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Legislative Update

Senate Democrats Propose Doubling FCPA Statute of Limitations

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On Feb. 10, 2025, President Trump signed [Executive Order 14209](#), “Pausing Foreign Corrupt Practices Act Enforcement to Further American Economic and National Security.” That executive order implemented a 180-day pause in initiating any new Foreign Corrupt Practices Act (FCPA) investigations or enforcement actions, called for a review of all existing FCPA investigations or enforcement actions, and required the Department of Justice to update its guidance to “prioritize American interests, American economic competitiveness ... and the efficient use of Federal law enforcement resources.”

In the wake of this executive order, [we cautioned](#) that the pause was not a “get out of jail free” card and that companies should continue maintaining robust compliance programs. We explained that, despite the executive order, future administrations could look into past conduct, open investigations may not close during the pause and that FCPA statutes are often extended through tolling agreements to allow for international evidence collection.

Senate Democrats introduced a [bill](#) on March 9 that would extend the statute of limitations for violations of the FCPA from five years to 10, lengthening the period in which violations could be prosecuted in the future. Importantly, the bill, as written, would not apply to any offenses for which the statute of limitations has already passed but would apply retroactively if the statute has not expired. The bill also would sunset after eight years, after which the limitations period would presumably revert to the current five-year period. The bill appears aimed at addressing concerns that FCPA enforcement activity has declined under the current administration, particularly following President Trump’s executive order.

If enacted, the bill’s primary effect would be to preserve the ability of future administrations to pursue FCPA charges against companies and individuals who were deemed to have avoided scrutiny during the prior administration. Notably, the bill, if passed, would extend the prosecutorial window for conduct that occurred at any point in the five years before its enactment. For example, conduct occurring in 2022 could be subject to prosecution until 2032.¹

A secondary but no less important effect is that the bill would weaken corporate defendants’ bargaining position when signing a tolling agreement. As FCPA cases often involve key evidence being held in foreign countries, demanding increased time and expense to be accessed, enforcement agencies often request that companies sign tolling agreements extending the statute of limitations. Defendants often sign such agreements to signal cooperation. Extending the statute of limitations period to 10 years would reduce the leverage created by these requests. This effect may be compounded by recent revisions to

the Securities and Exchange Commission's Enforcement Manual addressing tolling agreements, which reflect the agency's ability to pursue certain remedies — such as disgorgement — over a 10-year period, further diminishing the practical constraints that statutes of limitation historically imposed on lengthy investigations.

While it is highly unlikely for the bill to pass under the current Republican-controlled Congress, this reality could change depending on the results of the 2026 midterm elections, or, of course, during the next presidential election cycle in 2028. As such, the bill serves both as a signal about Senate Democrats' priorities and as a reminder that the FCPA is still applicable law.

Practical Takeaways for Companies

For companies, the practical takeaway remains unchanged: The current reduction in enforcement does not eliminate FCPA risk and, of course, the risk of enforcement from other countries remains.² While companies will understandably vary in their own assessment of the present and future risks under the FCPA, generally, our advice also remains unchanged: Companies should maintain their current compliance programs. As always, such programs should be risk-based, well-resourced and tested to verify that they work in practice. Given this new bill and the possibility of similar ones in the future, companies may consider reassessing document retention policies in light of the possibility of extended enforcement timelines.

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- ¹ The *Ex Post Facto* Clause of the U.S. Constitution prohibits the “revival” of criminal charges where the statute of limitations period has already run. However, case law makes clear that prosecutors are constitutionally permitted to pursue charges after a limitations period was extended by statute, as long as the limitations period has not already run prior to the statutory extension. If this new proposal were to become law, statute of limitations issues in any particular matter are likely to be analyzed closely and subject to significant motions practice in charged cases.
- ² For example, in March 2025, shortly after President Trump signed the executive order, France, Switzerland and the U.K. [announced](#) a new taskforce to prosecute international corruption.