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Executive Order Temporarily Pauses DOJ's FCPA Enforcement and Orders a Review of Guidelines and Policies

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ALERTS

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On February 10, 2025, President Trump signed an executive order pausing enforcement of the Foreign Corrupt Practices Act (FCPA), a law that prohibits companies with a connection to the United States from bribing foreign government officials.

It is too soon to assess whether the executive order will usher in lasting change in the FCPA enforcement landscape, and companies are encouraged to continue operating under policies and programs aimed at ensuring compliance with the FCPA and other foreign and domestic anti-corruption laws. Companies evaluating the landscape should consider the following:

- This pause in enforcement is temporary. During the initial 180 days of the pause, the Attorney General will review the FCPA and draft new enforcement guidelines. It would be wise to wait until the new guidelines are published before considering how, if at all, to adjust business practices and compliance programs.
- The executive order is directed at only the Department of Justice (DOJ), not the U.S. Securities and Exchange Commission (SEC). Although the SEC commissioners may follow suit, it is unclear what impact the executive order will have on civil enforcement.
- The statute of limitations for violations of the FCPA's anti-bribery provisions is five years, and it is six years for violations of the FCPA's accounting provisions. Those limitations can be extended if the DOJ needs to gather information from foreign countries. So, even if the DOJ chooses to not enforce the FCPA now, the next administration will still be able to prosecute violations that occurred during the Trump administration.
- FCPA enforcement did not decrease under the first Trump administration, despite the President expressing similar sentiments about the law back then.
- There are other laws that federal prosecutors can still use to tackle bribery, including money laundering, antitrust, and fraud.
- Setting aside federal enforcement, individual states and foreign jurisdictions are increasing enforcement of their own anti-corruption laws.
- FCPA compliance is an important area of due diligence for investors, underwriters, and acquisition partners. Companies involved in investments, IPOs, or M&A deals will likely still face questions about their anti-corruption compliance programs.

If you have questions about these recent changes to FCPA enforcement, please contact a member of the FCPA and anti-corruption practice at Wilson Sonsini.

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