

# DOJ Issues FCPA Enforcement Guidelines, Focusing on Conduct Harming U.S. Economic and National Security Interests

June 10, 2025

On June 9, 2025, the U.S. Department of Justice issued new guidelines to federal prosecutors for investigations and enforcement of the Foreign Corrupt Practices Act (the “Guidelines”).<sup>1</sup> This announcement has been widely anticipated since February when, pursuant to an executive order, DOJ suspended much FCPA enforcement activity, undertook to review existing matters, and began preparing new guidance.<sup>2</sup>

The new Guidelines indicate that DOJ will continue to investigate and prosecute violations of the FCPA but with noteworthy changes to its priorities and approach. According to the Guidelines, and consistent with the earlier executive order, DOJ must focus on “limiting undue burdens on American companies that operate abroad” and “targeting enforcement actions against conduct that directly undermines U.S. national interests.”

To apply those overarching principles, the Guidelines instruct prosecutors to consider the following four non-exhaustive factors in determining whether to commence an FCPA-related investigation or enforcement action:

- DOJ must prioritize matters in which the alleged bribery or corruption involves **drug cartels or transnational criminal organizations** (“TCOs”), which have been a key target of Trump Administration policies and enforcement activity. Relevant misconduct may involve the use of money laundering or shell companies on behalf of cartels or TCOs or implicate foreign officials who receive bribes from cartels or TCOs.

---

<sup>1</sup> The Deputy Attorney General, “Guidelines for Investigations and Enforcement of the Foreign Corrupt Practices Act (FCPA)” (June 9, 2025), <https://www.justice.gov/dag/media/1403031/dl>.

<sup>2</sup> Executive Order, “Pausing Foreign Corrupt Practices Act Enforcement to Further American Economic and National Security” (Feb. 10, 2025), <https://www.whitehouse.gov/presidential-actions/2025/02/pausing-foreign-corrupt-practices-act-enforcement-to-further-american-economic-and-national-security>; see also Office of the Attorney General, “Total Elimination of Cartels and Transnational Criminal Organizations” (Feb. 5, 2025), <https://www.justice.gov/ag/media/1388546/dl?inline>.

- Consistent with the Trump Administration's focus on **promoting U.S. economic interests**, prosecutors should assess whether the potential wrongdoing "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." Signaling an increased focus on prosecuting FCPA violations by foreign companies, the Guidelines assert that "[t]he most blatant bribery schemes have historically been committed by foreign companies." The Guidelines also state, however, that DOJ will pursue U.S. interests "not by focusing on particular individuals or companies on the basis of their nationality, but by identifying and prioritizing the investigation and prosecution of conduct that most undermines these principles."
- FCPA enforcement should advance **U.S. national security**, focusing on "bribery of corrupt foreign officials involving key infrastructure or assets." The Guidelines note a strong national security interest "in sectors like defense, intelligence, [and] critical infrastructure."
- DOJ will prioritize investigations of the **most serious misconduct**, particularly "alleged misconduct that bears strong indicia of corrupt intent tied to particular individuals, such as substantial bribe payments, proven and sophisticated efforts to conceal bribe payments, fraudulent conduct in furtherance of the bribe scheme, and efforts to obstruct justice." Enforcement should not focus on potential FCPA violations "involving routine business practices or the type of corporate conduct that involves de minimis or low-dollar, generally accepted business courtesies." As a corollary to this principle of allocating prosecutorial resources, prosecutors should consider whether foreign enforcement authorities are likely to investigate and prosecute the alleged wrongdoing.

Under the Guidelines, new FCPA investigations and enforcement actions must be authorized by the Assistant Attorney General for the Criminal Division or a more senior DOJ official. Unsurprisingly, the Guidelines signal that DOJ's interests in pursuing FCPA cases that already have been charged may be stronger than in cases that have not reached that stage. The Guidelines also urge prosecutors to pursue cases involving misconduct by individuals rather than "attribute nonspecific malfeasance to corporate structures."

As with prior DOJ policies and guidance, the impact of the Guidelines will become clearer as DOJ applies them to actual cases. Companies operating internationally—and in particular non-U.S. companies—should nevertheless expect that enforcement of the FCPA will continue under this administration. In determining how best to deploy limited compliance resources and to mitigate corruption-related risks, companies should take account of the priorities detailed in the Guidelines, including the importance of assessing any risk of exposure, however attenuated, to the activities of cartels and TCOs.

---

Non-U.S. companies, especially those that operate in a sector alongside numerous U.S. competitors or in areas of strategic importance, such as defense, intelligence, and critical infrastructure (as noted above), may face particularly close scrutiny. Given the Guidelines' clear prioritization of U.S. interests, it is possible that U.S. companies might be emboldened to file complaints against their foreign competitors, alleging that they were deprived of business opportunities due to their foreign competitors' corrupt conduct. Notably, this focus on U.S. national interests and non-U.S. companies is in considerable tension with Article 5 of the OECD's Anti-Bribery Convention, to which the United States is a signatory.<sup>3</sup> That Article provides: "Investigation and prosecution of the bribery of a foreign public official . . . shall not be influenced by considerations of national economic interest." It remains to be seen whether and how DOJ may seek to reconcile that tension and how, if at all, other signatories to the Convention will respond.

At the same time, companies can have some confidence that DOJ will not focus on investigating and charging minor or technical breaches of the FCPA, such as gifts and entertainment-related expenses or other payments that the Guidelines describe as "generally accepted business courtesies" (though it remains unclear how broad DOJ considers this category to be). As always, however, companies should bear in mind that what can appear at first to be a minimal or isolated issue may be indicative of a more widespread or systemic problem, and that what may be a minor issue in isolation could attract greater attention, especially if it implicates any of DOJ's new priorities. Also, importantly, a future administration could swiftly revoke or revise these Guidelines and pursue any prohibited conduct that remains within the statute of limitations.

\* \* \*

Please do not hesitate to contact us with any questions.

---

<sup>3</sup> OECD, "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions," <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0293>.



**Andrew M. Levine**  
Partner, New York  
+ 1 212 909 6069  
amlevine@debevoise.com



**David A. O'Neil**  
Partner, Washington, D.C.  
+1 202 383 8040  
+1 202 809 1995  
daoneil@debevoise.com



**Winston M. Paes**  
Partner, New York  
+ 1 212 909 6896  
wmpaes@debevoise.com



**Jane Shvets**  
Partner, New York | London  
+1 212 909 6573  
+44 20 7786 9163  
jshvets@debevoise.com



**Douglas S. Zolkind**  
Partner, New York  
+ 1 212 909 6804  
dzolkind@debevoise.com



**Erich O. Grosz**  
Counsel, New York  
+1 212 909 6808  
eogrosz@debevoise.com



**Philip Rohlik**  
Counsel, Shanghai | Hong Kong  
+86 21 5047 0788  
+852 2160 9856  
prohlik@debevoise.com