

- [Latest](#)
  - [U.S.](#)
  - [Eagles Parade](#)
  - [World](#)
  - [Politics](#)
  - [Entertainment](#)
  - [HealthWatch](#)
  - [MoneyWatch](#)
  - [Crime](#)
  - [Space](#)
  - [Sports](#)
  - [Brand Studio](#)
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  - [Texas](#)
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  - [Texas](#)
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  - [60 Minutes](#)
- [Shows](#)
  - [48 Hours](#)
  - [60 Minutes](#)
  - [America Decides](#)
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  - [CBS Mornings](#)
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  - [Sunday Morning](#)
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## Trump freezes U.S. law banning bribery of foreign officials



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Trump executive order on foreign bribery



[What to know about Trump's executive order on foreign bribery practices 03:28](#)

Supporters of the Foreign Corrupt Practices Act (FCPA) praise it as an important anti-bribery statute that keeps corporations honest when doing business outside the U.S. By contrast, the law's detractors say it unfairly hobbles American companies, giving an advantage to foreign players.

On Monday, President Trump took a side. "It sounds good on paper but in practicality, it's a disaster," he said while signing an [executive order](#) freezing enforcement of the 1977 [law](#). "It's going to mean a lot more business for America."

Mr. Trump can't overturn the law, but as head of the executive branch he can change the way it is enforced and shift resources to other Justice Department priorities.

His order puts in place a 180-day "pause" to all investigations under the FCPA while they are being reviewed. He also ordered no new ones be opened during that period. The order also says it will halt other Justice Department "actions" under the law, which might mean ongoing prosecutions though that is unclear.

President Trump said the pause is also necessary to give his administration time to come up with new "reasonable" guidelines on how to enforce the law that don't put U.S. companies at a disadvantage in striking foreign deals.

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The consequences could be dramatic, depending on Mr. Trump's next move, experts say.

If he halts many prosecutions, essentially defanging the law, it could help U.S. businesses win deals abroad. However, doing so could also tarnish America's image as a safe place to do business, and also send a green light to corrupt autocrats ruling over impoverished people to get even richer. France, Britain, Japan and other wealthy countries could also in turn weaken their own anti-bribery laws so their companies can make payments, too.

"We are facing a Wild West situation," said Mark Pieth, a criminal law professor at the University of Basel in Switzerland and anti-bribery law expert. "It will be everyone against everyone."

Specifically, Mr. Trump said the law is being enforced in "excessive, unpredictable" ways that U.S. companies are competing on an uneven "playing field" with foreign rivals. He also said the law was "draining resources" from law enforcement and harming U.S. national interests because companies were being held back from deals that would give the U.S. access to deep water ports, critical minerals and other assets.

Duncan Levin, a criminal defense attorney, said he expects Mr. Trump to essentially kill the law by neglect.

"He can't get rid of the law, but he can refuse to enforce it," said Levin, who has represented high profile defendants Harvey Weinstein and Russian oligarch Oleg Deripaska. "I don't think this is just a pause."

## What is the Foreign Corrupt Practices Act?

The FCPA is a federal law that makes it illegal for U.S. companies and individuals to make payments to foreign government officials "to secure any improper advantage" in order to win or retain business. It was enacted in the 1970s to address concerns of global corruption after investigators at the U.S. Securities and Exchange Commission found hundreds of American companies making questionable or illegal payments to foreign officials to win business. The law doesn't require that the bribe is actually paid, but only offered.

Over the past nearly 50 years, prosecutions under the law have brought to light a long and varied list of bribes.

Last year, the military contractor RTX, formerly Raytheon, paid more than \$300 million to settle charges it had allegedly bribed officials in Qatar by using a [sham contract](#) and other devices to hide its tracks.

In 2019, Walmart paid \$282 million to settle charges from a seven-year investigation into allegations it won approval to open stores in Mexico, India and Brazil by bribing local officials, including one contact called the "sorceress" who had an uncanny ability to make permitting problems disappear.

## Who enforces the FCPA?

The FCPA is jointly enforced by the Securities and Exchange Commission, which handles civil enforcement of bribery-related acts, and the Department of Justice, which is responsible for civil and criminal enforcement for the law.

[Trump, Musk take questions at White House 29:44](#)

Only criminal cases carry the threat of prison time, [according](#) to the National Whistleblower Association, adding that the burden of proof is lower for civil cases. In criminal bribery cases, punishment for conviction is imprisonment of up to 20 years, and companies face fines double their profits from the illicit deal.

## Why is the FCPA important?

The FCPA was enacted to protect U.S. businesses from global corruption costs as a result of bribery.

By prohibiting companies from unfair advantages through the illegal payment of foreign officials, and by requiring that companies covered by the law to keep accurate records of payment transactions and devise and maintain an adequate internal accounting controls, the FCPA protects U.S. businesses from global corruption costs stemming from bribery and helps ensure fair competition.

## Criticisms against the FCPA

President Trump said the law is being enforced in "excessive, unpredictable" ways that U.S. companies are competing on an uneven "playing field" with foreign rivals. He also said the law was "draining resources" from law enforcement and harming U.S. national interests because companies were being held back from deals that would give the U.S. access to deep water ports, critical minerals and other assets.

Since the FCPA was enacted nearly 50 years ago, U.S. businesses have complained that it was hurting more than helping and unfair because bribes were commonplace in some countries. Then under U.S. pressure, allies in the Organization for Economic Cooperation and Development started enacting their own laws, especially after the Berlin Wall fell in 1989 and African and Asian countries formerly in the communist orbit opened their borders to business.

[Is Trump ushering in a new "Gilded Age"? 06:49](#)

Eventually, 40 wealthy countries adopted anti-bribery laws based on the FCPA, according to University of Basel's Pieth, including the ability to prosecute foreign companies operating in their countries for acts committed in a third country.

Therein lies another danger of Mr. Trump weakening the FCPA, according to Pieth. "If a U.S. company bribes because Trump is giving them the green light, the French and the British will jump on that company," he said. "It will be a mess."

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