

Department of Justice Renews Commitment to Enforcement of Foreign Corrupt Practices Act

Article By:

Paul V. Kelly

Ramsay C. McCullough

During his campaign, President Donald Trump raised uncertainty with statements that he disapproved of the Foreign Corrupt Practices Act. Since then, however, the Department of Justice has emphasized its continued enforcement efforts for FCPA violations.

On April 18, 2017, at the Anti-Corruption, Export Controls & Sanctions Compliance Summit, DOJ's Acting Principal Assistant Attorney General Trevor McFadden made the first statements from a top government official since President Trump took office concerning the FCPA.

First, McFadden reiterated the DOJ's commitment to the concepts articulated in the Yates Memorandum. The Yates Memorandum, issued on September 9, 2015 by the then-Deputy Attorney General Sally Yates, emphasized that DOJ would focus on the role of the individual in criminal misconduct, as opposed to simply that of the corporation. McFadden said DOJ will continue to hold individuals accountable for corporate misconduct.

Second, McFadden repeated support for the concepts behind the FCPA Pilot Program, stating, "[T]he department regularly takes into consideration voluntary self-disclosures, cooperation and remedial efforts when making charging decisions involving business organizations." On April 5, 2016, the Department of Justice released a FCPA Enforcement Plan and Guidance on enforcement, announcing an FCPA enforcement pilot program to promote greater accountability for individuals and companies that engage in corporate crime by motivating voluntary self-disclosure of FCPA-related misconduct, full cooperation with DOJ, and, where appropriate, remediating flaws in controls and compliance programs.

Third, on the speed and length of FCPA investigations, McFadden said that the DOJ is compelled to investigate "expeditiously" and conclude investigations as soon as possible. He stated that companies must be prepared to meet the DOJ's desire for speed with prompt and thorough investigations. Companies working with the DOJ must "prioritize internal investigations and ... respond to Fraud Section requests promptly to ensure there are no unnecessary delays." McFadden said this faster resolution process will "be good for cooperating companies. No executive wants to deal with a lingering government investigation or the associated costs and distraction from the

company's mission." Ultimately, McFadden said, it was his "intent ... for our FCPA investigations to be measured in months, not years."

On April 24, 2017, Attorney General Jeff Sessions at the Ethics and Compliance Initiative Annual Conference reemphasized the DOJ's commitment to enforcing the FCPA. He stated generally that the DOJ will continue to prosecute corporate fraud and acknowledged "one area where this is critical is enforcement of the Foreign Corrupt Practices Act." Bolstering McFadden's earlier statements concerning the Yates Memorandum, he reiterated that the DOJ will seek to hold individuals accountable for corporate wrongdoing. Lastly, pointing to the importance of corporate compliance programs, Sessions affirmed that DOJ would continue to look favorably on corporations that have good compliance programs, cooperate during government investigations, self-disclose wrongdoing, and take steps to remediate identified problems.

Jackson Lewis P.C. © 2025

National Law Review, Volume VII, Number 125

Source URL: <https://natlawreview.com/article/department-justice-renews-commitment-to-enforcement-foreign-corrupt-practices-act>