



## **Enactment of the Foreign Extortion Prevention Act**

Miami, January 29, 2024.

In a pivotal move to combat international corruption, President Biden signed the Foreign Extortion Prevention Act (FEPA) into law on December 22, 2023. This groundbreaking legislation, part of the National Defense Authorization Act, amends Section 201 of Title 18 of the U.S. Code, intensifying the fight against bribery of government officials.

### **Key Highlights of FEPA.**

- **Comprehensive Approach to Bribery:** FEPA marks a significant evolution in anti-bribery legislation, targeting both the bribe-givers and recipients. Unlike the 1977 Foreign Corrupt Practices Act (FCPA), which primarily targeted bribe payors, FEPA holds foreign officials accountable for demanding or accepting bribes.
- **Expanded Jurisdiction:** unlike the anti-bribery provisions of the FCPA, FEPA asserts extraterritorial federal jurisdiction and targets corrupt actors overseas.
- **Broader Scope of Foreign Officials:** FEPA's definition of foreign officials encompasses any person acting in an official or unofficial capacity for or on behalf of a government, department, agency, instrumentality or a public international organization.
- **Enhanced Penalties:** corrupt actors will face substantial penalties, including up to 15 years in prison and fines up to US\$250,000 or three times the bribe's value.

### **DRT Commentary**

Consistent with President Biden's 2021 National Security Memorandum, the fight against corruption is a priority for the U.S. Government, and law enforcement agencies frequently investigate and prosecute instances in which corrupt actors and their financial facilitators have sought to exploit vulnerabilities in the U.S. financial system to launder and obscure bribes and/or the proceeds of corruption.

This commitment to investigate and prosecute corrupt actors, coupled with the enactment of FEPA, signals that the Government will increase scrutiny on the Anti-bribery and Anti-corruption (ABC) compliance programs implemented by organizations. Accordingly, businesses are advised to:

- **Update Your ABC compliance programs.** Companies and financial institutions can prevent, detect, and react appropriately to violations of FEPA and the FCPA by implementing a robust ABC compliance program. Having an effective ABC compliance program in place is also a significant mitigating factor that U.S. Government agencies will consider when deciding whether to pursue enforcement actions based on an apparent violation of FEPA or the FCPA, or for calculating the appropriate penalty.

- **Seek Legal Guidance:** conduct an ABC review of any transaction involving foreign governments to prevent violations of the FCPA and FEPA. If necessary, request the U.S. Government’s guidance before moving forward with the transaction

### About Diaz Reus

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DRT’s team includes bilingual attorneys board certified in international law, international litigation and arbitration, including former prosecutors and law enforcement and intelligence agents, anti-money laundering specialists (CAMS), and certified fraud examiners (CFE). They are frequently invited to participate as speakers in different professional and academic events, in the U.S. and abroad.

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