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Top Three New Risks Facing Non-U.S. Companies Under Trump DOJ 2.0

1	Tariffs and Customs Duties on Goods Imported into the U.S.	2	Doing Business with Commercial Entities Associated with Cartels	3	FCPA Risk Remains

Import Duties into the U.S.

Heightened scrutiny, coupled with more-aggressive prosecution, may escalateimport errors from administrative corrections to criminal penalties.

President Trump has argued that tariffs are a necessary economic tool to restore America's manufacturing industries, assist with foreign policy and trade imbalances, and raise funds. Accordingly, the Department of Justice (DOJ) and U.S. Customs & Border Protection (CBP) have emphasized the stringent enforcement of U.S. customs laws and regulations, including all tariff obligations. For non-U.S. companies that regularly import goods into the U.S. — whether acting as an importer of record or importing through a U.S. subsidiary — the risk of CBP scrutiny and potential DOJ enforcement activity will increase significantly in this high-tariff environment.

What Every Multinational Company Should Know About ... The Current Trump Tariff Proposals

What Every Multinational Company Should Know About ... The Rising Risk of Customs False Claims Act Actions in the Trump Administration

Given the complexity of determining such customs requirements as classification, country of origin, valuation, assists, and free trade preferences, many importers struggle to meet Custom's requirement that they use "reasonable care" in their import operations. **In our experience, customs audits of well-intentioned importers acting in good faith have revealed error rates between 20% and 60% of all examined entries.**

Historically, these kinds of issues have been addressed administratively by CBP. This will continue, but the Trump administration has signaled its intent to enforce customs regulations more aggressively, such as by using the False Claims Act (which permits the recovery of treble damages and high penalties and includes incentives for whistleblower reporting) and various criminal statutes to punish what it will consider false statements in customs reporting. In the past, DOJ has aggressively pursued these kinds of enforcement actions against non-U.S. companies, and we expect that to accelerate in the coming months and years.

What Every Multinational Company Needs to Know About ... Criminal Enforcement of Trade, Import, and Tariff Rules: A Growing Risk for Businesses

What Every Multinational Company Should Know About ... The Current Trump Tariff Proposals

Doing Business with Cartels

*Conducting business with **any** entity associated with cartel activity, no matter how tenuously, could lead to guilt-by-association and be treated accordingly by U.S. authorities.*

Another major enforcement risk under Trump DOJ 2.0 relates to drug cartels and other transnational criminal organizations in Mexico and other parts of Latin America, and their impending designation as "Foreign Terrorist Organizations" or "FTOs," some of which has already begun. While many cartels and their leaders already were sanctioned by the U.S., an FTO designation takes the existing risk of doing business with those same cartels to another level.

What Every Multinational Company (Doing Business in Mexico) Should Know About . . . Mitigating Risks From ATA Scrutiny in a New Enforcement Regime

Under the U.S. Anti-terrorism Act (ATA), companies that engage in any sort of business with these newly designated FTOs would face additional criminal and civil penalties for "materially supporting" terrorists. Companies also could be sued in private litigation under the ATA by any Americans (or their families) who fell victim to terrorist acts perpetrated by FTO-designated cartels allegedly supported by these companies. This new FTO risk is particularly challenging because cartels aren't just on the margins in countries like Mexico but are deeply embedded in the economy of key regions, including areas where multinational companies operate major manufacturing facilities.

Navigating this evolving enforcement risk — which we anticipate will be an area of focus for the DOJ — requires careful due diligence and proactive compliance strategies. This is especially true given that the DOJ's jurisdictional reach is very broad and extends to non-U.S. companies and individuals.

Business Impacts of Trump's Executive Order Pausing FCPA Enforcement

International Bribery and the FCPA

Trump administration positions on bribery and other corrupt activities remain unclear, but there's no reason to expect perceived uncompetitive behavior will be treated any less harshly.

Although the Trump administration has paused FCPA enforcement and investigations for 180 days and is indicating its intention to shift priorities away from foreign bribery enforcement, we believe the reprioritized enforcement paradigm will continue to pose risks to non-U.S. companies, based on conduct occurring outside of the U.S. In the "Fact Sheet" explaining the Executive Order pausing FCPA enforcement, President Trump directed Attorney General Pam Bondi to issue revised enforcement guidance that "promotes American competitiveness," noting that "U.S. companies are harmed by FCPA overenforcement because they are prohibited from engaging in practices common among international competitors, creating an uneven playing field." We foresee the new paradigm potentially focused on targeting non-U.S. companies as a way to try to level what is perceived as an uneven playing field.

The Long Arm of American Enforcement: How Companies Without U.S. Operations Can Still Find Themselves Facing U.S. Law and Regulatory Enforcement

It is important to remember the DOJ has long held the view that U.S. criminal jurisdiction over non-U.S. companies is broad and expansive, and nothing about the Trump DOJ's "America First" policies suggests any backtracking on that front.

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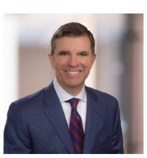

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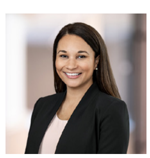

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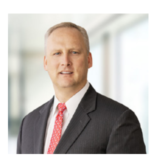

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