

The image features the Baker McKenzie logo in the top left corner, consisting of the word "Baker" in red and "McKenzie." in dark red. The background is a light blue gradient with a large, abstract, wavy graphic on the right side that resembles a stylized wave or a series of overlapping curves. The overall aesthetic is professional and modern.

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McKenzie.**

# **Annual Compliance Conference 2025**



# **Latest anti-bribery and corruption developments in the UK and US**

**Thursday 5 June 2025**

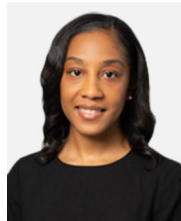




# Speakers



**Yindi Gesinde**  
(Chair) Partner  
London



**Aleesha Fowler**  
Partner  
Washington



**Geoff Martin**  
Partner  
Washington



**Mark Banks**  
Senior Associate  
London





# **01 US developments**



# Bondi memo

5 February 2025 – total elimination of cartels and Transnational Criminal Organizations

- 20 January Executive Order Designated Cartels And Other Organizations As Foreign Terrorist Organizations And Specially Designated Global Terrorists
- 5 February DOJ Memorandum issued by Attorney General
- Re-allocation of DOJ resources, including away from FCPA enforcement
- Focus on FCPA cases that intersect with cartel and TCO activity; removes administrative requirements to bring cases (with FCPA Unit)
- Human smuggling and the trafficking of narcotics and firearms
- Deprioritizing other FCPA cases
- Task Force KleptoCapture, Kleptocracy Team, Kleptocracy Asset Recovery Initiative, disbanded
- Practical impact unclear



# FCPA executive order

## Pausing FCPA enforcement: Overview

- On **February 10, 2025**, President Trump issued an executive order pausing enforcement of the FCPA to "further American economic and national security."
- Specifically, the order instructed the Attorney General, for a period of 180 days, to:



Cease initiation of any new FCPA investigations or enforcement actions



Review in detail all existing FCPA investigations or enforcement actions and "take appropriate action with respect to such matters to restore proper bounds on FCPA enforcement and preserve Presidential foreign policy prerogatives"



Issue updated guidelines or policies, as appropriate

- The pause and review period will end in **early August**.



# FCPA executive order

## Pausing FCPA enforcement: Current impacts

- The full impact of the FCPA "pause" remains unclear. While some FCPA cases have been dropped or pushed back following the pause, others have moved forward or been reopened. For example:

***U.S. v. Piñate and Vasquez*** – On April 9, 2025, prosecutors told a federal judge in Florida that DOJ, upon conducting the detailed review mandated by Trump's order, has decided to move forward with an **FCPA bribery case** against two executives of a **UK voting machine** company. The executives are alleged to have conspired with others to pay over **\$1 million** in bribes to election officials in the **Philippines**.

***SEC v. Coburn, et al.*** – On April 10, 2025, the SEC asked to **reopen** a civil FCPA case against two former executives who avoided a criminal trial for an alleged **bribery scheme in India**. The criminal FCPA case against these former executives was dismissed with prejudice, and notably, in its motion to dismiss, the government cited to the February 10 executive order.





# Alternative bases for enforcement

- Despite the pause on FCPA enforcement, there are other avenues law enforcement agencies can use to police bribery and corruption, including:

## False Claims Act

- Prohibits individuals and entities from (1) knowingly submitting, or causing to be submitted, inaccurate claims for payment to the federal government, and (2) knowingly concealing, avoiding, or decreasing a payment owed to the federal government, typically by withholding or submitting false information.
- To be actionable under the FCA, the statements or claims submitted to the government must be **material** to the government's payment decision.
- FCA actions can be brought on behalf of the government by private citizens, called "**qui tam relators**."

## State-Level Enforcement

- State attorneys general may enforce the FCPA or analogous state laws to address foreign bribery (e.g., California's Unfair Competition Law).

## Anti-Money Laundering Act

- Bribery and other forms of corrupt activity may still be prosecuted under AML laws.
-





# The False Claims Act and DEI

## January 21, 2025: Executive Order titled, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity"

- Stated purpose of the order is to end "**illegal DEI and DEIA policies**" that violate the Federal civil rights laws.
- Requires federal contractors and grant recipients to include in every contract or award a term agreeing that their compliance with the Federal anti-discrimination laws is **material** to the government's payment decisions for purposes of the False Claims Act.
- Requires federal contractors and grant recipients certify that it does **not operate any programs** promoting DEI that violate any applicable Federal anti-discrimination laws.

## May 19, 2025: Memorandum Announcing DOJ's Plans to Launch a "Civil Rights Fraud Initiative"

- Memo states that the Initiative will utilize the FCA to "investigate and, as appropriate, pursue claims against any recipient of federal funds that knowingly violates federal civil rights laws."
- Memo calls on each of the 93 U.S. Attorney's Offices to advance the Initiative's efforts, and states that the Civil Fraud Section and Civil Rights Division of DOJ will partner with state attorneys general and local law enforcement to "share information and coordinate enforcement actions."
- Memo encourages private citizens with knowledge of "discrimination by federal-funding recipients" to report that information to the appropriate authorities—a clear signal to **qui tam** relators.

# DOJ white-collar enforcement plan

**12 May 2025** – Updates corporate enforcement and voluntary self-disclosure policy, monitor and whistleblower policies

- Criminal Division to focus enforcement on white-collar crimes that:
  - Affect US government funds, US consumers, investors and businesses interests (domestically and abroad) or that otherwise impact US trade or national security interests; and/or
  - Are perpetrated by foreign governments officials, cartels, terrorists, transnational criminal organizations or those which support them
- FCPA and broader ABAC enforcement fit within these priorities, where impact on US business domestically or abroad
- Revisions made to Corporate Enforcement Policy
- Individual vs corporate prosecutions
- Use of corporate monitors disfavored



# Current status & looking ahead



DOJ FCPA **pause** and review period ends in August

Future of DOJ's FCPA Unit

Unclear status of **other DOJ Materials**

- Evaluation of Corporate Compliance Programs
- FCPA Resource Guide

Eye on SEC enforcement of **Accounting Provisions**

Anticipation on **international impact** and coordination

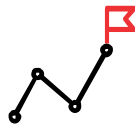


## **02 UK developments**

# SFO: New strategic priorities



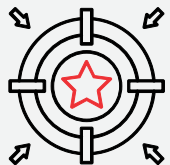
New Guidance on  
Corporate Self Reporting  
and Co-operation



Business Plan 2025-  
2026: fraud prevention  
and whistleblowers



Nick Ephgrave public  
speeches and  
statements on a stricter  
SFO stance



**Strategic focus**

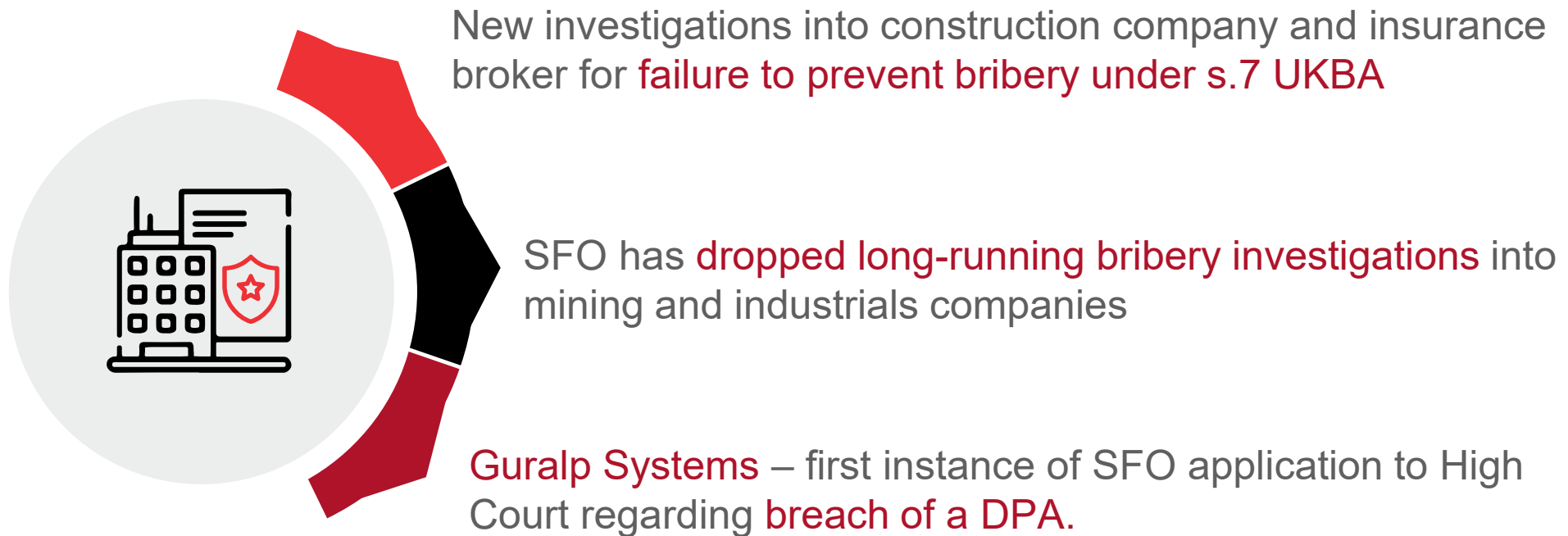
- **New Guidance:**

- Attempts to incentivise prompt self-reporting by corporates
- Provides examples of co-operative conduct

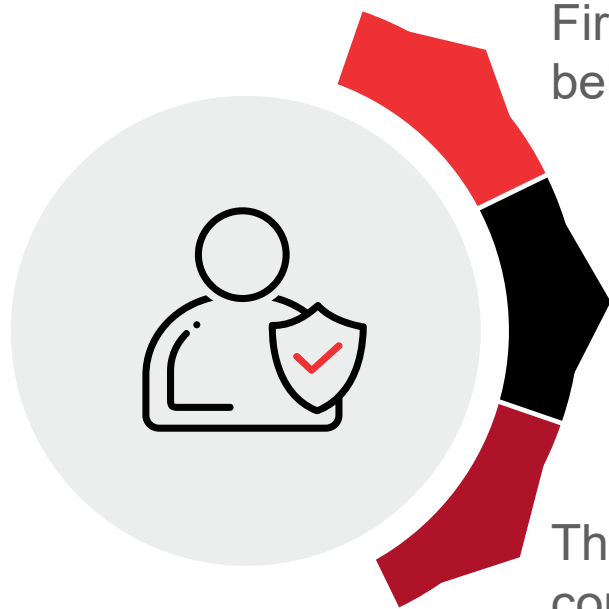
- **Business Plan:**

- Enforcement of failure to prevent fraud offence
- Push whistleblower incentivization reform, asset confiscation capabilities and international co-operation

# SFO: Enforcement against corporates



# SFO: Enforcement against individuals



First **Unexplained Wealth Order** secured to recover property believed to have been purchased with fraud proceeds

7 individuals charged by SFO with **conspiring to make corrupt payments** following guilty plea by mining company

Three **arrests in dawn raids** targeting alleged bribery by construction company in relation to Netherlands datacentre



# International alliance: UK / France / Switzerland

Antu-corruption taskforce  
announced on **20 March  
2025**

## Common commitment

To "stand firm" in their commitment  
to tackling bribery and corruption

## Motivation

Confirmed as not being a reaction  
to the pause in FCPA enforcement



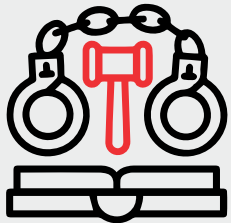
## Cross-border alliance

SFO, Swiss Office of the Attorney  
General and French National  
Financial Prosecutor's Office

## Taskforce for collaboration

Combining resources/expertise,  
increasing co-operation in cases, etc.

# ECCTA 2023 and Crime and Policing Bill 2025: Corporate criminal liability reforms



- **ECCTA 2023:** If senior managers of a company or partnership "**acting within the actual or apparent scope of their authority**" commit a relevant economic crime offence, the company or partnership will also be guilty of an offence
  - Applies in respect of any of the offences listed in Schedule 12 of the Act
  - Includes common law conspiracy to defraud and statutory offences including under FSMA 2000, Terrorism Act 2000, Theft Act 1968, Proceeds of Crime Act 2002, Companies Act 2006, Fraud Act 2006, Bribery Act 2010 and Sanctions and Anti-Money Laundering Act 2018
- **Crime and Policing Bill** (currently being debated in Parliament, at Report stage in House of Commons): expansion of the concept of corporate liability beyond solely economic crimes
  - "Senior manager" test to cover **all** criminal offences, not just economic crimes
  - Potential application of corporate liability to offences relating to the environment, computer misuse, data protection, modern slavery, human trafficking and health & safety

# ECCTA and Gov. Guidance: Failure to prevent fraud

- Facilitates prosecution of large companies for fraud by introducing corporate liability for large organisations **failing to prevent fraud by associated persons**

## Key elements of the offence



Relevant body  
which is a large  
organisation



Associated  
person



Fraud offence



Intention to  
benefit

- Guidance published in March 2025 provides examples of reasonable fraud prevention procedures
- Offence to come into force on **1 September 2025**



## **03 Key takeaways**

# Diverging priorities?



- US: FCPA enforcement paused; focus shifting to national security, cartels, and alternative statutes (e.g. FCA, AML).
- UK: SFO doubling down on corporate self-reporting, whistleblower incentives and broader liability via ECCTA.
- **But: much policy alignment remains, while UK looks to step up enforcement**

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## Looking ahead:

- US enforcement landscape will become clearer later in the year
- ECCTA enforcement and FTFP offence live from **September 2025**
- Greater **EU-led coordination** expected on cross-border investigations

# Questions

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# This afternoon's second session

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**Global enforcement priorities and challenges**

Thursday 5 June, 4.30 - 5.30 pm BST | 5.30 - 6.30 pm CEST | 11.30 - 12.30 am EDT

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