
Perspective on the Pause – Putting DOJ’s New FCPA Enforcement Approach Into Context

Overview of the Executive Order

On February 10, 2025, President Trump issued an Executive Order, [“Pausing Foreign Corrupt Practices Act Enforcement to Further American Economic and National Security,”](#) which directs the Attorney General to pause Foreign Corrupt Practices Act (“FCPA”) actions for a period of 180 days to:


- review all existing FCPA investigations or enforcement actions; and
- issue updated FCPA guidelines and policies to align with the current administration’s economic interests and foreign policy objectives.

The Attorney General has also been instructed to cease the initiation of any new FCPA investigations or enforcement actions during the 180-day pause, subject to individual exceptions. The Executive Order grants the Attorney General further authority to extend the review period for an additional 180 days at her discretion. Finally, the Executive Order instructs the Attorney General to determine, following the issuance of the revised guidelines or policies, “whether additional actions, including remedial measure with respect to inappropriate past FCPA investigations and enforcement actions, are warranted” and to take such actions, as appropriate.

Key Takeaways and Analysis

While the announcement has naturally led to speculation about the future of FCPA enforcement, the statute remains in effect and, for many reasons, companies would be well-served by seeking to ensure ongoing compliance, and we do not expect this to lead to any significant changes in existing corporate policies, procedures, and controls.

1. The “pause” in FCPA enforcement is expected to be temporary and should be lifted once the Department of Justice (“DOJ”) issues new guidance.
2. The statute of limitations for FCPA cases is longer than the term of this administration, and it is possible that the next administration will resume an aggressive approach to enforcement. Thus, while smaller companies may try to take advantage of policy changes in the short term, we do not expect larger global companies that are protective of their reputations to change their approach, especially if they have a significant U.S. presence.
3. The Executive Order only applies to criminal enforcement of the statute and has no direct effect on the Securities and Exchange Commission, which typically enforces the FCPA’s books and records and internal controls requirements. The announcement also has no bearing on the ability to bring FCPA-adjacent criminal charges, like money laundering, wire fraud, and securities fraud.
4. FCPA enforcement actions are often accompanied by shareholder lawsuits, which are unaffected by the text of this announcement.

- 
5. Continued vigilance on anti-corruption is especially important for companies engaged in the capital markets, as financial institutions and other investors are expected to continue focusing on FCPA compliance in their deal diligence.
 6. The administration had previously instructed the DOJ to prioritize investigations relating to foreign bribery that facilitates the criminal operations of cartels and transnational criminal organizations. It will thus be more important than ever to screen vendors and other counterparties for ties to such criminal organizations, as any associated FCPA violations will draw heightened prosecutorial resources after the pause.
 7. Many other countries around the world have enacted their own strong anti-bribery and corruption (“ABC”) laws and, after years of coordination with U.S. authorities, have honed robust investigative and prosecutorial capabilities. During this temporary pause in enforcement, companies with global operations will still need to ensure compliance with other ABC laws, many of which impose more stringent requirements—such as prohibitions on facilitation payments—than exist under the FCPA. We have seen extensive enforcement of ABC laws in recent years by foreign authorities, in many cases accompanied by large penalties that had to be shared with partner U.S. regulators. Those agencies may, in the near term, be further motivated to increase their own enforcement efforts as a way to fill the void for any perceived slack in U.S. enforcement and continue to pursue significant penalties from multinational businesses.

* * *

If you have any questions about the issues addressed in this memorandum, or you would like a copy of any of the material mentioned in it, please do not hesitate to call or email authors Brian T. Markley (partner) at bmarkley@cahill.com or 212.701.3230, Brockton B. Bosson (partner) at bbosson@cahill.com or 212.701.3136, or Jennifer Potts (counsel) at jpotts@cahill.com or 212.701.3390; or email publicationscommittee@cahill.com