that demonstrate clear corrupt intent, involve substantial bribe payments, feature efforts to conceal bribe payments or cause significant economic or institutional harm.



² DOJ Resumes Foreign Bribery Investigations, Focusing on 'Vindication of US Interests', <https://investigations.cooley.com/2025/06/13/doj-resumes-foreign-bribery-investigations-focusing-on-vindication-of-us-interests/> [Accessed 14th June 2025].

Implications of the Revised FCPA Enforcement Guidelines on Multinationals.

The resumption of the FCPA enforcement, particularly under a more strategic and target-based framework, carries several implications for multinational companies operating across jurisdictions prone to corruption risk. While the pause in enforcement may have created a perception of regulatory leniency, the DOJ's renewed posture confirms that anti-corruption enforcement remains a key element of U.S. foreign policy and corporate accountability.

First, the revised guidelines signal a shift from broad, routine investigations to more deliberate, high-impact enforcement. However, this does not lessen the compliance burden on multinationals. On the contrary, companies must ensure that their internal controls and risk assessment mechanisms are capable of identifying and addressing the types of conduct that now fall squarely within the enforcement priorities of the DOJ, including bribery schemes that affect U.S. companies' ability to compete fairly, organized crime and transactions that compromise strategic sectors of the U.S. economy. This requires heightened scrutiny of third-party relationships, public procurement processes, and dealings with politically exposed persons or state-owned entities.

Additionally, the DOJ's emphasis on economic injury to identifiable U.S. companies underscores the need for multinational corporations to operate with transparency and fairness, particularly in competitive bidding scenarios. Companies found to have secured business advantages through corrupt means, even indirectly, may now be at greater risk of investigation if their conduct has demonstrably harmed American commercial interests. This represents a material compliance risk for organisations operating in markets where facilitation payments, procurement irregularities, or informal business networks are prevalent.

Implications of the Revised FCPA Enforcement Guidelines on Multinationals.

Furthermore, the renewed enforcement environment may increase cross-border co-operation between U.S. authorities and their counterparts in other jurisdictions, particularly in cases involving TCOs. Multinational corporations with operations in multiple high-risk jurisdictions may therefore face coordinated investigative efforts. This makes it even more important for multinationals to maintain

consistent global standards for anti-bribery compliance, rather than relying on jurisdiction-specific adaptations that may fall short of international expectations.

Lastly, the DOJ's commitment to focus on prosecuting only "misconduct that bears strong indicia of corrupt intent" should not be misunderstood as a softening of the law. The focus on substantial bribes, concealment, and obstruction

means that any attempt to circumvent compliance controls or to knowingly disregard red flags could form the basis of enforcement of the FCPA. Multinationals, particularly in key sectors and high-risk jurisdictions, must therefore invest in creating a corporate culture of integrity and accountability, backed by clear reporting lines in the event of a default.

Conclusion

The resumption of the FCPA enforcement marks a new phase in the U.S. government's global anti-corruption agenda, one that is more selective in scope but no less serious in its implications. While the revised guidelines reflect a shift toward target-based enforcement, focused on U.S. national interest and economic harm, they also reaffirm the central role of corporate accountability in international business conduct.

Multinationals must therefore remain proactive, ensuring that their compliance frameworks are responsive to evolving enforcement priorities and capable of detecting and

preventing misconduct that falls within the DOJ's renewed areas of focus. Companies should adopt broadly framed compliance programs, recognizing that numerous countries, including the UK and France, have foreign bribery laws that do not exempt facilitation payments in the specific sense as the FCPA, warranting a comprehensive compliance strategy. A commitment to ethical conduct and sound governance will not only mitigate legal exposure but also enhance business resilience and reputation in an increasingly regulated business environment.



About SBP

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Stren & Blan Partners is a full-service commercial Law Firm that provides legal services to diverse local and multinational corporations. We have developed a clear vision for anticipating our clients' business needs and surpassing their expectations, and we do this with an uncompromising commitment to Client service and legal excellence.

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