

# DOJ Issues Revised FCPA Guidelines: A Strategic Focus on U.S. National Interests and High-Impact Enforcement

June 11, 2025

On June 9, 2025, the U.S. Department of Justice (DOJ) unveiled its new guidelines for Foreign Corrupt Practices Act (FCPA) enforcement, marking the end of the 180-day “pause” imposed by the Executive Order issued by President Trump earlier this year.<sup>1</sup> In addition to lifting the FCPA enforcement “pause,” the guidelines memorandum issued by Deputy Attorney General (DAG) Todd Blanche responds to the directive in the President’s Executive Order to issue updated guidelines and policies around FCPA investigations and enforcement.<sup>2</sup>

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<sup>1</sup> Todd Blanche, *Guidelines for Investigations and Enforcement of the Foreign Corrupt Practices Act (FCPA)*, Memorandum for Head of the Criminal Division, U.S. Dep’t of Just., June 9, 2025, <https://www.justice.gov/dag/media/1403031/dl> [hereinafter Blanche Memo].

<sup>2</sup> Exec. Order, *Pausing Foreign Corrupt Practices Act Enforcement to Further American Economic and National Security*, (signed Feb. 10, 2025), <https://www.whitehouse.gov/presidential-actions/2025/02/pausing-foreign-corrupt-practices-act-enforcement-to-further-american-economic-and-national-security/>.



The DOJ's newly issued guidelines direct DOJ to focus FCPA investigations and prosecutions on cases that implicate U.S. national security, economic competitiveness, and threats posed by cartels and transnational criminal organizations (TCOs), as well as the corrupt foreign officials who facilitate those activities.<sup>3</sup> The guidelines also instruct DOJ prosecutors to prioritize investigations of serious misconduct and to focus on matters involving substantial bribe payments and sophisticated efforts to conceal bribery schemes, and avoid spending resources on allegations involving more routine, lower-dollar business practices. The new guidelines, coupled with significant recent policy changes announced by the DOJ Criminal Division, bring an end to the pause in FCPA enforcement, while providing guidance on how DOJ will focus its future efforts on international corruption investigations. This creates shifting risks for foreign and domestic companies as they operate internationally.

### **Lifting the Pause Imposed by the Executive Order**

In February 2025, President Trump issued an Executive Order directing Attorney General Pamela Bondi to pause FCPA enforcement for 180 days pending the issuance of revised enforcement guidelines by DOJ. The Executive Order directed the DOJ to refrain from opening any new FCPA investigations and to review pending investigations during the time that the DOJ considered and issued updated guidance that prioritizes "American economic and security interests."<sup>4</sup> While there was some uncertainty following issuance of the Executive Order as to the level of FCPA enforcement going forward, the new guidelines make clear that there will continue to be FCPA enforcement by the DOJ, redirected toward certain priorities of this Administration.

<sup>3</sup> The "demand side" of foreign bribery is criminalized under the Foreign Extortion Prevention Act (FEPA). 18 U.S.C. § 1352.

### **The New FCPA Guidelines**

The memorandum issued by DAG Blanche establishes the guidelines for FCPA investigations and prosecutions going forward with an emphasis on "limiting undue burdens on American companies that operate abroad" and "targeting enforcement actions against conduct that directly undermines U.S. national interests."<sup>5</sup> The guidelines provide evaluation criteria and a non-exhaustive list of factors that DOJ will consider when assessing whether to pursue a particular investigation or prosecution under the FCPA or its "demand side" counterpart, the Foreign Extortion Prevention Act (FEPA). These factors include:

- i. 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 (SOEs) or other foreign officials who have received bribes from cartels or TCOs.
- ii. 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.
- iii. Whether specific and identifiable U.S. entities or individuals have been harmed by foreign officials' demands for bribes.
- iv. Potential threats to U.S. national security resulting from bribery of corrupt foreign officials involving key infrastructure or assets.<sup>6</sup>

As explained in subsequent remarks by Matthew R. Galeotti, the current head of the DOJ Criminal Division, "[n]o one factor is necessary or

<sup>4</sup> Our firm's prior alert memorandum on the FCPA Executive Order is available [here](#).

<sup>5</sup> Blanche Memo, at 1.

<sup>6</sup> *Id.* at 1.

dispositive” and the “through-line” of the updated guidelines is that DOJ will “require the vindication of U.S. interests.”<sup>7</sup> Galeotti added that the DOJ 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.”<sup>8</sup> He also clarified that in assessing potential corporate liability, the guidelines and FCPA enforcement will focus on the specific misconduct of individuals, rather than “collective knowledge theories” that attribute liability to companies based on more generalized theories of wrongdoing.<sup>9</sup> Additionally, consistent with other recent white collar enforcement guidance issued by the Criminal Division, the new FCPA guidelines direct DOJ prosecutors to investigate cases “as expeditiously as possible” and to consider the collateral consequences that can arise for a company that is under investigation, such as the potential disruption of lawful business operations and the impact on a company’s employees.<sup>10</sup>

### **“Safeguarding Fair Opportunities for U.S. Companies”**

Among other objectives, the new guidelines highlight the priority of safeguarding U.S. national security and economic interests, including U.S. competitiveness abroad, by focusing enforcement on companies that bribe foreign officials to obtain business and place their law-abiding competitors, including U.S. companies, at an economic disadvantage. The guidelines provide that DOJ will not focus on particular individuals and companies on

the basis of nationality, but rather based on the underlying conduct.<sup>11</sup> The guidelines note that the most significant FCPA enforcement actions — measured by the scope of the misconduct and the size of the monetary penalties — have been “overwhelmingly brought against foreign companies.”<sup>12</sup> Additionally, as part of this approach, the new guidelines note DOJ’s intention to use the recently-enacted FEPA as a tool to investigate and prosecute corrupt officials.

### **DOJ Prioritizing Serious Misconduct and High-Impact Enforcement**

The new guidelines also underscore DOJ’s intent to focus FCPA enforcement on more serious alleged misconduct with a “strong indicia of corrupt intent tied to particular individuals” and reflecting facts typically seen in matters involving substantial bribe payments, sophisticated efforts and structures to conceal bribe payments, fraudulent conduct in furtherance of bribery schemes, and efforts to obstruct justice.<sup>13</sup> Under the new regime, DOJ will focus less on alleged misconduct involving “routine business practices or the type of corporate conduct that involves de minimis or low-dollar, generally accepted business courtesies.”<sup>14</sup> The guidelines highlight the FCPA’s exception for facilitating and expediting payments,<sup>15</sup> as well as the affirmative defenses that allow for reasonable and bona fide expenditures as well as payments that are lawful under the written laws of a foreign country.<sup>16</sup> This prioritization will allow the DOJ to focus its resources on more high-impact enforcement. Finally, the guidelines also make clear that in assessing which FCPA investigations and

<sup>7</sup> Speech, “Head of Justice Department’s Criminal Division Matthew R. Galeotti Delivers Remarks at American Conference Institute Conference” (June 10, 2025), available at <https://www.justice.gov/opa/pr/head-justice-departments-criminal-division-matthew-r-galeotti-delivers-remarks-american> [hereinafter Galeotti Speech].

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Blanche Memo, at 1.

<sup>11</sup> *Id.* at 3.

<sup>12</sup> *Id.* at 3 n.4.

<sup>13</sup> *Id.* at 3-4.

<sup>14</sup> *Id.* at 3-4.

<sup>15</sup> Companies should note that certain anti-corruption laws in other countries do not include any exception or defense for facilitation payments. *See, e.g.*, U.K. Ministry of Justice, The Bribery Act 2010: Guidance, (Mar. 2011), <https://assets.publishing.service.gov.uk/media/5d80cfc3ed915d51e9aff85a/bribery-act-2010-guidance.pdf>; Agence Française Anticorruption, *The Issue of Facilitation Payments*, (Oct. 2023), <https://www.agence-francaise-anticorruption.gouv.fr/files/files/The%20issue%20of%20facilitation%20payments.pdf>.

<sup>16</sup> Blanche Memo, at 3.

prosecutions to pursue, DOJ will consider the likelihood that a foreign authority will investigate and prosecute the same misconduct, in which case DOJ may be willing to defer and walk away.<sup>17</sup>

### Further Insights on DOJ's Recently Announced White Collar Enforcement Plan

In his recent remarks, Galeotti also provided additional insights on his announcement from last month regarding the DOJ Criminal Division's White Collar Enforcement Plan.<sup>18</sup> Among other areas, Galeotti addressed the recent changes to the Corporate Enforcement and Voluntary Self-Disclosure Policy (CEP), which outlines DOJ's approach to corporate enforcement, and in particular, companies that voluntarily self-disclose potential misconduct. On this issue, Galeotti explained that the "benefits to companies that voluntarily self-report, cooperate, and remediate have never been clearer and more certain," stating unequivocally, "those companies will receive a declination, not just a 'presumption' [of a declination]."<sup>19</sup> In discussing the potential for deviating based on "aggravating circumstances," Galeotti noted that it is "not a game of 'gotcha'" and that, while DOJ has to maintain some degree of flexibility, the "circumstances would have to be truly aggravating and sufficient to outweigh the fact that the company voluntarily came forward."<sup>20</sup>

Echoing the reference in the new FCPA guidelines to more expeditious investigations, Galeotti underscored that the DOJ Criminal Division will be looking to "charge or decline quickly" when it comes to investigating white collar cases. Galeotti explained further that he would be meeting with the leaders of all DOJ sections to make clear the need to "move more quickly" and "bring clarity to those under investigation."<sup>21</sup> Galeotti also commented on DOJ's recent expansion of the Whistleblower Awards Pilot Program to include additional categories of

misconduct, noting that "just days" after his earlier announcement in May 2025, DOJ received tips related to corruption, procurement fraud, healthcare fraud, and other areas. Galeotti added that DOJ also has received new voluntary self-disclosures in white collar matters, including for potential FCPA violations.<sup>22</sup>

### Key Takeaways

The new FCPA enforcement guidelines represent an end to the pause in DOJ's enforcement of the FCPA, accompanied by a strategic focus by the DOJ on cartel-related activity and vindicating U.S. national interests. Takeaways from this new guidance include the following:

- i. Misconduct that deprives U.S. companies of fair access to compete. One of the clearest pronouncements in the new guidelines is the intention by DOJ to pursue companies that bribe foreign officials to obtain business and place competitors, including U.S. companies, at an economic disadvantage. In identifying potential cases, DOJ may look to investigate conduct related to contracts awarded to competitors of U.S. companies in high-risk jurisdictions or high-risk industries. While DOJ noted that it will not single out companies or individuals on the basis of nationality, this approach could result in more investigations related to contracts or concessions awarded to non-U.S. companies, particularly where there are allegations or suggestions of possible corruption.
- ii. Misconduct involving key infrastructure or assets. The new guidelines highlight the potential threat to U.S. national security by corruption in sectors such as defense, intelligence, and critical infrastructure, including businesses operating in critical

<sup>17</sup> *Id.* at 4.

<sup>18</sup> Our prior alert memorandum on the Criminal Division's White Collar Enforcement Plan is available [here](#).

<sup>19</sup> Galeotti Speech.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

minerals and deep-water ports. These are all likely to remain areas of focus for DOJ (and other regulators) going forward.

- iii. Misconduct associated with cartels/TCOs, money launderers, and corrupt officials who enable criminal organizations. Building upon the memorandum issued by Attorney General Bondi calling for the elimination of cartels and TCOs,<sup>23</sup> the new guidelines note that DOJ will be looking to identify potential links in FCPA investigations to cartels and other cross-border criminal organizations. This may increase its focus on the investigation and prosecution of corrupt foreign officials using FEPA and other criminal statutes, such as money laundering. DOJ also will be focusing on money launderers, facilitators, and others who enable corrupt officials and criminal organizations — often the same individuals that launder money and facilitate bribery schemes for companies, intermediaries, and others who pay bribes to obtain business. This focus underscores the importance of third-party due diligence and Know Your Customer (KYC) procedures. This is particularly acute for companies operating in Latin America and other regions with significant cartel presence, given the potential intersections with the State Department's recent designation of a number of cartels and TCOs as Foreign Terrorist Organizations (FTOs) and Specially Designated Global Terrorists (SDGTs).
- iv. Future FCPA enforcement by the Securities and Exchange Commission (SEC). As the new guidelines only pertain to DOJ's enforcement of the FCPA, it remains to be seen what, if any, policy announcements will follow from the SEC.

Given certain comments by at least one SEC official following issuance of the Executive Order, it is very possible that the SEC adopts or mirrors the approach taken by DOJ for its own FCPA enforcement priorities going forward.

## Implications for Companies and Compliance Programs

In assessing compliance programs and practices, companies should take this new guidance into account in a number of ways.

- i. Updating risk assessments. Companies should consider updating their anticorruption risk assessments to ensure that they are adequately mitigating against potential risks in countries or sectors with high cartel/TCO activity; transactions involving state-owned enterprises in strategic industries or other areas potentially impacting national security, such as defense, intelligence, and infrastructure; or deals involving U.S. competitors, particularly where allegations of corruption have arisen.
- ii. Reviewing internal controls and third-party due diligence. Companies also should consider testing their compliance framework and related internal controls to ensure that they can sufficiently detect and respond to suspicious payments or conduct, in particular, red flags involving transactions in high-risk jurisdictions, politically exposed persons (PEPs), or individuals or entities associated with cartels or other criminal networks. Companies participating in foreign bidding should consider engaging in heightened diligence over those projects. Similarly, SOEs with exposure to U.S. laws may want to review their competitive

<sup>23</sup> Our prior alert memorandum on Attorney General Bondi's Memorandum is available [here](#).

contracting processes, especially in the context of bidding and awards that can include U.S. companies.

- iii. Optimizing whistleblower reporting channels. Companies also should ensure that their whistleblower reporting channel is optimized, well-functioning, and reliable. An effective whistleblower channel is of critical importance in identifying allegations of potential misconduct and other relevant information at the earliest stage possible, so as to maximize the company's ability to react, investigate, and make decisions as appropriate. The earlier a company becomes aware of potential misconduct, the more swiftly and effectively it can respond and remediate, and, if the circumstances warrant, self-report.

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