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Shifting Policy Priorities in the Second Trump Administration

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1. The FCPA's Changing Enforcement Landscape

On February 10, 2025, President Trump issued an executive order pausing enforcement of the Foreign Corrupt Practices Act ("FCPA"). The order cited "over-expansive and unpredictable FCPA enforcement against American citizens and businesses" as both a mismanagement of prosecutorial resources and a national security concern. Accordingly, the order froze FCPA enforcement for 180 days, including the initiation of new cases, and directed the Attorney General to review existing FCPA cases to ensure that they align with the administration's more tailored enforcement priorities. The order also required that subsequent cases be authorized specifically by the Attorney General.

This executive order followed a February 5 Attorney General directive calling for the Department of Justice ("DOJ") to focus its resources on the new administration's enforcement priorities, including, in the FCPA space, investigations that have a transnational criminal organization ("TCO") nexus. The Attorney General's directive also suspended the requirement that FCPA investigations be conducted by trial attorneys from the Department's Criminal Fraud section for any investigations involving TCOs or cartels. And, according to an internal memorandum by Deputy Attorney General Todd Blanche dated March 25, DOJ leadership is contemplating downsizing FCPA personnel in the Criminal Division's Fraud Section in response to wider administration-wide reduction-in-force initiatives.

The FCPA enforcement freeze has left federal prosecutors, defense teams, and courts scrambling to address pending cases, with outcomes varying by case:

- The trial of a Corsa Coal executive charged with FCPA and money laundering violations has been paused on the request of defendant Charles Hunter Hobson (United States v. Hobson (W.D. Pa.)).
- Attorneys for an election voting machine and service provider company being prosecuted for FCPA violations have moved for an extension due to the administration's shifting policy position (United States v. Bautista (S.D. Fla.)). This motion is currently pending.
- After DOJ and defense counsel reached an agreement to delay a trial for individuals alleged to have bribed Honduran National Police—with the government stating that the case "is undergoing priority review" pursuant to the executive order—the court pushed the April trial to August 2025 (United States v. Zaglin (S.D. Fla.)).
- As Glenn Oztemel awaits sentencing for his conviction for paying bribes to a Brazilian state-owned gas company, the government noted in its opposition to Oztemel's post-trial motion for acquittal that the "case is subject to review by the Attorney General pursuant to" the executive order (United States v. Oztemel (D. Conn.)). The court has not yet scheduled a sentencing hearing.
- On April 2, 2025, prosecutors moved to dismiss FCPA charges against Cognizant Technology executives, "based on the recent assessment of the executive order's application in this matter" (United States v. Coburn (D.N.J.)). (More on this case below.)

The SEC appears to be following DOJ's lead with results varying by case. At least one company has disclosed that its FCPA-related investigation has been postponed by the SEC. Specifically, Calavo Growers announced in a public filing: "On February 18, 2025, the SEC notified us that activity in the investigation has been postponed after President Trump issued Executive Orders."

As the administration's enforcement priorities are still taking shape, it is worth noting that many experts believe that aggressive FCPA enforcement benefits American business and creates a global standard of anti-corruption and accountability.

At the same time, in the wake of DOJ consolidation efforts and the FCPA pause, European authorities have renewed efforts to combat bribery and corruption: on March 20, the United Kingdom's Serious Fraud Office (SFO), France's Parquet National Financier (PNF), and the Office of the Attorney General of Switzerland (OAG) announced a new anticorruption task force focused on cross-jurisdictional collaboration.

During this period of policy uncertainty, companies should consider whether to reinforce their anti-bribery policies, given that the FCPA's criminal anti-bribery statute of limitations is five years—and anti-corruption laws outside of the United States are still in force and unchanged. At the same time, the shifting enforcement landscape may affect whether and how companies choose to approach self-reporting. Voluntary self-disclosure requires careful consideration with the aid of outside counsel.

2. Consistency in FCA Enforcement

In contrast to the executive order pausing FCPA enforcement, the second Trump administration will likely oversee consistent—if not increased—investigations and prosecutions brought under the False Claims Act ("FCA"). During her confirmation hearing, AG Pam Bondi committed to defending the constitutionality of the FCA's qui tam provisions, and promised to maintain staffing and funding levels for FCA prosecutions.

In fact, it is possible that the Trump administration will place extra emphasis on FCA prosecutions consistent with various policy priorities. For example, targeted or increased FCA prosecutions could serve to highlight administration-wide efforts to reduce government spending and waste; in addition, the FCA may be used as a tool to vindicate the President's trade agenda through the enforcement of customs laws. FCA claims could also conceivably be brought against companies with government contracts or grants if they falsely certify compliance with President Trump's executive order banning DEI practices (though this executive order is currently enjoined in part).

3. Corporate Transparency Act Updates

On March 2, 2025, Treasury Secretary Scott Bessent announced that the Corporate Transparency Act ("CTA") would no longer be enforced against United States citizens and domestic reporting companies. Instead, the Treasury Department will only enforce the CTA against foreign entities registering to conduct business in a U.S. state. This carveout for domestic corporations coincides with the Financial Crimes Enforcement Network's ("FinCEN's") plan to remove reporting requirements for U.S. companies. As part of this plan, FinCEN issued an interim final rule revising the definition of "reporting company" to include only entities formed under a foreign country's laws and which are registered to do business in the U.S., and excepting entities formerly known as "domestic reporting companies" from reporting requirements.

There are still many topics that the agency will have to clarify, including what happens to the extensive data already submitted to FinCEN for domestic reporting companies and if that data will be preserved forever or eventually erased. Additional regulatory and legal developments are expected in the coming weeks as courts and agencies adjust to the CTA's revised enforcement plans.

Even given the U.S.-based freeze, companies should continue tracking CTA enforcement developments—not least because U.S. citizen-clients may be beneficial owners of foreign reporting companies still subject to disclosure requirements.

4. Designation of Cartels as Foreign Terrorist Organizations/Specially Designated Global Terrorists

Upon taking office, President Trump issued an executive order mandating the Secretaries of State and Treasury to review whether certain international cartels should be designated foreign terrorist organizations ("FTOs") or specially designated global terrorists ("SDGTs"). On February 20, the United States designated eight organizations, including Tren de Aragua, MS-13, and the Sinaloa Cartel as FTOs and SDGTs, and added them to the Specially Designated Nationals and Blocked Persons List ("SDN List") for sanctions purposes.

These designations increase compliance and enforcement risks for companies doing business internationally in areas where the cartels operate, especially in Latin America. For example, companies making payments to one of these cartels to ensure employee safety or to continue doing business in the area may risk prosecution for providing material support or resources to an FTO. Similarly, companies may also risk civil suit from victims of cartel violence arising out of the same conduct. Companies should closely monitor these enforcement policies and ensure that their compliance programs account for these significant developments.

5. Executive Order Ensuring Agency Accountability

On February 18, 2025, President Trump issued an executive order "ensur[ing] Presidential supervision and control of the entire executive branch" by "increas[ing] regulatory officials' accountability," including those at "so-called independent regulatory agencies," "to the American people." Agencies subject to the executive order include the Board of Governors of the Federal Reserve System, the CFTC, FDIC, SEC, and CFPB, among others. In particular, the order subjects independent agencies to White House budgetary and regulatory review, requires policy coordination with other administration components, and states that authoritative interpretations of law will come from the President and Attorney General—all changes that serve to centralize authority over executive agencies.

Going forward, the order projects that the enforcement and regulatory functions of independent agencies will much more closely align with the current administration's policy positions and priorities. The SEC and CFTC have announced

such coordinated policy changes (as detailed below), and we expect the same from other independent agencies.

6. SEC Revokes Enforcement Division's Authority to Issue Subpoenas

On March 10, 2025, the Securities and Exchange Commission ("SEC") issued a final rule withdrawing a 15-year-old policy that allowed the SEC to delegate formal order authority to the Director of the Division of Enforcement, including the ability to issue subpoenas in investigations without seeking the SEC's approval. The SEC explained that this change was a "result of the Commission's experience with its nonpublic investigations," and was "intended to increase effectiveness by more closely aligning the Commission's use of its investigative resources with Commission priorities."

In issuing this rule, the Commission itself now controls when staff are authorized to issue subpoenas in investigations and can refuse to issue a formal order if they do not view a proposed investigation as a priority. As a result, SEC Commissioners now have more operational oversight over the activities of the SEC staff and the investigations that are conducted. From a practical perspective, the time for the SEC to initiate an investigation may be lengthier and, relatedly, we expect to see more voluntary requests for information from the SEC, in lieu of subpoenas.

This policy shift aligns with President Trump's February 18, 2025 agency-accountability executive order, discussed above, in ensuring closer accountability between the SEC and White House.

7. SEC Crypto Enforcement Pauses

On January 21, 2025, consistent with President Trump's goal to make the United States the world's "crypto capital," the SEC established a Crypto Task Force "dedicated to developing a comprehensive and clear regulatory framework for crypto assets." As part of this emerging regulatory framework, the task force hopes to "draw clear regulatory lines, provide realistic paths to registration, craft sensible disclosure frameworks, and deploy enforcement resources judiciously." The task force has begun to host a series of roundtables, with the first held on March 21.

The SEC is also taking measures to shift its enforcement priorities in the crypto space. On February 20, 2025, the SEC announced the creation of a Cyber and Emerging Technologies Unit ("CETU") to "combat[] cyber-related misconduct and . . . protect retail investors from bad actors in the emerging technologies space." Staffed with thirty fraud specialists and attorneys nationwide, CETU will focus on combating fraud involving blockchain and crypto assets; fraud committed using emerging technologies, including AI; and the use of social media and the dark web to perpetrate fraud. The CETU replaces the Commission's Crypto Assets and Cyber Unit. This reassessment comes at a time when the SEC is pausing existing enforcement actions against Coinbase, Binance, and Lejilex.

The SEC has also telegraphed its shifting enforcement priorities by dropping several enforcement actions against large crypto companies, including Kraken, ConsenSys, and Cumberland DRW LLC on March 27. The SEC also informed Crypto.com that it has closed its investigation, following a Wells notice issued in October 2024. In each dropped enforcement action, the SEC had previously alleged significant violations, including the unregistered offering of securities, failure to register as a broker-dealer, and misleading investors. The abrupt shift in enforcement follows the agency's broader recalibration under Acting Chairman Mark Uyeda and the formation of its new Crypto Task Force, which "seeks to provide clarity on the application of the federal securities laws to the crypto asset market and to recommend practical policy measures."

Notably, the UK Financial Conduct Authority has advanced its plans to broaden the scope of crypto-asset regulation. In March 2025, the Financial Conduct Authority completed its consultation on extending the current UK crypto-asset regulatory framework beyond financial promotion and AML regulation, to include market abuse rules as well as greater regulation of crypto asset trading platforms (CATPs). Full UK regulation of crypto assets is anticipated by 2026.

8. CFTC Enforcement Guidance on Self Reports

On February 25, 2025, the Commodity Futures Trading Commission's ("CFTC's") Division of Enforcement ("Enforcement Division") issued an Enforcement Advisory, providing updated guidance as to how the Enforcement Division will evaluate a company's or individual's self-reporting, cooperation, and remediation when recommending enforcement actions to the Commission. The purpose of the guidance "is to obtain accountability while encouraging efficiency and conserving government resources by giving entities a clear reason to self-report and cooperate." The advisory, which supersedes the Enforcement Division's prior policy, details the revised framework, including scales for evaluating self-reporting and cooperation, and a matrix for calculating mitigation credit.

The advisory sets out a three-tier scale for judging self-reporting from a designation of "No Self-Report," a "Satisfactory Self-Report," and an "Exemplary Self-Report." Under the updated criteria, an exemplary self-report will notify the

Commission of a potential violation by including all material information known at the time of the self-report, and will assist the Enforcement Division in conserving investigative resources. Likewise, the advisory details a four-tier scale for cooperation, ranging from “No Cooperation,” “Satisfactory Cooperation,” “Excellent Cooperation,” and “Exemplary Cooperation.” Exemplary cooperation will require consistent material assistance with an investigation, proactive engagement and use of significant resources, completion of remediation, and use of accountability measures. Based on a firm’s self-reporting and cooperation scores, the advisory provides for mitigation credit up to 55% for exemplary self-report and cooperation.

In large part, the Enforcement Division’s advisory relies on similar principles as DOJ’s corporate enforcement guidance frameworks.

Updates on Select Prominent Cases

April 3, 2025

1. Prosecution of Mayor Eric Adams

The legal saga surrounding the federal prosecution of New York City Mayor Eric Adams for bribery and violations of campaign-finance law has just concluded, with charges against the mayor being dismissed with prejudice. Mayor Adams was indicted by a grand jury in the Southern District of New York ("SDNY") on September 24, 2024, and charged with bribery, campaign-finance, and conspiracy offenses for allegedly using his official position for personal benefits, including luxury travel and illegal campaign contributions. On February 10, 2025, then-Acting Deputy U.S. Attorney General Emil Bove issued a memorandum directing federal prosecutors to dismiss without prejudice all charges against Mayor Adams. In his memo, Mr. Bove emphasized the timing of Mayor Adams's indictment following his criticisms of former President Biden's immigration policies, and the appearance of political "weaponization" of prosecutorial power by government officials. Mr. Bove further stated that the indictment hindered Mayor Adams's ability to cooperate with President Trump's immigration enforcement policies. In response, on February 12, SDNY's interim U.S. Attorney Danielle Sassoon issued a resignation letter to Attorney General Pam Bondi, arguing that the dismissal would constitute a quid pro quo and set a dangerous precedent.

On February 19, Judge Dale E. Ho held a hearing on the government's motion to dismiss, and two days later issued a five-page order adjourning the case and appointing Paul Clement of Clement & Murphy as amicus curiae to provide an independent legal analysis of the government's motion to dismiss. On March 7, Mr. Clement filed his brief, arguing that the Federal Rules of Criminal Procedure gave the court the right to dismiss the case with prejudice, meaning the charges against Mayor Adams could not be brought again. Judge Ho appeared to concur with Mr. Clement's ultimate recommendation, dismissing the case with prejudice on April 2.

2. Senator Bob Menendez Prosecution

On January 29, 2025, following his July 2024 jury trial and conviction on 16 felony counts including bribery, extortion, conspiracy, and obstruction of justice in the Southern District of New York, former U.S. Senator and Chairman of the Senate Foreign Relations Committee Robert Menendez was sentenced to 11 years in prison. The evidence presented at trial supported the government's allegations that Senator Menendez received cash bribes and gifts, including gold bars, in exchange for using his political influence to agents of the Egyptian government. Charges against Mr. Menendez's wife and co-defendant, Nadine Menendez, remain pending and her trial is currently underway.

Of particular significance, during trial, federal prosecutors successfully sought to admit into evidence a slide deck from a proffer given by Senator Menendez's attorney in order to prove the obstruction of justice charge. Proffers are a practice in which a potential defendant discloses information to the government in anticipation of leniency or non-prosecution. The admitted slides from the attorney proffer described information regarding payments made to Senator Menendez's wife. Prosecutors argued that these statements were false, and moreover, that Mr. Menendez knowingly gave this false information to his attorney in order to obstruct the government's investigation. In objecting to the admission of the slides, Mr. Menendez's defense team argued that the government failed to establish that Menendez had authorized the particular statements at issue; and further, pointed out that the government did not call the attorney himself in order to contextualize any spoken comments that may have accompanied the written submission. The court held in favor of the government, concluding that the admission was proper and the jury could make a reasonable inference as to Mr. Menendez's authorization based on the classic agency relationship between an attorney and his client.

The Menendez case underscores the importance of accurate disclosures to the government, as well as the importance of carefully considering the best manner in which to convey information to the government.

3. Motion for Dismissal in Cognizant Executives' FCPA Case

Prior to the government's motion to dismiss, trial for Cognizant executives Gordon Coburn and Steven Schwartz had been slated for April 7, 2025 in federal district court in New Jersey. Coburn and Schwartz were alleged to have offered a $2 million bribe to Indian officials in order to secure permits for construction of an office park. After Cognizant self-reported the misconduct and agreed to pay $25 million to settle a SEC enforcement action in 2019, Coburn and Schwartz were indicted for their involvement.

The prosecution was plagued by delays owing to complex evidentiary disputes, the availability of foreign witnesses, attorney-scheduling conflicts, and the presiding judge retiring. Following the executive order freezing FCPA enforcement, the DOJ initially reviewed the case and concluded that it intended to continue the prosecution.

Subsequently, the then-acting U.S. Attorney John Giordano asked for an adjournment to restudy the matter, but was rebuffed by the judge, who ordered that the case move forward.

On March 24, President Trump named Alina Habba to be the new interim U.S. Attorney for the District of New Jersey. On April 2, Ms. Habba moved to dismiss the case with prejudice, noting the government's updated position on FCPA enforcement, as articulated in the February 10 executive order.

4. Glencore Monitorships

The Trump administration's shifting enforcement policies have also had an effect on ongoing compliance monitorships. Most notably, on March 19, 2025, DOJ moved to cut short two monitorships placed on Glencore entities as part of plea deals made in 2022. Pursuant to the two agreements resolving FCPA and market-manipulation violations in SDNY and the District of Connecticut, respectively, Glencore paid over $1.1 billion in total penalties and agreed to two three-year monitorships.

In choosing to end the monitorships early, the government did not give an explanation separate from the "exercise . . . [of its] sole discussion under the plea agreement to terminate . . . early" the monitorships. DOJ's motion to end the FCPA monitorship early was granted, and its notice to end the market-manipulation monitorship remains uncontested. (United States v. Glencore Int'l A.G. (S.D.N.Y.); United States v. Glencore Ltd. (D. Conn.)).

5. Rejected Boeing Plea Agreement and Upcoming Trial

Boeing is set to proceed to trial in the Northern District of Texas after an abrupt court-ordered change in scheduling following the December 2024 rejection of a plea agreement the company had reached with the government over allegations that it defrauded safety regulators. Specifically, Boeing was accused of misrepresenting the novelty of the features of its 737 Max 8 jet in order to get the plane to market quicker, which resulted in two passenger plane crashes and the deaths of 346 people in 2018 and 2019. The proposed plea agreement, requiring Boeing to plead guilty to a single count of conspiracy to defraud regulators, had also included a $244 million fine and commitment of $455 million to improve compliance, and quality and safety programs placed under a monitorship.

In rejecting the July 2024 plea agreement, U.S. District Court Judge Reed O'Conner took issue with a provision emphasizing diversity, equity, and inclusion, and how that provision would affect the government's choice of an independent compliance monitor. The court also appeared to suggest that the government's failure "to ensure compliance" with Boeing's 2021 deferred prosecution agreement ("DPA") necessitated the court "to step in" in the public interest. The families of the plane crash victims welcomed this development, having criticized the plea agreement as a sweetheart deal.

On March 25, 2025, the court departed from its previous scheduling order giving the parties until April 11 to submit a revised plea deal, and ordered trial to proceed beginning June 23 (United States v. The Boeing Co. (N.D. Tex.)).

6. Clemency for Trevor Milton and Carlos Watson

On March 27, 2025, President Donald Trump issued multiple pardons and commutations for individuals convicted of white-collar crimes. These acts of clemency included a pardon for Trevor Milton, founder of electric vehicle startup Nikola; and a commutation for Carlos Watson, co-founder of Ozy Media.

In 2022 in SDNY, Trevor Milton was convicted of securities and wire fraud related to misleading investors about Nikola's technological prowess and lucrative business prospects. In December 2023, Milton was sentenced to four years in prison and ordered to pay hundreds of millions of dollars in restitution to impacted Nikola investors; however, Milton did not serve his sentence pending appeal.

On April 1, Milton filed a letter with the district court attaching the executive grant of clemency as an exhibit, and highlighted its text granting "remission of any and all fines, penalties, forfeitures, and restitution ordered by the court." "Thus," counsel for Milton argued, "the pardon covers the financial aspects of the conviction such as the pending request for restitution, as well as other penalties." Milton's counsel also represented that the government agreed that its request for millions in restitution was rendered moot by the pardon. (United States v. Milton (S.D.N.Y,); Milton v. United States (2d Cir.)).

President Trump also commuted Carlos Watson's sentence a day before he was due to report for nearly a 10-year prison sentence on charges of conspiracy to commit securities fraud, conspiracy to commit wire fraud, and aggravated identity theft in EDNY. Specifically, Watson and others caused $60 million in investor losses when they made fraudulent misrepresentations about Ozy Media's financial performance—including inducing employees to create fake contracts

with forged signatures and impersonating media company executives when questioned by lenders and potential investors (United States v. Watson (E.D.N.Y.)).

7. Frank Founder Conviction

On March 28, 2025, a federal jury in SDNY convicted Charlie Javice, the founder of college financial aid startup Frank, of securities fraud, wire fraud, bank fraud, and conspiracy charges. Javice was found guilty of orchestrating an elaborate scheme to inflate the size of Frank's user base to convince JPMorgan Chase to acquire the company for $175 million in 2021. Javice had joined JPMorgan as part of the acquisition and served as Head of Student Solutions before the bank terminated her employment in 2022.

The jury's verdict came after a five-week trial that focused heavily on internal communications, data analysis, and representations made during JPMorgan's due diligence. Prosecutors presented evidence that Javice and Frank's Chief Growth Officer Olivier Amar fabricated data and created a list of fictitious users to support the claim that Frank had more than four million active users when in fact the platform had fewer than 300,000. Javice's counsel argued that JPMorgan understood the material terms of the deal and simply had buyer's remorse after the regulatory changes rendered the data it acquired useless.

The most serious counts carry a maximum penalty of up to 30 years in prison. Javice's counsel seeks to move the court to set aside the verdict, and sentencing has not yet been scheduled (United States v. Javice (S.D.N.Y.)).

Personnel and Industry Updates in the Field

April 3, 2025

1. Key Political Appointments at DOJ and SEC

Key DOJ officials have been confirmed to their posts: Pam Bondi as Attorney General on February 4, 2025; and Todd Blanche as Deputy Attorney General on March 5. The Department's former Acting Deputy Attorney General, Emil Bove, has continued in the role of Principal Associate Deputy Attorney General. Chad Mizelle serves as AG Bondi's chief of staff and Acting Associate Attorney General. Other key nominations at the Department and its key components include Solicitor General John Sauer and Kash Patel as the Senate-confirmed Director of the FBI.

President Trump has designated Mark Uyeda as Acting Chairman of the SEC, and has nominated Paul Atkins to chair the agency upon his Senate confirmation.

2. DOJ Absent at Industry Conferences

The DOJ did not attend the 40th ABA White Collar Crime Conference or the Organization for Economic Cooperation and Development's Anti-Bribery Convention; both events took place in March. This marks a significant departure for the DOJ, which traditionally dispatched representatives to attend these conferences. The Department's absence this year is a part of the broader pattern of the DOJ reevaluating how it engages with the legal community, and comes amidst a larger shift as the DOJ has recently paused FCPA enforcement and shifted priorities in the white-collar space.

The DOJ has traditionally attended these conferences to announce new policies and discuss their priorities, but this year it has forgone that opportunity and have instead relied on press releases to announce their new initiatives.