SmartSuite

Framework / Risk Management / Other

U.S. Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. §§ 78dd-1, et seq.) with the DOJ/SEC Resource Guide, Second Edition (2020)

The FCPA prohibits corrupt payments to foreign officials to obtain or retain business and requires issuers to keep accurate books and records and adequate internal accounting controls.

What it is

The Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C. §§ 78dd-1, et seq., makes it unlawful for certain classes of persons and entities to make payments to foreign government officials to assist in obtaining or retaining business. Its anti-bribery provisions prohibit the corrupt offer, payment, promise, or authorization of anything of value to a foreign official to influence an official act, induce a breach of lawful duty, or secure an improper advantage, and its accounting provisions in 15 U.S.C. § 78m require issuers to keep accurate books and records and devise and maintain an adequate system of internal accounting controls.

At a glance

PUBLISHER U.S. Department of Justice (DOJ) and U.S. Securities and Exchange Commission (SEC)	TYPE Regulation	VERSION 15 U.S.C. §§ 78dd-1, et seq., as amended 1998; Resource Guide Second Edition (July 2020)
EFFECTIVE 1977 (enacted); 1998 amendments	DOMAIN Risk Management	FAMILY Other
REGION United States	ADOPTION MODEL Regulatory Compliance	IMPLEMENTATION COMPLEXITY High

Source: https://www.justice.gov/criminal/criminal-fraud/foreign-corrupt-practices-act

Why it matters

- **Prevent corrupt payments** Control gifts, hospitality, charitable and political contributions, and third-party payments that could be offered to foreign officials.
- **Satisfy the accounting provisions** Keep books and records that accurately and fairly reflect transactions and maintain internal accounting controls that provide reasonable assurance.
- **Manage third-party risk** Apply risk-based due diligence and monitoring to agents, distributors, consultants, and joint venture partners who act on the company's behalf abroad.
- **Earn credit under DOJ and SEC policies** Voluntary self-disclosure, cooperation, remediation, and an effective compliance program shape charging decisions and penalties under the Corporate Enforcement Policy.

How SmartSuite supports FCPA

FCPA Provisions and Hallmarks Library
Hold the anti-bribery provisions, the books and records and internal controls provisions, and the Resource Guide hallmarks as structured requirements linked to your controls.

Ownership, Cadence, and Accountability
Assign compliance, finance, and business owners to each provision and hallmark, set review cycles, and record senior management commitment.

Evidence Collection and Audit Trail
Attach risk assessments, due diligence files, gift and hospitality approvals, payment documentation, and training completions with timestamps and reviewers.

Control Testing and Program Review
Plan tests of accounting controls and anti-corruption procedures, document results, and track remediation and lessons learned.

Third-Party and Intermediary Due Diligence
Link agents, distributors, consultants, and joint venture partners to risk-based due diligence, contractual terms, and ongoing monitoring.

Board, Auditor, and Regulator Reporting
Produce dashboards by provision and region showing program status, open investigations, and remediation for the board, auditors, and counsel.

Common framework mappings

UK Bribery Act 2010 · DOJ ECCP · USSG §8B2.1 · SOX · COSO IC 2013 · COSO ERM 2017 · ISO 31000:2018 · OCEG Red Book 3.5 · IIA Three Lines Model

Official resources

DOJ: Foreign Corrupt Practices Act
The Criminal Division's FCPA page describing the anti-bribery and accounting provisions, covered persons, and the 1998 amendments.
justice.gov/criminal/criminal-fraud/foreign-corrupt-practices-act

DOJ: FCPA Resource Guide
The page for A Resource Guide to the U.S. Foreign Corrupt Practices Act, Second Edition (July 2020), with the Spanish edition and the December 2024 addendum.
justice.gov/criminal/criminal-fraud/fcpa-resource-guide

A Resource Guide to the U.S. FCPA, Second Edition (PDF)
The joint DOJ and SEC guide covering the statute, enforcement principles, compliance program hallmarks, penalties, and the opinion procedure.
justice.gov/criminal/criminal-fraud/file/1292051/dl

DOJ: FCPA statutes and regulations
The Criminal Division's page linking the statutory text of the FCPA and related regulations.
justice.gov/criminal/criminal-fraud/statutes-regulations

Frequently asked questions

What does the FCPA prohibit?
Its anti-bribery provisions prohibit the corrupt offer, payment, promise, or authorization of anything of value to a foreign official to influence an official act, induce a breach of lawful duty, or secure an improper advantage in order to obtain or retain business. Its accounting provisions require issuers to keep accurate books and records and adequate internal accounting controls.

Who is covered by the FCPA?
Since 1977 the anti-bribery provisions have applied to all U.S. persons and certain foreign issuers of securities, and since the 1998 amendments to foreign firms and persons who cause an act in furtherance of a corrupt payment within U.S. territory. The accounting provisions apply to companies whose securities are listed in the United States.

Who enforces the FCPA?
The Department of Justice enforces the Act criminally through the FCPA Unit of the Criminal Division's Fraud Section, and the Securities and Exchange Commission enforces the anti-bribery and accounting provisions civilly against issuers.

What is the FCPA Resource Guide?

A Resource Guide to the U.S. Foreign Corrupt Practices Act is a non-binding publication by the Criminal Division of the DOJ and the Enforcement Division of the SEC. The Second Edition, published in July 2020, covers the statute, enforcement principles, the hallmarks of effective compliance programs, penalties, and the DOJ opinion procedure.

What are the hallmarks of an effective FCPA compliance program?

The Resource Guide describes senior management commitment and a clear anti-corruption policy, a code of conduct and procedures, oversight, autonomy, and resources, risk assessment, training and advice, incentives and discipline, third-party due diligence, confidential reporting and investigation, continuous improvement, and pre-acquisition due diligence.

Do the accounting provisions apply even if no bribe is paid?

Yes. The books and records and internal accounting controls provisions apply to issuers independently, and inaccurate records or inadequate controls can be violations on their own.

How does the FCPA differ from the UK Bribery Act?

The FCPA addresses bribery of foreign officials and the books and records and internal controls of issuers, and contains an exception for facilitating payments. The Bribery Act also covers private-sector bribery and being bribed, has no facilitation payment exception, and makes commercial organisations strictly liable for failing to prevent bribery, subject to the adequate procedures defence.

How does SmartSuite support FCPA compliance?

SmartSuite holds the anti-bribery and accounting provisions and the Resource Guide hallmarks as a requirement set linked to the corruption risk assessment, policies, third-party due diligence, gifts and hospitality approvals, payment controls, training records, and investigations. Compliance teams use it to evidence the program and report to the board and counsel.

License included / downloadable: Yes The statute and the Resource Guide are U.S. Government publications available free of charge from the Department of Justice, and the provisions and hallmarks are included with the platform as a requirement set.

Full framework page and mappings: smartsuite.com/frameworks/us-foreign-corrupt-practices-act-fcpa