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SEARCH

[HOME](#)   [INDEX](#)   [SEARCH](#)   [U.S. ATTORNEYS](#)

[U.S. Attorneys](#) » [Resources](#) » [U.S. Attorneys' Manual](#) » [Title 9: Criminal](#)

## 9-47.000 - Foreign Corrupt Practices Act Of 1977

- [9-47.100](#)      Introduction
  
- [9-47.110](#)      Policy Concerning Criminal Investigations and Prosecutions of the Foreign Corrupt Practices Act
  
- [9-47.130](#)      Civil Injunctive Actions

### 9-47.100 - Introduction

This chapter contains the Department's policy regarding investigations and prosecutions of violations of the Foreign Corrupt Practices Act (FCPA). The FCPA prohibits both United States and foreign corporations and nationals from offering or paying, or authorizing the offer or payment, of anything of value to a foreign government official, foreign political party, party official, or candidate for foreign public office, or to an official of a public international organization in order to obtain or retain business. In addition, the FCPA requires publicly-held United States companies to make and keep books and records which, in reasonable detail, accurately reflect the disposition of company assets and to devise and maintain a system of internal accounting controls sufficient to reasonably assure that transactions are authorized, recorded accurately, and periodically reviewed.

Further guidance on the FCPA is available in *A Resource Guide to the U.S. Foreign Corrupt Practices Act* (2012), published by the Criminal Division of the U.S. Department of Justice and the Enforcement Division of the U.S. Securities and Exchange Commission, *available at* <https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2015/01/16/guide.pdf>.

[updated October 2016]

### 9-47.110 - Policy Concerning Criminal Investigations and Prosecutions of the Foreign Corrupt Practices Act

No investigation or prosecution of cases involving alleged violations of the antibribery provisions of the Foreign Corrupt Practices Act (FCPA) of 1977 (15 U.S.C. §§ 78dd-1, 78dd-2, and 78dd-3) or of related violations of the FCPA's record keeping provisions (15 U.S.C. § 78m(b)) shall be instituted without the express authorization of the Criminal Division.

Any information relating to a possible violation of the FCPA should be brought immediately to the attention of the Fraud Section of the Criminal Division. Even when such information is developed during the course of an apparently unrelated investigation, the Fraud Section should be notified immediately. Close coordination of such investigations and prosecutions with the United States Securities and Exchange Commission (SEC) and other interested agencies is essential. Additionally, the Department has established a FCPA Opinion Procedure concerning proposed business conduct. See [A Resource Guide to the U.S. Foreign Corrupt Practices Act](#) at 86.

Unless otherwise agreed upon by the AAG, Criminal Division, investigations and prosecutions of alleged violations of the antibribery provisions of the FCPA will be conducted by Trial Attorneys of the Fraud Section. Prosecutions of alleged violations of the record keeping provisions, when such violations are related to an antibribery violation, will also be conducted by Fraud Section Trial Attorneys, unless otherwise directed by the AAG, Criminal Division.

The investigation and prosecution of particular allegations of violations of the FCPA will raise complex enforcement problems abroad as well as difficult issues of jurisdiction and statutory construction. For example, part of the investigation may involve interviewing witnesses in foreign countries concerning their activities with high-level foreign government officials. In addition, relevant accounts maintained in United States banks and subject to subpoena may be directly or beneficially owned by senior foreign government officials. For these reasons, the need for centralized supervision of investigations and prosecutions under the FCPA is compelling.

[updated August 2013]

### **9-47.130 - Civil Injunctive Actions**

The SEC has authority to obtain civil injunctions against future violations of the record keeping and antibribery provisions of the FCPA by issuers. See 15 U.S.C. § 78u. Civil injunctions against violations of the antibribery provisions by domestic concerns and foreign nationals and companies shall be instituted by Trial Attorneys of the Fraud Section in cooperation with the appropriate United States Attorney, unless otherwise directed by the AAG, Criminal Division. See §§ 78dd-2(d), 78dd-3(d).

[updated November 2000]

[‹ 9-46.000 - Program Fraud And Bribery](#)

[up](#)

[9-48.000 - Computer Fraud ›](#)