



SELECT COMMITTEE ON THE CCP

DEMOCRATS | RANKING MEMBER RAJA KRISHNAMOORTHY

February 11, 2025

Michael Hart
President
American Chamber of Commerce in the PRC (AmCham China)
Floor 3, East Gate 1, Pacific Century Place
2A Workers' Stadium North Road
Chaoyang District, Beijing, PRC

Dear Mr. Hart:

The Foreign Corrupt Practices Act (FCPA) was enacted by Congress in 1977 to prevent U.S. businesses from bribing foreign officials. It does this by imposing criminal and civil penalties on such conduct. In recent years, the Department of Justice and Securities and Exchange Commission have utilized this statute to deter and punish significant acts of corruption in the People's Republic of China (PRC). A recent analysis found that “four of the final six FCPA resolutions reached in 2023 involved conduct that occurred in, or was somehow connected to, China.”¹

However, on February 10, 2025, President Trump issued an executive order “direct[ing] the Attorney General to pause FCPA actions until she issues revised FCPA enforcement guidance.”² This includes “ceas[ing] initiation of any new FCPA investigations or enforcement actions, unless the Attorney General determines that an individual exception should be made.”³ Needless to say, it is highly probable that Chinese Communist Party (CCP) officials will receive bribes that they otherwise would not have received.

The view of the FCPA proffered by the executive order – namely that “overexpansive and unpredictable FCPA enforcement against American citizens and businesses . . . for routine business practices in other nations . . . harms American economic competitiveness” – may be a reasonable basis for the President to initiate discussions with Congress regarding potential reforms, but is not a sound basis to cease all new investigations and enforcement actions, particularly in the case of China.⁴ Respectfully, the national interests of the United States are not served by permitting U.S.

¹ <https://www.mwe.com/insights/china-draws-scrutiny-as-us-regulators-renew-anti-bribery-and-corruption-enforcement-focus/>

² <https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-restores-american-competitiveness-and-security-in-fcpa-enforcement/>

³ <https://www.whitehouse.gov/presidential-actions/2025/02/pausing-foreign-corrupt-practices-act-enforcement-to-further-american-economic-and-national-security/>

⁴ Id.

companies to engage in bribery in the PRC, and the FCPA remains the law of the land regardless of whether the Department of Justice declines to investigate or enforce it.

As such, this letter serves to formally notify your membership that, regardless of whether the Department of Justice intends to enforce the FCPA during this pause, Congress retains full authority to investigate corrupt acts by U.S. businesses in China. Nor does the executive order appear to impact the regulatory posture of the Securities and Exchange Commission. Simply put, any company contemplating relying on the recent executive order to loosen internal policies or procedures regarding improper payments to government officials in the PRC should think twice. Not only does the FCPA provide for a five or six year statute of limitations depending on the nature of the offense, which outlasts any pause triggered by the executive order, but Congress also will not tolerate any corruption by U.S. companies in the PRC.⁵ Should an American business decide to try to take advantage of this pause in FCPA enforcement, they should not be surprised to hear from Congress.

Thank you for your attention to this matter. It would be greatly appreciated if you could distribute a copy of this letter among your members, so the U.S. business community in China can be fully informed regarding the relevant statute of limitations and Congress' authority to investigate acts of foreign corruption in China.

Sincerely,



Raja Krishnamoorthi
Ranking Member
House Select Committee on the CCP

⁵ <https://www.justice.gov/criminal/criminal-fraud/file/1292051/dl>