

# Client Alert

Special Matters & Government Investigations

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## Anti-Bribery and Anti-Corruption Enforcement in the U.S., UK, and Europe post-FCPA Pause

### INTRODUCTION

We have previously written about the impact of the pause in enforcement of the FCPA implemented by the Trump Administration on non-American companies.<sup>i</sup> Although the 180-day review period the Executive Order provided to the Department of Justice (“DOJ”) to develop new guidance for FCPA enforcement has not yet elapsed, several recent developments in the global anti-bribery and anti-corruption (“ABAC”) enforcement space warrant an update.

### UPDATES IN THE U.S.

U.S. enforcement agencies have given mixed signals about their intentions for future FCPA enforcement.

Several recent decisions by the DOJ suggest that it does not intend to continue pursuing FCPA enforcement in the same way or to the same extent as it has historically. In addition to dropping the long-running bribery case against two former Cognizant executives in New Jersey,<sup>ii</sup> the DOJ has closed its corruption investigation into Norwegian oil and gas company PetroNor<sup>iii</sup> and has moved to dismiss FCPA charges against American waste management company Stericycle several months before the expiration of its deferred prosecution agreement.<sup>iv</sup> The DOJ has also terminated the two monitorships it imposed on Swiss commodity trading and mining company Glencore (one of which relates to Glencore’s conspiracy to violate the FCPA) in May 2022, more than a year earlier than they were set to conclude.<sup>v</sup> Although the Executive Order pausing enforcement of the FCPA discussed “eliminating excessive barriers to American commerce abroad,” and stated a desire to reduce “overexpansive and unpredictable FCPA enforcement against American citizens and businesses,”<sup>vi</sup> PetroNor and Glencore are not

American companies. Closing the PetroNor investigation and ending Glencore's FCPA monitorship early could suggest a more general intention to limit FCPA enforcement instead of focusing on enforcement against non-American companies as the wording of the Executive Order suggested may be possible.

In addition to dropping existing cases and monitorships, the DOJ is also considering budget cuts that could affect investigations involving foreign defendants, witnesses, and evidence – as many FCPA cases do. In a recent memo, Deputy Attorney General Todd Blanche suggested that there would be personnel cuts at the Office of International Affairs (“**OIA**”).<sup>vii</sup> OIA is responsible for international extraditions and mutual legal assistance, services relied upon by the FCPA Unit to build and prosecute its cases.

While these moves tend to suggest that the DOJ's focus on foreign bribery will be more limited moving forward, the DOJ has also indicated that it intends to proceed with several other, already-filed cases. As a result, it is premature to conclude that the DOJ is retreating from FCPA enforcement entirely. Relatedly, it is also difficult to discern any definitive common threads that distinguish the cases the DOJ is continuing to pursue from those it has dropped, making it difficult to predict the strategy for FCPA enforcement going forward. The cases moving forward are against both American and non-American individuals and they include:

- A case against two executives of UK-based voting machine company Smartmatic and a Philippines election official. The DOJ alleges that the Smartmatic executives conspired to pay more than \$1 million in bribes to the election official in exchange for contracts for Smartmatic to supply voting machines and services for the Philippines' 2016 elections.<sup>viii</sup>
- A case against a former Corsa Coal executive, who the DOJ accuses of participating in a scheme to bribe Egyptian officials to win coal contracts worth \$143 million between 2016 and 2020.<sup>ix</sup>
- A case against three individuals for allegedly bribing government officials in exchange for contracts to provide uniforms and other goods to the Honduran National Police.<sup>x</sup>

On the Securities and Exchange Commission (“**SEC**”) side, the Chief and Deputy Chief of the SEC's FCPA Unit have recently retired,<sup>xi</sup> and the SEC has informed multiple defense counsel that it has paused FCPA investigations until further guidance is issued by the Trump Administration pursuant to the Executive Order. These developments come on the heels of then-Acting Deputy Director of the SEC's Enforcement Division Antonia Apps's comment at a recent speaking engagement that the SEC was “obviously going to follow the lead of the DOJ” with respect to FCPA enforcement.<sup>xii</sup> At the same time, Apps noted that the SEC intends to decline to bring cases more frequently where companies have self-reported, cooperated, and/or remediated their compliance programs.

While these updates and statements seem to suggest a reduction in FCPA enforcement by the SEC going forward, it has not entirely backed away from the FCPA. On April 10, 2025, the SEC filed a motion to reopen a civil FCPA case against two former Cognizant executives (despite the DOJ having earlier decided to drop criminal charges) and issue a stay to allow the parties to “explore a potential resolution.”<sup>xiii</sup>

The Trump Administration's approach to FCPA enforcement therefore remains unclear. DOJ's review of FCPA enforcement is ongoing, and its outcome, which is presently unknown, will determine whether and how the statute will be enforced during the Trump Administration. However, absent an actual repeal of the law, future administrations could reverse enforcement policy decisions the Trump Administration makes and aggressively investigate FCPA violations, including conduct occurring that occurred during the Trump Administration that falls within the five-year statute of limitations.

Notably, enforcement at the state level also remains a risk for parties engaged in foreign bribery: California's Attorney General has announced his intention to prosecute bribery under state law and Manhattan's District Attorney has indicated that he is considering how his office can step into the void created by the DOJ's retreat from certain enforcement areas, including FCPA.<sup>xiv</sup>

## UPDATES IN THE UK AND EUROPE

Outside the U.S., the wind is blowing in a clearer direction. On 20 March 2025, enforcement authorities in the UK, France, and Switzerland announced the creation of a new International Anti-Corruption Prosecutorial Taskforce (the "**Taskforce**") to strengthen collaboration between these countries.<sup>xv</sup> The Taskforce consists of the UK's Serious Fraud Office ("**SFO**"), France's National Financial Prosecutor's Office ("**PNF**"), and the Office of the Attorney General of Switzerland ("**OAG**"). These agencies are no strangers to collaboration, both amongst themselves and with the U.S. For example, as noted by PNF director Jean-François Bohnert, the PNF has assisted the OAG with 89 requests for mutual legal assistance in criminal matters since the agency was created in 2014.<sup>xvi</sup> Further, both the SFO and OAG were credited with assisting the U.S. with its bribery investigation into Glencore.<sup>xvii</sup> The Taskforce's creation represents the SFO's, PNF's, and OAG's intention to continue coordinating, with or without the U.S.

The Taskforce's Founding Statement acknowledges "the significant threat of bribery and corruption and the severe harm that it causes" and promises that the members will "stand firm in our commitment to tackle this threat within the national and international legal frameworks."<sup>xviii</sup> The Taskforce will deliver a "Leaders' Group focused on the regular exchange of insight and strategy," a "Working Group, for the purpose of devising proposals for co-operation on cases," and increased "best practice" intelligence sharing between the three agencies to fully utilize the expertise of each. The Taskforce also intends to invite "other like-minded agencies" to join it.<sup>xix</sup> Despite the timing of the announcement and the somewhat pointed language in its Founding Statement, the Taskforce's creation was, according to SFO Director Nick Ephgrave, "in no way a reaction to" the Trump Administration's FCPA enforcement pause.<sup>xx</sup> Nevertheless, the enforcement vacuum caused by the abrupt cessation of DOJ investigations undeniably creates an opportunity for jurisdictions like the UK, France, and Switzerland to drive ABAC enforcement going forward. Indeed, Ephgrave recently noted that the SFO is currently evaluating the long-term impact of the enforcement pause on the agency, and "actively seeing if there are opportunities where we can pick up investigations in this country".<sup>xxi</sup>

Speaking ahead of the Taskforce's public announcement, Ephgrave reiterated that the potential use of financial payments to reward whistleblowers (first stated as an SFO policy aim in February 2024) would continue to be on the UK's agenda, and the recently published SFO Annual Business Plan for 2025-26 (the "**ABP**") explicitly references "whistleblower incentive reform."<sup>xxii</sup> Ephgrave once again credited the U.S.'s "really well-established system of [whistleblower] incentivisation" as one of the reasons for the U.S.'s historic success in international bribery and corruption intelligence gathering, asserting that 700 UK whistleblowers have gone to the U.S. with tip-offs in the last decade.<sup>xxiii</sup> Speaking at a recent event in London, Ephgrave highlighted whistleblower incentivization as the key reform he wants to implement during his tenure, calling it a "game changer for [UK] intelligence."<sup>xxiv</sup> This reform looks

increasingly likely, with the UK Home Office commissioning an independent report which will consider “incentives for criminal fraud networks informants and whistleblowers”.<sup>xxv</sup> By introducing financial incentives and stronger channels for whistleblower reports, the UK could generate significantly more leads regarding potential breaches of the UK Bribery Act to investigate. The U.S. has a number of whistleblower incentive programs which have yielded success in recent years. For example, the SEC’s Whistleblower Program received 557 FCPA-related reports during the 2024 financial year, up from 237 in the previous year.<sup>xxvi</sup> The Swiss Attorney General Stefan Blättler has also expressed an appetite for increasing whistleblowing, announcing that he would discuss whistleblower incentivization with both the Swiss parliament and public.<sup>xxvii</sup>

As foreshadowed in the ABP, the SFO has also launched new corporate cooperation guidance (the “**Guidance**”),<sup>xxviii</sup> to reverse what Ephgrave characterizes as a “slight drop off” in the number of companies self-reporting wrongdoing.<sup>xxix</sup> The Guidance emphasizes that the SFO will seek to negotiate deferred prosecution agreements with (and not prosecute) companies which promptly self-report wrongdoing to, and cooperate fully with, the SFO “unless exceptional circumstances apply”.<sup>xxx</sup> Ephgrave hopes that the Guidance, along with strengthened covert surveillance capabilities (another priority set out in the ABP), will give the SFO more control over its referral pipeline and “invigorate or provoke” more self-reports from companies.<sup>xxxi</sup> The SFO also recently announced that it had signed a memorandum of understanding with Indonesia’s Corruption Eradication Commission in an attempt to “refresh [its] relationship” with the country’s main anti-corruption enforcer.<sup>xxxii</sup>

In addition to these moves by the SFO, the UK’s National Crime Agency (“**NCA**”) intends to increase its foreign bribery caseload, according to NCA senior manager David Liebscher.<sup>xxxiii</sup> The NCA currently has seven foreign bribery cases before the UK courts,<sup>xxxiv</sup> and has had success in this space in recent years, having achieved the conviction of the former chief of staff to the president of Madagascar for bribery in February 2024.<sup>xxxv</sup> In remarks that chimed with Ephgrave’s commentary and efforts around increasing reports to law enforcement, Liebscher also suggested that the UK’s current corruption reporting framework, with 39 possible channels, is overly complex and a “barrier” to reporting misconduct.<sup>xxxvi</sup> Liebscher’s statements, taken together with the developments at the SFO, indicate a renewed interest in proactive Bribery Act enforcement in the UK.

In the EU, trilogue negotiations between the European Commission, the European Council, and the European Parliament commenced in February 2025 to finalize the EU’s proposed Directive on combatting corruption (the “**Directive**,” initially unveiled in May 2023). The Directive aims to harmonize corruption offences and sanctions across the EU. Currently, all 27 EU Member States are signatories to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which requires acceding states to implement “such measures as may be necessary” to establish the various offenses it sets out (i.e., in relation to the bribery of foreign public officials).<sup>xxxvii</sup> However, each Member State has typically adopted its own set of laws to combat corruption, creating a series of fragmented standards that can be easily exploited, with it being reported that the EU loses approximately EUR 990 billion to corruption each year.<sup>xxxviii</sup> If adopted in its current form,<sup>xxxix</sup> the Directive will require Member States to introduce a number of specified corruption offences (including domestic and foreign bribery, misappropriation, trading in influence, abuse of functions and obstruction of justice) into their national laws. The Directive will also introduce corporate criminal liability, which will apply where a lack of supervision by a person in a leadership position results in the commission of an offence set out in the Directive.<sup>xl</sup> Ultimately, the Directive will allow for greater cross-border cooperation between Member States in investigating and prosecuting corruption.

## CONCLUSION

Though the future of U.S. FCPA enforcement, at least for the remainder of the Trump Administration, remains uncertain, the consensus on the other side of the Atlantic is clear: ABAC enforcement remains a priority, and

European and British enforcement agencies see the opportunity to lead the charge as the U.S. deprioritizes FCPA enforcement.

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<sup>i</sup> Brandt Leibe, Aaron Stephens, Grant Nichols, and Margaret Nettesheim, "How does the Trump FCPA pause change the landscape for non-American companies?", Global Investigations Review (Feb. 28, 2025), <https://globalinvestigationsreview.com/just-anti-corruption/article/how-does-the-trump-fcpa-pause-change-the-landscape-non-american-companies>.

<sup>ii</sup> Motion to Dismiss, United States v. Gordon Coburn and Steven Schwartz Case No. 2:19-cr-00120 (MEF) (Apr. 1, 2025), <https://files.lbr.cloud/public/2025-04/1034%20Cognizant%20motion%20to%20dismiss.pdf?VersionId=9oS.IXOYr7X69W5FEHrNOOYdNmXUZMRb>.

<sup>iii</sup> Press Release, PetroNor E&P ASA, The U.S. Department of Justice closes its investigation (Apr. 1, 2025), <https://petronor.com/media/cwltjui/20250402-pnor-investigation-update.pdf>.

<sup>iv</sup> Motion to Dismiss, United States v. Stericycle, Inc. Case No. 22-CR-20156-MOORE (Apr. 21, 2025), <https://files.lbr.cloud/public/2025-04/21%20-%20DOJ%20motion%20to%20dismiss%20Stericycle%20DPA%2021%20April%202025.pdf?VersionId=AqQp5fCVxd6Kw7MHh1EnfwQVQaR.G3BP>.

<sup>v</sup> Consent Motion to Modify Conditions of Probation, United States v. Glencore International A.G. Case No. 1:22-cr-00297 (LGS) (Mar. 20, 2025), <https://assets.law360news.com/2314000/2314349/new%20york%20memo.pdf>; Government's Notice Concerning Defendant's Monitor, United States v. Glencore Ltd. Case No. 3:22-cr-00071 (SVN), <https://assets.law360news.com/2314000/2314349/connecticut%20notice.pdf>.

<sup>vi</sup> Exec. 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/>.

<sup>vii</sup> See Gaspard Le Dem, "Cuts to DOJ's international affairs office would slow cases 'across the board'", Global Investigations Review (Mar. 31, 2025), <https://globalinvestigationsreview.com/just-anti-corruption/article/cuts-doj-international-affairs-office-would-slow-cases-across-the-board>.

<sup>viii</sup> Notice of Authorization to Proceed, United States v. Juan Andres Donato Bautista, Roger Alejandro Pinate Martinez, Jorge Miguel Vasquez and Ellie Moreno Case No. 24-CR-20343-WILLIAMS (Apr. 9, 2025), [https://files.lbr.cloud/public/2025-04/S.D.%20Fla.%2024-cr-20343%20dckt%20000135\\_000%20filed%202025-04-09.pdf?VersionId=1MOPwxhnmwNPB2rcfDa\\_Fm3S.xmAhh4eV](https://files.lbr.cloud/public/2025-04/S.D.%20Fla.%2024-cr-20343%20dckt%20000135_000%20filed%202025-04-09.pdf?VersionId=1MOPwxhnmwNPB2rcfDa_Fm3S.xmAhh4eV).

<sup>ix</sup> Government's Notice of Authorization to Proceed, United States v. Charles Hunter Hobson Case No. 2:22-CR-86 (Apr. 11, 2025), <https://files.lbr.cloud/public/2025-04/US%20v%20Charles%20Hunter%20Hobson%20Govt%20motion%20to%20proceed%2011%20April%202025.pdf?VersionId=HswogHIEFABzL56Wp2sAsFHJYIzRPpxE>.

<sup>x</sup> Government's Notice of Authorization to Proceed, United States v. Carl Alan Zaglin, Aldo Nestor Marchena and Francisco Roberto Cosenza Centeno Case No. 23-20454-CR-BECERRA (Apr. 11, 2025), <https://files.lbr.cloud/public/2025-04/US%20v%20Zaglin%20et%20al%20Govt%20motion%20to%20proceed%2011%20April%202025.pdf?VersionId=TaFwJaiV1LUAvSBPqmkbMx7S SOSiqWEf>.

<sup>xi</sup> See Gaspard Le Dem, "SEC's FCPA chief, top deputy retire", Global Investigations Review (Apr. 1, 2025), <https://globalinvestigationsreview.com/just-anti-corruption/article/secs-fcpa-chief-top-deputy-retire>.

<sup>xii</sup> See Gaspard Le Dem, "SEC will 'follow the lead' of DOJ on FCPA enforcement, official says", Global Investigations Review (Mar. 5, 2025), <https://globalinvestigationsreview.com/just-anti-corruption/article/sec-will-follow-the-lead-of-doj-fcpa-enforcement-official-says>.

<sup>xiii</sup> Motion to Restore Case, S.E.C. v. Coburn, et al., Civil No. 2:19-cv-05820-MCA-MAH (Apr. 10, 2025), <https://files.lbr.cloud/public/2025-04/76%20-%20SEC%20asks%20to%20reopen%20Cognizant%20docket.pdf?VersionId=8A..7PjQ88AkV2tvAEarIVkVt5n8CEO>.

<sup>xiv</sup> Press Release, California Attorney General Rob Bonta, Attorney General Bonta Alerts Businesses: It Remains Illegal to Bribe Foreign-Government Officials (Apr. 2, 2025), <https://oag.ca.gov/news/press-releases/attorney-general-bonta-alerts-businesses-it-remains-illegal-bribe-foreign>; Estelle Atkinson, "Manhattan state prosecutor looking to fill enforcement void left by DOJ", Global Investigations Review (Apr. 15, 2025), <https://globalinvestigationsreview.com/just-anti-corruption/article/manhattan-state-prosecutor-looking-fill-enforcement-void-left-doj>.

<sup>xv</sup> International Anti-Corruption Prosecutorial Taskforce Founding Statement (Mar. 20, 2025), [https://assets.publishing.service.gov.uk/media/67dc0bb3931ea30d1b7ee33d/International\\_Anti-Corruption\\_Prosecutorial\\_Taskforce.pdf](https://assets.publishing.service.gov.uk/media/67dc0bb3931ea30d1b7ee33d/International_Anti-Corruption_Prosecutorial_Taskforce.pdf).

<sup>xvi</sup> See Ana de Liz, "UK, French, Swiss agencies set up new anti-corruption task force", Global Investigations Review (Mar. 20, 2025), <https://globalinvestigationsreview.com/article/uk-french-swiss-white-collar-agencies-set-new-anti-corruption-task-force>.

<sup>xvii</sup> Press Release, U.S. Department of Justice, Glencore Entered Guilty Pleas to Foreign Bribery and Market Manipulation Schemes (May 24, 2022), <https://www.justice.gov/archives/opa/pr/glencore-entered-guilty-pleas-foreign-bribery-and-market-manipulation-schemes>.



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<sup>xviii</sup> International Anti-Corruption Prosecutorial Taskforce Founding Statement (Mar. 20, 2025), [https://assets.publishing.service.gov.uk/media/67dc0bb3931ea30d1b7ee33d/International\\_Anti-Corruption\\_Prosecutorial\\_Taskforce.pdf](https://assets.publishing.service.gov.uk/media/67dc0bb3931ea30d1b7ee33d/International_Anti-Corruption_Prosecutorial_Taskforce.pdf).

<sup>xx</sup> *Id.*

<sup>xxi</sup> See Ana de Liz, "UK, French, Swiss agencies set up new anti-corruption task force", Global Investigations Review (Mar. 20, 2025), <https://globalinvestigationsreview.com/article/uk-french-swiss-white-collar-agencies-set-new-anti-corruption-task-force>.

<sup>xxii</sup> See Malavika Devaya, "'Look at me as the Mikhail Gorbachev of the SFO': Nick Ephgrave", Global Investigations Review (Apr. 24, 2025), <https://globalinvestigationsreview.com/article/look-me-the-mikhail-gorbachev-of-the-sfo-nick-ephgrave>.

<sup>xxiii</sup> SFO Business Plan 2025-26, [https://assets.publishing.service.gov.uk/media/67ee4e86199d1cd55b48c6e8/SFO\\_2025-26\\_Business\\_Plan.pdf](https://assets.publishing.service.gov.uk/media/67ee4e86199d1cd55b48c6e8/SFO_2025-26_Business_Plan.pdf).

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<sup>xxv</sup> Daisy Eastlake, "Whistleblowers could reap rewards for exposing fraud", The Times (Apr. 25, 2025).

<sup>xxvi</sup> *Id.*

<sup>xxvii</sup> <https://www.sec.gov/files/fy24-annual-whistleblower-report.pdf>.

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<sup>xxix</sup> SFO Corporate Guidance (Apr. 24, 2025), <https://www.gov.uk/government/publications/sfo-corporate-guidance/sfo-corporate-guidance>.

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<sup>xxxi</sup> SFO Corporate Guidance (Apr. 24, 2025), <https://www.gov.uk/government/publications/sfo-corporate-guidance/sfo-corporate-guidance>.

<sup>xxxii</sup> *Id.*

<sup>xxxiii</sup> *Id.*

<sup>xxxiv</sup> See Ana de Liz, "NCA wants to bulk up foreign bribery caseload", Global Investigations Review (Apr. 24, 2025), [https://globalinvestigationsreview.com/article/nca-wants-bulk-foreign-bribery-caseload?utm\\_source=%25E2%2580%259Clook%2Bat%2Bme%2Bas%2Bthe%2BMikhail%2BGorbachev%2Bof%2Bthe%2BSFO%25E2%2580%259D%253A%2BNick%2BEphgrave&utm\\_medium=email&utm\\_campaign=GIR%2BAlerts](https://globalinvestigationsreview.com/article/nca-wants-bulk-foreign-bribery-caseload?utm_source=%25E2%2580%259Clook%2Bat%2Bme%2Bas%2Bthe%2BMikhail%2BGorbachev%2Bof%2Bthe%2BSFO%25E2%2580%259D%253A%2BNick%2BEphgrave&utm_medium=email&utm_campaign=GIR%2BAlerts).

<sup>xxxv</sup> *Id.*

<sup>xxxvi</sup> See Ana de Liz, "Former Madagascar chief of staff found guilty of bribery", Global Investigations Review (Feb. 20, 2024), <https://globalinvestigationsreview.com/article/former-madagascar-chief-of-staff-found-guilty-of-bribery>.

<sup>xxxvii</sup> See Ana de Liz, "NCA wants to bulk up foreign bribery caseload", Global Investigations Review (Apr. 24, 2025), [https://globalinvestigationsreview.com/article/nca-wants-bulk-foreign-bribery-caseload?utm\\_source=%25E2%2580%259Clook%2Bat%2Bme%2Bas%2Bthe%2BMikhail%2BGorbachev%2Bof%2Bthe%2BSFO%25E2%2580%259D%253A%2BNick%2BEphgrave&utm\\_medium=email&utm\\_campaign=GIR%2BAlerts](https://globalinvestigationsreview.com/article/nca-wants-bulk-foreign-bribery-caseload?utm_source=%25E2%2580%259Clook%2Bat%2Bme%2Bas%2Bthe%2BMikhail%2BGorbachev%2Bof%2Bthe%2BSFO%25E2%2580%259D%253A%2BNick%2BEphgrave&utm_medium=email&utm_campaign=GIR%2BAlerts).

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<sup>xxxix</sup> European Commission, High-risk areas of corruption in the EU: A mapping and in-depth analysis (Nov. 4, 2024) at page 9, <https://op.europa.eu/fr/publication-detail/-/publication/5c0730b2-9769-11ef-a130-01aa75ed71a1/language-en>.

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<sup>xli</sup> *Id.*

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