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FCPA Under the Trump Administration: Navigating New Enforcement Priorities

July 29, 2025

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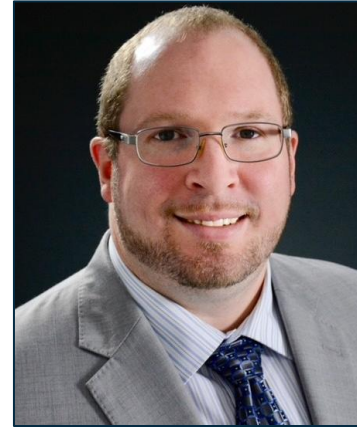
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Agenda

Background of Anti-Corruption Laws

Anti-Corruption Enforcement History

Trump Anti-Corruption Enforcement Policies

Compliance Efforts Remain Critical

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Background of Anti-Corruption Laws

International Anti-Corruption Laws

United States: Foreign Corrupt Practices Act
("FCPA")

United States: Foreign Extortion Prevention Act
("FEPA")

United Kingdom: Anti-Bribery Act of 2010

Canada: Corruption of Foreign Public Officials
Act

FCPA: Purpose and Background

- Foreign Corrupt Practices Act
- Enacted by Congress in 1977 in response to revelations of widespread bribery of foreign officials by U.S. companies
- Purpose
 - to root out corrupt bribes, offers, payments, and trades, to foreign officials to obtain or retain business
 - Aimed specifically at the corporate/business world – an element of the offense is that the corrupt act was to obtain or retain business

FCPA: Statutory Language

§78dd-1. Prohibited foreign trade practices by issuers

(a) Prohibition

It shall be unlawful for any issuer which has a class of securities registered pursuant to [section 78l of this title](#) or which is required to file reports under [section 78o\(d\) of this title](#), or for any officer, director, employee, or agent of such issuer or any stockholder thereof acting on behalf of such issuer, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to-

(1) any foreign official for purposes of-

(A)(i) influencing any act or decision of such foreign official in his official capacity, or (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or

(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person;

(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of-

(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, or (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate,

(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person; or

(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of-

(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, or (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or

(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

FCPA: Statutory Language

§78dd-2. Prohibited foreign trade practices by domestic concerns

(a) Prohibition

It shall be unlawful for any domestic concern, other than an issuer which is subject to [section 78dd-1 of this title](#), or for any officer, director, employee, or agent of such domestic concern or any stockholder thereof acting on behalf of such domestic concern, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to-

(1) any foreign official for purposes of-

(A)(i) influencing any act or decision of such foreign official in his official capacity, or (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or

(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person;

(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of-

(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, or (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate,

(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person; or

(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of-

(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, or (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or

(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person.

FCPA: Who Must Comply?

- Any U.S. national or resident.
- Any individual, corporation, officer, director, employee or agent of a firm and any stockholder acting on behalf of a U.S. entity or any company that files reports with the SEC.
 - Distributors are often considered agents of their supplier for FCPA purposes
- Any individual or entity, U.S. or foreign, who commits a violation through contact with the U.S.
 - This includes payments that are cleared through any U.S. bank.

FCPA: Elements of the Offense

- Offer of payment, payment, conspiracy to make payment
- Of anything of value (not limited to money)
- Directly or indirectly (intermediaries)
- To a “foreign official”
- With corrupt intent (quid pro quo)

“Anything of Value”

- *Kousisis v. U.S.* (2025) – Damages not necessary for a wire fraud prosecution; potentially applicable here
- Money certainly, but it not necessarily
- Travel, trips, vacations, upgrades
- Tickets, entertainment, meals,
- Gifts, loans, discounts
- Favorable leases or real estate deals
- Charitable or political contributions
- Hiring or promotions



“Directly or Indirectly...”

- Directly: Obviously, a corporate officer bribing a foreign official for business is prohibited
- Indirectly: Cases can involve payments made by third parties on a third-party company's behalf
 - Actual knowledge of bribery by the third party is not required for a company to be liable under the FCPA. Third parties include: agents, vendors, distributors, sub-distributors, freight forwarders, consultants, brokers, resellers.

“Foreign Official”

- Any officer or employee of a non-US state or government
- Any person acting on behalf of a foreign government or public organizations (World Health Organization, World Bank, UN)
- Employees of state-owned enterprises
- Family members of a foreign officials
- Political party officials

“Obtain or Retain Business”

- FCPA prohibits offers, payments, and promises made in order to assist “in obtaining or retaining business for or with Broadly interpreted to include any conduct that gives a business advantage to the payor
 - e.g., reduction of payments, lower taxes, permit issuance, regulatory approval, access to confidential information, etc.

FEPA: Statutory Language

- It is “unlawful for any foreign official or person selected to be a foreign official to corruptly demand, seek, receive, or accept, or agree to receive or accept, directly or indirectly” something of value in exchange for: “(a) being influenced in the performance of any official act; (b) being induced to do or omit to do any act in violation of the official duty of such foreign official or person; or (c) conferring any improper advantage, in connection with obtaining or retaining business for or with, or directing business to, any person.”

FEPA: Purpose and Enactment

- Prior to FEPA, no US law criminalized demand side, or passive, bribery by foreign officials.
- The DOJ previously relied on other criminal laws, such as money laundering and wire fraud, to prosecute foreign bribe receivers.
- Addressed deficiency in laws by making it a crime for a foreign official to demand or accept a bribe from an American or American company, or from any person while in the territory of the US, in connection with obtaining or retaining business.

FEPA: Elements of Offense

- A foreign official can be criminally charged for:
- Demanding, seeking, receiving, accepting, or agreeing to accept
- Anything of value
- Directly or indirectly
- In return for
 - Being influence in the performance of an official act
 - Being induced to do or omit to do any act in violation of an official duty; or
 - Conferring any improper advantage, in connection with obtaining or retaining business for or with, or directing business to, any person

“Foreign Official”

- Adopts the FCPA’s definition of official as “any official or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization,” or “any person acting in an official capacity” on behalf such entities
- But goes beyond the FCPA’s definition by including senior officials and individuals acting in official and unofficial capacities for, on or behalf of, government agencies, instrumentalities, or public international organizations

“In Return For . . .”

- In return for
 - Being influenced in the performance of an official act
 - Being induced to do or omit to do any act in violation of an official duty; or
 - Conferring any improper advantage, in connection with obtaining or retaining business for or with, or directing business to, any person
- This is broader than FCPA, which solely relates to business.

UK Bribery Act of 2010: Principal Offenses

- Prohibits:
- Offering a bribe;
- Receiving a bribe;
- Bribing a foreign public official; *or*
- Failing to prevent bribery by a commercial organization

Canadian Corruption of Foreign Public Officials Act

- Prohibits acts in order to obtain or retain an advantage in the course of business, directly or indirectly offers or agrees to give a “loan, reward, advantage, or benefit of any kind to a foreign public official,” either:
 - As consideration for the official’s act or omission as part of the official’s duties or functions, or
 - To induce the official to use his or her position or influence acts or decisions of the foreign state or public international organization for which the official performs duties or functions

Compare and Contrast FCPA, FEPA UK Bribery Act, and Canadian FPOA

- FCPA, UK Act, and FPOA proscribe offering a bribe.
- FEPA and the UK Act proscribe receiving a bribe.
- Only the UK Act proscribes failing to prevent bribery – the FCPA rests on liability for agents of the company.
- FCPA, FEPA, FPOA, and the UK Act apply to foreign official transactions.

Do Not Forget Other Laws

- Wire, Mail, and Bank Fraud
- Crimes relating to import/export controls (*e.g.*, making a false statement on trade forms)
- Money Laundering
- Klein Conspiracy to defraud the United States
- Hobbs Act (Extortion) and Hobbs Conspiracy (Conspiracy to Extort)
- Travel Act violation (interstate travel or use of mail to either commit an offense, distribute proceeds of an offense, or promote or manage the illegal activity)

Anti-Corruption Enforcement History

FCPA: Enforcement History – Siemens AG (Facts)

- Beginning around September 1998 and continuing until 2007, Siemen Argentina (“Siemens AG”) made and caused to be made significant payments to various Argentine officials, both directly and indirectly, in exchange for favorable business treatment in connection with a \$1 billion national identity card project.
- From the date that Siemens AG became listed on the New York Stock Exchange on March 12, 2001, through approximately January 2007, Siemens AG made approximately \$31,263,000 in corrupt payments to various Argentine officials through purported consultants and other conduit entities, and improperly characterized those corrupt payments in its books and records as legitimate payments for “consulting fees” or “legal fees.”

FCPA: Enforcement History – Siemens AG (Outcome)

- Siemens AG pleaded guilty to violations of and charges related to the FCPA
- As part of a plea agreement, Siemens AG agreed to pay a \$448.5 million fine.
- Shows long-term interest in South American FCPA enforcement

FEPA: Enforcement History

- FEPA was enacted in 2023 as part of the 2024 National Defense Authorization Act
- As this is a newly passed law, it remains to be seen how the DOJ will apply FEPA.
- There are no current cases pending regarding alleged FEPA violations.

UK Bribery Act: Enforcement History – Sweett Group

- Sweett Group, a construction and professional services company, pleaded guilty on December 18, 2015 to the offense of failing to prevent bribery in the United Arab Emirates.
- Sweet Group was fined £1.4m. In addition, £851,152.23 was paid in confiscation and £95,031 in costs.
- Significant because this was the first sentencing of the “failure to prevent bribery” offense under the UK Bribery Act

International Cooperation Opportunity: Airbus as a Case Study

- In the UK, Airbus, Europe's largest aerospace manufacturer, paid a record of 3 billion British pounds for paying huge bribes in 20 countries.
- In the US, Airbus admitted to FCPA and ITAR violations.
- In France, Airbus was also subject to French prosecution and penalties.
- Bottom line: FCPA, FEPA, FPOA, and UK Act investigations and prosecutions can be costly international operations involving several jurisdictions.

Recent UK Anti-Corruption Developments During FCPA Enforcement Pause

- Following the Trump Administration's February 2025 pause on FCPA enforcement, the United Kingdom, France, and Switzerland formed a new cross-border alliance: the International Anti-Corruption Prosecutorial Taskforce.
- Announced on March 20, 2025 by the United Kingdom's Serious Fraud Office ("SFO"), the taskforce is designed to strengthen collaboration in future investigations and the prosecution of international bribery and corruption offenses.

United Kingdom – United Insurance Brokers Limited

- On April 17, 2025, the SFO charged U.K.-based United Insurance Brokers Limited with failing to prevent international bribery.
- The SFO alleged that between October 2013 and March 2016, UIBL's US-based intermediaries paid bribes to Ecuadorian officials to secure re-insurance contracts with state insurers worth \$38 million and that UIBL received \$6.2 million in commissions, of which US\$3 million was paid to intermediaries.
- Significant because, if this case proceeds to trial, it would be the first time a jury hears a “failure to prevent bribery” case brought by the SFO

United Kingdom – AOG Technics

- On May 28, 2025, the United Kingdom SFO announced that it charged a Director of UK-based AOG Technics Limited – a company specializing in the sale of parts for freight and commercial aircraft – with fraudulent training
- SFO alleged that between 2019 and 2023, AOG Technics defrauded customers by falsifying documents relating to the “origin, status or condition of aircraft parts.”
- SFO’s December 2023 investigation followed broader inquiries by the UK, EU, and U.S. aviation authorities that same year into safety concerns surrounding AOG Technics’ products.
- Significant because highlights the increasing trend of the SFO’s collaboration with international enforcement bodies and its growing cross-border intelligence capabilities – may shorten the timeframe from the commencement of an investigation through to a decision on charge.

Trump Anti-Corruption Enforcement Priorities

Initial Pause on FCPA Prosecutions

- February 10, 2025 – President Trump directed DOJ to pause FCPA actions for 180 days
 - Lapses on August 9, 2025
- February 5, 2025 – DOJ directed Criminal Division's FCPA Unit to investigate foreign bribery that facilitates operations of cartels and transnational criminal organizations

The Pause was Not Absolute

- SEC has authority to investigate civil FCPA violations and is not subject to President Trump's Executive Order
- Statute of Limitations is five years and, in the case of a conspiracy, the statute begins to run after the conspiracy's final overt act
 - Companies in continuing violation during this period are open to significant risks after the pause lapses and a new administration
 - This is a very long statute of limitations, potentially
- No pause on FEPA actions or investigations
- Trump lacked authority to pause FPOA or UK Act investigations and prosecutions

Trump Un-Paused FCPA Investigations

- On June 9, 2025, DOJ released its FCPA enforcement guidance memorandum
- The memorandum aligned the administration's top priorities: National security, dismantling cartels and transnational criminal organizations, and global competitiveness of U.S. businesses.

Trump's Priorities Indicate a Sea Change

- Prosecutors must obtain authorization from the Assistant Attorney General for the Criminal Division (or someone more senior) before initiating a new FCPA investigation or enforcement action.
- The Guidelines de-emphasize corporate resolutions; prosecutors should avoid cases involving routine business practices, like common courtesies.
- Prosecutors must consider whether an FCPA matter implicates priorities detailed related to a transnational criminal organization, money laundering, employees of state-owned entities or officials themselves bribed by cartels.

FCPA Investigations Will Persist

- FCPA violations undertaken during the pause can be investigated and prosecuted after the pause.
- DOJ will focus more on individual activities with serious malfeasance, such as substantial bribe payments with “strong indicia of corrupt intent.”
- DOJ transitioned to allowing local USAOs to investigate FCPA violations.

FCPA Investigations Will Persist

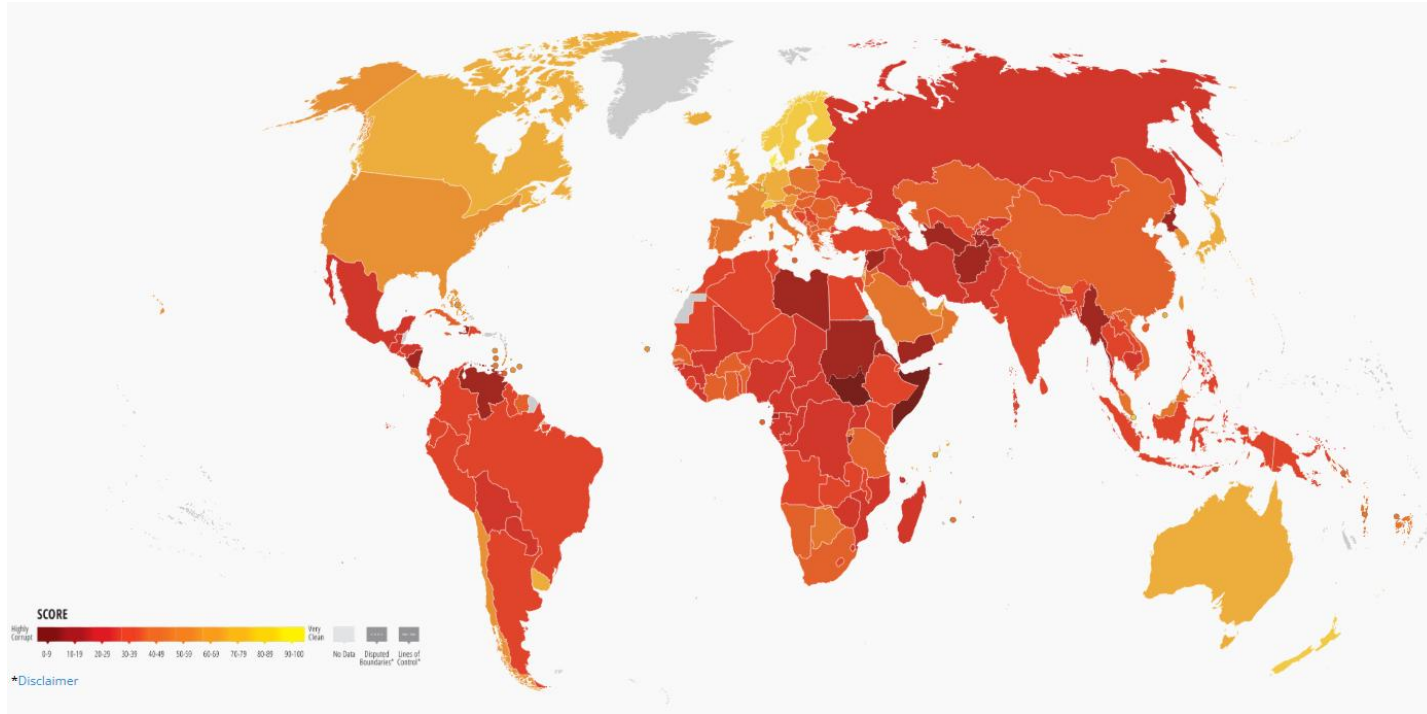
- Implications:

- Investigations could focus more on individual misconduct instead of corporate misconduct – corporate whistleblowers will be in high demand
- Investigations will acquire quicker approvals
- Investigations may be less sophisticated
- Investigations will move faster, potentially collecting less evidence
- Potential for charges issued on investigations with less likelihoods of Government success (*i.e.*, more defense verdicts potentially for rushed investigations).

Ongoing Risks Involving International Commerce

- If involved in an international supply chain, ensure that each link is protected.
- Every agent and vendor involved in the chain could present a compliance risk.
 - Agents and employees might think that they are just acting normally in the country in which they operate when, in reality, they are violating the FCPA, UK Act, or FPOA.
- Risk mitigation:
 - Proactively train employees
 - Vet all members of the supply chain
- Top areas for risk: Latin America (focus on cartels), Middle East (FTOs including Hamas and Hizballah)

Countries Involved in Corruption



<https://www.transparency.org/en/cpi/2024#:~:text=While%2032%20countries%20have%20significantly,lives%20and%20undermines%20human%20rights>

“America First” Policies

- FCPA investigations and prosecutions of foreign companies doing business in the United States could put “America First” in FCPA prosecutions.
 - Query whether DOJ would institute parallel FEPA investigations or prosecutions into a US Government Official accepting a foreign bribe
- Latin America, South America, and the Middle East remain hot beds of activity

Foreign Terrorist Organizations and Cartels

- A list exists of prohibited FTOs. This includes obvious groups: Hamas, Hizbollah, ISIS. This also includes large cartels: Cartel de Sinaloa, Tren de Aragua, MS-13
- The Trump Administration will cut off financial capabilities of FTOs and cartels. This will include cutting off access to “anything of value” that these FTOs or cartels receive from U.S. entities.
- Red Flag: Significant work done in countries where these groups inhabit.

Foreign Terrorist Organizations and Cartels

- We are not suggesting that everyone here is knowingly bribing foreign officials. We are suggesting that companies must be vigilant about who acts on their behalf internationally.
- Hot beds for activity: Latin America, South America, Middle East. Exercise extreme caution in these areas.
 - Trump Administration is also interested in East Asia.

Trade Crimes

- DOJ's May 12, 2025 memoranda indicate a strong priority to investigate and root out trade crimes.
 - Trade crimes are listed as the second most prioritized area, behind waste, fraud, and abuse of federal programs
- Tariff avoidance or fraud, including bribes to customs and border patrol officials, can lead to overlapping investigations for FCPA violations and trade crimes.

Whistleblower Opportunities

- DOJ Criminal Division's Corporate Whistleblower Awards Pilot Program Revisited allows whistleblower reports leading to greater than \$1M in forfeiture and relates to "foreign corruption and bribery by, through, or related to companies, including violations of the [FCPA], violations of the [FEPA], and violations of the money laundering statutes."
- Corporate whistleblowers have historically and will remain to be a significant source of information for DOJ.

Predicting the Next Big Case

- Critical sectors of industry include infrastructure and defense, government contracting, international supply chain and manufacturing.
- Potential conduct under scrutiny includes significant dealings with Latin America, South America, the Middle East, or China; trading materials related to national security; avoiding tariffs and making false statements for imports or exports.

Dismissal/Termination of FCPA Cases, Some Continue

- Since the DOJ announced its new FCPA enforcement priorities, the DOJ has voluntarily dismissed some of its prosecutions against individuals/companies, while other prosecutions continue to move forward.
- Cases Voluntarily Dismissed or Terminated
 - United States v. Coburn et al. (“Cognizant case”)
 - United States v. Glencore (“Glencore case”)
- Cases Continuing
 - United States v. Hobson (“Corsa Coal case”)
 - United States v. Zaglin (“Honduras Bribery case”)
 - United States v. Bautista (“Smartmatic case”)

Cognizant Case – Dismissal

- According to the indictment, in or about April 2014, Cognizant Technology Solutions executives Gordon Coburn and Steven Schwartz authorized a \$2 million bribe to expedite a construction project in India.
- On April 2, 2025, the DOJ moved to dismiss FCPA case against the former Cognizant execs the day before trial was set to start, citing President Trump's February 2025 executive order.
- Significant because it is the first public case to be impacted by the DOJ's new stance on FCPA enforcement following Trump's executive order

Glencore Case – Early Termination

- In May 2022, Glencore, a Swiss commodities trader agreed to undergo a three-year compliance monitorship with the FCPA as part of a \$1.1 billion resolution with the DOJ and CTFC over foreign bribery and market manipulation.
- The company admitted to paying \$100 million to intermediaries who used the money to bribe officials to secure “improper advantages” when doing business with state-owned mining and oil companies in Nigeria, Cameroon, Ivory Coast, Equatorial Guinea, Brazil, Venezuela, and the Democratic Republic of the Congo between 2007 and 2018.

Glencore Case – Early Termination

- On March 19, 2025, the DOJ filed a motion in the U.S. District Court for the Southern District of New York to terminate Glencore's FCPA compliance monitorship early.
- Prosecutors said that the government decided to “exercise the Government's sole discretion,” under a plea agreement with the company, to terminate the monitorship effective that day.

Corsa Coal Case - Continue

- In March 2022, the DOJ brought FCPA, money laundering, and wire fraud charges against Corsa Coal Corporation Vice President Hunter Hobson in the U.S. District for the Western District of Pennsylvania for his alleged role in a scheme to bribe Egyptian officials to win coal contracts worth \$143 million between 2016 and 2020.
- Ten days after President Trump's February 2025 executive order, Hobson moved to continue his trial, arguing that it was "it is reasonable for Mr. Hobson to believe that the state of his case might change after the stringent review required by the Executive Order."

Corsa Coal Case - Continue

- In response, on March 4, 2025, the DOJ filed a motion stating that Hobson's case was under prioritized review.
- On April 11, 2025, the DOJ filed a “notice of authorization” stating that “the Government has completed its detail review” as contemplated by the February 2025 executive order and “intends to proceed to trial.”

Honduras Bribery Case – Continue

- Defendants Carl Alan Zaglin, Francisco Roberto Cosenza Centeno, and Aldo Nestor Marchena, who were indicted in 2023, allegedly participated in a bribery scheme to obtain lucrative contracts to provide uniforms and more to the Honduran National Police.
- Attorneys for Zaglin moved to dismiss the case on grounds that the case was inconsistent with the Trump Administration’s approach to FCPA enforcement.
 - Argued that his prosecution “amounts to precisely the sort of overexpansive and abusive enforcement of the FCPA condemned by the President”

Honduras Bribery Case – Continue

- Federal prosecutors have resisted Zaglin's attempts to dismiss, saying that the case was cleared against the government's new vision for FCPA enforcement.
- The federal prosecutors stated in a July 10 filing :
“Such a review was conducted in this case, and following that review, the Government was authorized to proceed to trial...Zaglin may disagree with that decision, but there is simply no legal basis for dismissing an Indictment on ‘public policy’ grounds, much less grounds that have already been thoroughly and fully considered.”

Smartmatic Case – Continue

- In August 2024, a federal grand jury in the Southern District of Florida returned an indictment against former Smartmatic executives Roger Alejandro Pinate Martinez and Jorge Miguel Vasquez, along with two others, for their alleged participation in a bribery and money laundering scheme to pay at least \$1 million in bribes to a Philippines official in exchange for obtaining approximately \$182 million in contracts related to the administration of the 2016 Philippines elections.
- On March 12, 2025, Martinez and Vasquez moved to continue several pre-trial deadlines, citing President Trump's executive order and reasoning that "in recent days and weeks, judges in other pending FCPA matters have stayed or continued deadlines in those matters, to allow that review to proceed without wasting the resources of courts or litigants."

Smartmatic Case - Continue

- The government consented to continuance of the case.
- On April 9, 2025, the DOJ filed a “notice of authorization” indicating that it “conducted a detailed review of the instant case,” and “intends to proceed to trial.”
- The filing did not explain what the review entailed or how the department reached its decision.

Compliance Efforts Remain Critical

Step One: Call an Experienced White-Collar Attorney

- The FCPA pause and the time shortly following it is the best opportunity to review anticorruption controls with operations in Latin America, the Middle East, and other corruption hot zones.
- The Trump Administration's focus on trade crimes places greater importance on ensuring customs and tariffs compliance controls are sufficient.

Step Two: Consider an Internal Investigation

- Not every internal investigation follows a whistleblower complaint. Sophisticated companies engage counsel to conduct proactive investigations of critical systems to ensure compliance in a changing legal landscape.
- M&A due diligence review is an excellent time to conduct an internal review of documentation and potentially conduct interviews.
- If you discover significant compliance issues (e.g., criminal activity), consider self-reporting or whistleblowing to avoid significant criminal penalties and engender trust with the Government.

Step Three: Make a Plan that Addresses to Risk Profile Unique to Your Company

- Compliance plans are not a one-size-fits-all template. Corporate culture, size, personnel, zone of operation, industry, and more are important to consider.
- Written anti-bribery and anti-corrupt payment policies are important, but meaningless unless enforced.
- Consider timing for training on your policies – Annually? Quarterly? Only to certain employees?
- Goal: Create a compliance network where employees and agents feel safe to report potential issues before federal agents investigate the issue.

Step Four: Test and Attempt to Break the Plan

- Consider all angles of the plan's potential weaknesses.
- Target weaknesses in additional compliance checks of employees subject to the plan – like a “secret shopper” system
- Counsel should be provided with ultimate and neutral access. Treat counsel like the Government demanding documents and access to your employees to dry run your plan against Government inquiry.

Step Five: Iterate; Repeat

- Sophisticated companies understand that compliance is an imperfect, iterative process.
- Return to Step 3 to plug compliance gaps identified in your tests against your plan.
- Return to Step 4 and attempt to break and test the plan

Remember

- It is always better for your retained White-Collar Counsel to discover compliance gaps and mitigate their effects than for the Government to discover the issue and start a potentially costly, invasive investigation and potential prosecution.



Questions?



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