

2025 Q1 Report

The FCPA Clearinghouse’s quarterly report provides an overview of some of the more notable trends and statistics in FCPA enforcement activity to emerge during the first quarter of 2025.

Typically, these quarterly reports begin with a discussion of enforcement actions initiated or announced in the preceding three months, followed by a similar accounting of new investigations disclosed in the same period. However, the first quarter saw no new enforcement actions or disclosed investigations, presumably due to President Trump’s executive order pausing FCPA enforcement, which is detailed below.

Executive Order Pausing FCPA Enforcement

On February 10, 2025, President Trump signed an executive order that directs the Attorney General to review guidelines and policies governing investigations and enforcement actions under the FCPA for a period of 180 days. During the review period, the Attorney General must:

- (1) cease initiation of any new FCPA investigations or enforcement actions, unless the Attorney General determines that a specific exception should be made;
- (2) review all pending FCPA investigations and enforcement actions and take appropriate action with respect to such matters to “restore proper bounds on FCPA enforcement and preserve Presidential foreign policy prerogatives;” and
- (3) issue updated guidelines or policies to promote the President’s authority to conduct foreign affairs and prioritize American interests, competitiveness, and the efficient use of federal law enforcement resources.

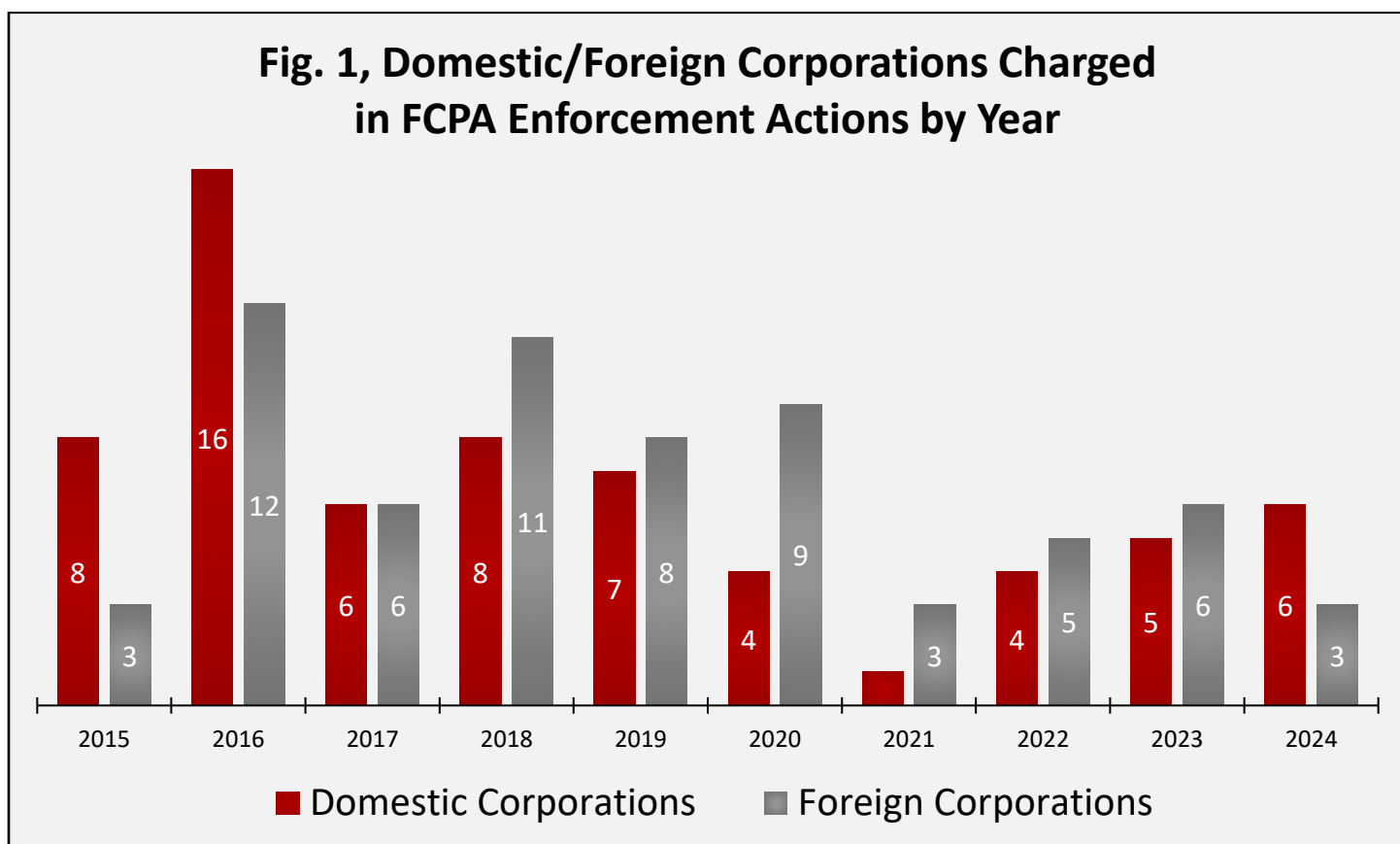
Any FCPA investigations or enforcement actions initiated or continued after the revised guidelines are issued must be specifically authorized by the Attorney General and must comport with the new guidelines. The Attorney General has authority to extend the review period for an additional 180 days if an extension is deemed appropriate.

As justification for the pause in enforcement, the executive order and an accompanying “fact sheet” claim that FCPA enforcement has been “stretched beyond proper bounds,” and that unpredictable and overexpansive FCPA enforcement harms U.S. companies by prohibiting them from engaging in “practices” – presumably the practice of paying bribes – “common among international competitors, creating an uneven playing field.” The order states that overenforcement of the FCPA “actively harms American economic competitiveness and, therefore, national security” and infringes upon the President’s Article II authority to conduct foreign affairs. Through the executive order, President Trump seeks to “level [the] playing field” and provide U.S. companies with “the tools to succeed globally.”

Notably, one of the primary purposes for enacting the FCPA in 1977 was to restore damage done to the foreign relations of the United States after evidence of significant domestic and foreign bribery payments by large multinational corporations came to light during the Watergate Committee hearings. Congress was concerned that bribery payments by U.S. companies might weaken friendly governments that the United States was relying on to support its policies, which could have staggering foreign policy implications. As one senator noted, “widespread corruption serves to undermine those moderate democratic and pro-free-enterprise governments

which the United States has traditionally sought to foster and support. . . Ultimately, [bribes and kickbacks] create the conditions which bring to power political forces that are no friends of ours, whether a Quaddafi in Libya, or the Communists in Italy.”¹ In signing the FCPA into law, President Carter emphasized that “bribery is ethically repugnant and competitively unnecessary,” and that “[c]orrupt practices between corporations and public officials overseas undermine the integrity and stability of governments and harm our relations with other countries.”² Congressional leaders also expressed the view that prohibiting payments to foreign government officials could give U.S. companies a competitive advantage and actually help companies resist foreign payment demands. The executive order thus represents a dramatic shift away from the long-standing belief that FCPA enforcement actually benefits U.S. businesses and American foreign policy.

Moreover, data do not support the contention that U.S. companies are disproportionately harmed by FCPA “overenforcement.” In the last decade, 50% of corporate defendants (aggregated by parent entity) and 54% of individual defendants to FCPA-related enforcement actions have been foreign.³ Nine of the 10 largest sanctions imposed in FCPA enforcement actions have been levied on foreign companies, and on average, foreign companies have paid higher sanctions than domestic ones in nine of the last 10 years. Figure 1 shows the number of domestic and foreign corporations charged with FCPA offenses over the last 10 years (these are aggregated by parent company, independent of whether the parent or one or more of its subsidiaries was a defendant). Figure 2 shows the 10 largest corporate sanctions imposed by U.S. authorities in FCPA enforcement actions since the law’s enactment, with actions against foreign companies linked in red and domestic in blue. Figure 3 shows the average sanctions paid by domestic and foreign companies in each of the last 10 years.



¹ Protecting the Ability of the United States to Trade Abroad: Hearing Before the Subcomm. on Int’l Trade of the S. Comm. on Fin., 94th Cong. 9 (1975) (statement of Sen. Frank Church, Member, Subcomm. on Int’l Trade, S. Comm. on Fin.).

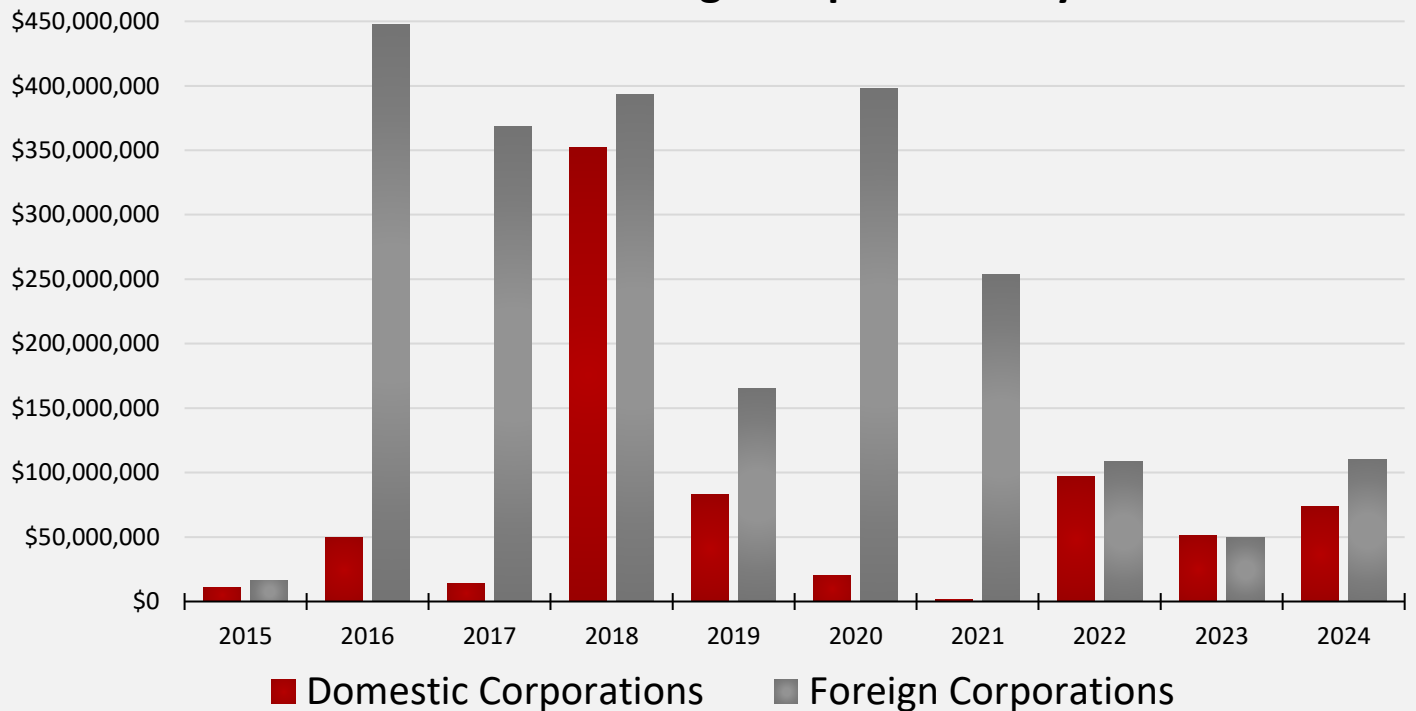
² Presidential Statement on Signing the Foreign Corrupt Practices and Investment Disclosure Bill, 13 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 1909 (Dec. 20, 1977).

³ We categorize a corporation as foreign if it is both incorporated and headquartered outside the United States, and we categorize an individual as foreign if they are neither a resident nor a citizen of the United States.

Fig. 2, Largest Monetary Sanctions Imposed by U.S. Authorities in FCPA Enforcement Actions

Company	Headquarters	Sanction
<u>Odebrecht S.A.</u>	Brazil	\$3,557,626,137
<u>The Goldman Sachs Group, Inc.</u>	U.S.	\$2,617,088,000
<u>Airbus SE</u>	France	\$2,091,978,881
<u>Petroleo Brasileiro S.A. - Petrobras</u>	Brazil	\$1,786,673,797
<u>Telefonaktiebolaget LM Ericsson</u>	Sweden	\$1,267,299,680
<u>Telia Company AB</u>	Sweden	\$965,604,372
<u>Mobile Telesystems Public Joint Stock Company</u>	Russia	\$850,000,400
<u>Siemens Aktiengesellschaft</u>	Germany	\$800,002,000
<u>VimpelCom Ltd</u>	Netherlands	\$795,326,798
<u>Alstom S.A.</u>	France	\$772,291,200

Fig. 3, Average Sanctions Imposed by U.S. Authorities on Domestic and Foreign Corporations by Year



In the executive order, President Trump directed the Attorney General to cease the initiation of any new FCPA investigation or enforcement action and to review all ongoing “investigations or enforcement actions and take appropriate action with respect to such matters to restore proper bounds on FCPA enforcement.” We are already witnessing the impact of these directives. Publicly available data suggests that neither the SEC nor the DOJ has

initiated a new FCPA **Enforcement Action** or **Investigation** since the executive order was signed. Moreover, we are starting to see continuances and dismissals in pending FCPA actions and investigations. Since the signing of the executive order, the DOJ has dismissed an **enforcement action against two former executives of Cognizant Technology Solutions Corporation** and closed one **investigation** without taking further action, while the SEC has paused at least one investigation. Following the DOJ's dismissal of its enforcement action against the former Cognizant executives, the SEC and the executives jointly moved to reopen a separate **civil case** that had been administratively closed pending resolution of the DOJ's action in order to explore a possible settlement. The DOJ also terminated early a compliance monitorship imposed on Glencore plc as part of the mining giant's 2022 plea agreement to resolve allegations of foreign bribery and market manipulation.

Activity in three other criminal actions against eight individuals had initially been postponed, but the DOJ recently notified the court that it has completed reviews pursuant to the executive order and intends to proceed with all three actions. On April 9, prosecutors authorized an **FCPA case** to proceed against former executives at **Smartmatic Corporation** for alleged misconduct in the Philippines. That case is scheduled to go to trial in October 2025. On April 11, prosecutors in the **FCPA case** against a former executive at **Corsa Coal Corporation** moved to proceed with that case, and on the same date, prosecutors in the **separate case** against three defendants accused of FCPA misconduct in Honduras informed the court that they intended to move forward. Figure 4 shows all known cases and investigations that have been impacted by the executive order to date.

Fig. 4, Enforcement Actions and Investigations Impacted by the Executive Order

<u>Calavo Growers, Inc.</u>	Investigation	<ul style="list-style-type: none"> • Feb 18 - SEC postpones all activity on investigation
<u>U.S. v. Carl Alan Zaglin, et al.</u>	Enforcement Action	<ul style="list-style-type: none"> • Feb 18 - Trial delayed from Apr 7 to Apr 28 • Mar 25 - Trial delayed to Aug 11 • Apr 11 – After review, DOJ intends to go forward with case
<u>U.S. v. Charles Hunter Hobson</u>	Enforcement Action	<ul style="list-style-type: none"> • Feb 20 - Hobson request for 180 day continuance for trial • Mar 6 - Trial deadlines canceled • Apr 11 – After review, DOJ intends to go forward with case
<u>U.S. v. Gordon J. Coburn and Steven Schwartz</u>	Enforcement Action	<ul style="list-style-type: none"> • Mar 4 - DOJ request for 180 day adjournment • Apr 1 - DOJ motion for dismissal • Apr 3 - Dismissed
<u>U.S. v. Juan Andres Donato Bautista, et al.</u>	Enforcement Action	<ul style="list-style-type: none"> • Mar 12 - Defendants request continuance on all deadlines • Mar 25 - Deadlines extended 30 days • Apr 9 - After review, DOJ intends to go forward with case
<u>PetroNor E&P ASA</u>	Investigation	<ul style="list-style-type: none"> • Apr 2 - DOJ close investigation pursuant to executive order

Bondi Memo

As noted above, President Trump directed the Attorney General to use the six-month pause in enforcement to formulate and issue new guidelines for FCPA prosecutions. The executive order provided little substantive direction for the specific contours of what a new FCPA enforcement regime would entail beyond the vague policy that it should “promote the President’s Article II authority to conduct foreign affairs and prioritize American interests, American economic competitiveness with respect to other nations, and the efficient use of Federal law enforcement resources.” However, five days before President Trump signed the executive order, Attorney General Pamela Bondi issued a memorandum directing, among other things, the DOJ’s FCPA Unit to prioritize investigations into foreign bribery connected to transnational criminal organizations and criminal cartels and to shift away from cases that do not involve such a nexus.

If the new FCPA enforcement guidelines follow the direction of the Bondi Memo, then the new guidelines would represent a major shift in FCPA enforcement priorities. Since the FCPA’s enactment in 1977, only one case ([U.S. v. Dmitry Firtash, et al.](#)) has explicitly cited a connection to “transnational criminal organizations” in the charging documents, and none has noted involvement of a cartel. In that case, which the DOJ filed in 2013, Ukrainian businessman Dmitry Firtash led a loose confederation of other individuals that the DOJ deemed a

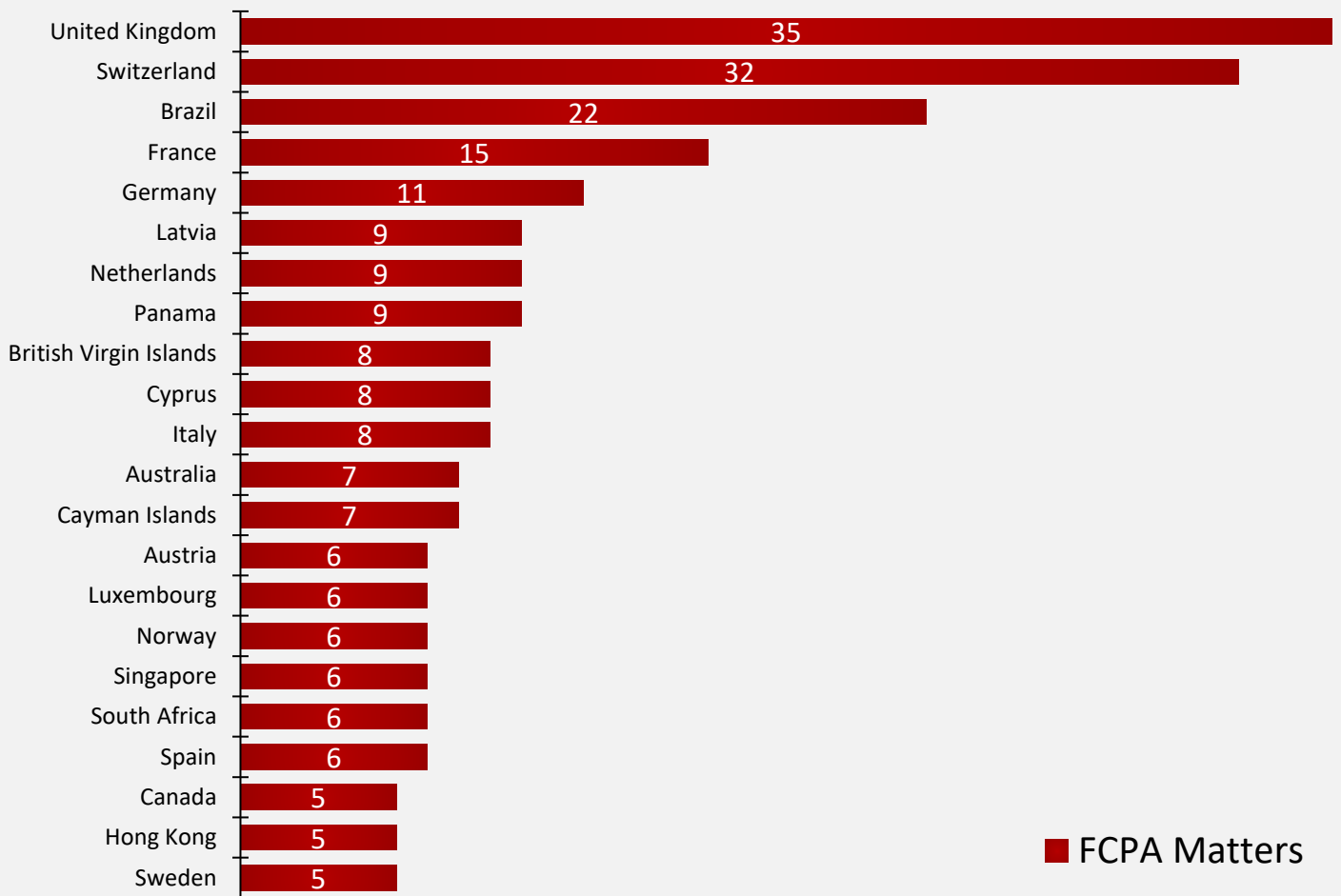
criminal “enterprise” (as defined in 18 USC § 1961(4)) whose primary objective was to illegally bribe government officials to secure licenses for a mining project in India. The distinction between this “enterprise” and any other garden variety FCPA conspiracy is not readily apparent. Notably, this case remains ongoing with all six defendants living as fugitives outside the United States.

Refocusing FCPA enforcement towards transnational criminal organizations and cartels may not achieve the desired effect; other federal laws more directly criminalize the activities of these organizations, and the Trump administration’s recent designation of several major cartels as global terrorists opens even more avenues for their prosecution. While the FCPA plausibly holds the jurisdictional capacity to investigate and prosecute cartels, the government may run into difficulties using the law as a means for combating these organizations if the conduct at issue involves foreign people paying bribes to foreign officials with a tenuous connection to the United States, or if the government must rely on unfriendly governments to extradite defendants to the U.S. Moreover, pausing enforcement of a law that was intended to prevent the type of “widespread corruption [that] serves to undermine those moderate democratic and pro-free-enterprise governments which the United States has traditionally sought to foster and support” could ultimately bolster the type of corrupt governments under which cartels and transnational criminal organizations flourish.

Foreign Enforcement of Bribery Laws

The Bondi Memo and President Trump’s executive order may result in a pullback in U.S. enforcement of the FCPA. Historically, the United States has taken a leading role in the fight against transnational anticorruption, not only through enforcement of the FCPA but by serving as a model for other countries and encouraging other signatories to the OECD Anti-Bribery Convention to criminalize international bribery. In recent years, however, foreign authorities have played a growing role in combating international bribery through increased enforcement of their own anti-bribery laws and by cooperating with US authorities in FCPA prosecutions through information sharing and mutual legal assistance treaties. The U.K.’s Serious Fraud Office and Swiss officials, in particular, have cooperated extensively with the United States. Figure 5 shows all countries that have been cited in at least five separate FCPA Matters for cooperating with U.S. authorities.

Fig. 5, Countries Assisting U.S. FCPA Enforcement Actions >5 Times



If the United States steps away from its leadership role and scales back its global anti-corruption efforts, then other authorities that wish to continue to fight bribery in international business transactions will have the opportunity to step in to fill the void. We have already seen some of these authorities rise to the challenge. In March, the UK, France, and Switzerland announced a new alliance and formation of a joint task force aimed at tackling international bribery and corruption. All three countries have wide-reaching anti-bribery legislation with jurisdiction to prosecute criminal conduct that occurs overseas if there is some nexus to the prosecuting country. In its founding statement, the members recognize that "success relies on us working closely and effectively together." The task force will allow member countries to more efficiently fight against corruption by promoting operational collaboration and the sharing of information, expertise, and best practices. California's Attorney General also recently reminded companies that violations of the FCPA remain actionable under California's Unfair Competition Law.

Looking Ahead

To date, the government's response to the executive order has been mixed. The DOJ has dismissed one action pursuant to the order but is proceeding with others, and there is little transparency around why certain actions are proceeding and others are not. The Department has terminated early one corporate monitorship, and media [reports](#) suggest that more companies may be released from the obligation to hire outside monitors as part of settlement agreements. The status of many other pending cases remains largely unchanged, at least for now. While only two disclosed investigations have been paused due to the executive order, many companies have not yet filed their first quarter reports with the SEC. U.S. authorities are currently investigating at least 31 companies for FCPA-related misconduct, so it seems likely that additional investigation closures will be

announced in the coming months. Moreover, Paul Atkins has now been confirmed as Chair of the Securities and Exchange Commission, so we may soon get a better sense of whether that agency will follow in the DOJ's footsteps when it comes to FCPA enforcement. Hopefully, the coming months will bring some additional clarity to individuals and companies that are either subject to pending investigations or enforcement actions or discover evidence of FCPA misconduct in the wake of the executive order. Stay tuned.