



Trump's SEC Pick: FCPA Causes

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January 5, 2017

President-elect Donald Trump's pick to lead the Securities and Exchange Commission took aim at the Foreign Corrupt Practices Act in a 2011 [report](#), arguing against the "zealous" enforcement of the anti-bribery law by the SEC and Justice Department.

Jay Clayton, a Sullivan & Cromwell partner, chaired a New York City Bar Association drafting committee that put out "The FCPA and its Impact on International Business Transactions – Should Anything Be Done to Minimize the Consequences of the U.S.'s Unique Position on Combating Offshore Corruption?" The 25-page paper called for a "reevaluation of the United States' strategy in fighting foreign corruption," saying U.S. companies covered by the FCPA are facing unfair burdens.

"The current anti-bribery regime—which tends to place disproportionate burdens on U.S. regulated companies in international transactions and incentivizes other countries to take a "lighter touch"—is causing lasting harm to the competitiveness of U.S. regulated companies and the U.S. capital markets," the report said.

But the FCPA shouldn't disappear, according to the paper.

"To be clear, this paper is not offered in praise of a 'lighter touch' on bribery," the paper said.

Rather, the federal government should either ratchet up enforcement pressure on companies that aren't covered by the FCPA or dial it back for companies that are.

Walter Olson, a senior fellow at libertarian think tank Cato Institute, praised Clayton's criticism of the FCPA in a blog post published after a Trump spokesman Jan. 4 announced Clayton's selection to head the SEC. "Don't back down, Mr. Clayton," Olson wrote.

Clayton wasn't immediately available to comment.