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Four Takeaways from the DOJ's New Guidelines on the Foreign Corrupt Practices Act

On June 9, 2025, the U.S. Department of Justice issued [new guidance](#) clarifying how it will enforce the Foreign Corrupt Practices Act (FCPA), the landmark U.S. anti-bribery law that makes it a crime for an American, U.S. company, or any company listed on a U.S. stock exchange to offer or give a bribe to a foreign official. At the time it was adopted, the FCPA was the first of its kind to counter foreign bribery, and has been the inspiration for dozens of countries to adopt similar laws, and helped spur the creation of the 46-nation Organization for Economic Cooperation and Development (OECD) Anti-Bribery Convention and the development of anti-bribery provisions in the United Nations Convention Against Corruption. The guidance arrives after a deeply troubling 4-month pause in enforcement that stemmed from a presidential executive order.

While the guidelines include some promising elements, they also raise serious concerns about the Administration's long-term commitment to corporate accountability and global anticorruption efforts.

1. The U.S. is recommitting to enforcing the FCPA—but with a concerning reduction of resources and narrower priorities.

After months of uncertainty, the new DOJ guidance sends an important signal: the U.S. government will continue to enforce the FCPA. The guidelines recognize that “bribing foreign officials to obtain lucrative contracts and illicit profits—at times hundreds of millions of dollars—corrupt competitors skew markets and disadvantage law-abiding U.S. companies and others for many years.” It then instructs prosecutors to prioritize enforcement in cases involving the following factors:

- Foreign officials tied to drug cartels or transnational criminal organizations;
- Unfair market competition against U.S. businesses; and
- U.S. national security interests involving key infrastructure and other assets.

Importantly, the guidelines make clear that enforcement decisions will be independent of the nationality of the entities involved in the bribery scheme. However, the recurring focus

on harm to U.S. businesses raises questions about how the DOJ will balance those potentially competing guidelines.

The three listed categories are broad and important, but at the same time, the DOJ's FCPA Unit has reportedly been cut in half (from 32 to just 15 attorneys). Meanwhile, the DOJ has reportedly ceased activity on roughly half of the cases that were being developed by the previous administration. While many cases may still proceed, the enforcement landscape will look notably different than in years past given such significant reductions in staff.

2. This guidance reflects a welcome course correction from the February pause on enforcement—but some skepticism is warranted.

The FCPA has long been a target of criticism from President Trump, who has criticized it for the better part of a decade. The guidelines echo some of those criticisms: It states that FCPA enforcement should not penalize American citizens and businesses for “routine business practices in other nations,” references the FCPA “burdening U.S. businesses,” and instructs prosecutors to consider “collateral consequences” on companies and employees throughout the investigative process. Similarly, the guidance’s instruction that prosecutors avoid cases based on “nonspecific malfeasance” by corporations signals a potential shift away from holding *companies* responsible, as opposed to individuals involved in bribery schemes.

To be clear, bribery distorts markets, disadvantages ethical U.S. businesses, and may result in a cascade of harms to local populations regardless of who engages in the bribery scheme. Holding corrupt and criminal actors accountable for the harm they cause is not a burden on bad actors; it is a responsibility of government. Furthermore, the consideration of “collateral consequences” is highly unusual in U.S. criminal law. Enforcing the law should not depend on, or be shaped by, how such enforcement may impact broader corporate interests.

The FCPA served as a model for policies shaping the OECD Anti-Bribery Convention, to which the U.S. is a signatory. The Convention states that investigation and prosecution of foreign bribery “shall not be influenced by considerations of national economic interest.” Close monitoring of the implementation of the guidance will be essential to ensuring it does not, in practice, conflict with our commitments under the Convention.

3. There remains real potential for anticorruption impact—especially in priority areas.

Despite its limitations, the guidance’s focus on combating cartels and transnational criminal organizations, defending ethical U.S. businesses, and securing national interests could still yield impactful cases—especially as these priority areas overlap with other high-level Administration priorities. Each of these categories encompasses a large universe of

potential misconduct, from procurement schemes involving foreign state-owned enterprises to bribery networks linked to illicit drug trafficking.

4. The DOJ is integrating the new Foreign Extortion Prevention Act into its broader anti-bribery work—a major step toward the much-needed usage of this transformative law.

The guidelines incorporate the Foreign Extortion Prevention Act (FEPA), enacted in 2023, which criminalizes the *demand side* of foreign bribery—i.e., corrupt foreign officials who solicit or accept bribes. FEPA addresses a longstanding gap in U.S. anti-bribery law and allows prosecutors to go after both sides of a corrupt deal.

FEPA's inclusion is a bright spot, reinforcing the idea that global bribery cannot be fought by targeting only those offering bribes. DOJ's acknowledgment of this new tool offers the possibility for U.S. leadership on fighting transnational bribery.

The DOJ's new guidelines revive FCPA enforcement—and signals a long-overdue potential employment of the Foreign Extortion Prevention Act—albeit with new priorities, significantly reduced resources, and potential new corporate leniencies. It remains to be seen how vigorously these tools will be used and whether the guidelines will truly reinvigorate U.S. leadership on countering foreign bribery.

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