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## Implementation of U.K. Bribery Act Postponed for Six Months

### **Do your business's internal anti-corruption policies and procedures address the broad reach of the new U.K. Bribery Act?**

If not, now is the time to reassess your company's compliance activities and policies under the U.K. Bribery Act, the U.S. Foreign Corrupt Practices Act ("FCPA") and other anti-corruption laws, to ensure that they will be effective in providing a first line of anti-corruption defense for your company and personnel around the globe.

On July 21, 2010, the U.K. Ministry of Justice announced that implementation of the Bribery Act, a tough counterpart to the FCPA, will be delayed for six months until April 2011. The Bribery Act, which received Royal Assent on April 8, 2010, was set for implementation in Fall 2010. International news sources report that, under pressure from the business community, Justice Secretary Ken Clarke announced the delay to allow businesses more time to become familiar with the Bribery Act, consult with the U.K. government on how to comply with the new law, and prepare for its implementation.

The Bribery Act has been heralded as one of the most significant pieces of anti-corruption legislation. Among its myriad provisions, the Act includes a new corporate criminal offense of "failure to prevent bribery" by persons working on behalf of a business, including non-employee third-parties. This is a strict liability offense. Notably, however, the Bribery Act provides an affirmative defense under which a corporation can avoid liability if it can show that it has "*adequate procedures in place to prevent bribery.*" Without such procedures, any organization "doing business in the U.K.," regardless of whether it is a U.K. corporate entity, can be found criminally liable for an act of bribery by an overseas director, employee or agent, even where it had no knowledge.

Given the potential consequences of failing to adopt "adequate procedures," it is essential that companies use this six month delay to evaluate their practices and compliance program before April 2011. Positioning your commercial organization so that it can demonstrate that "adequate procedures" were in place to prevent the conduct is critical under the Bribery Act.

While the U.K. Government has not yet set forth specific guidance regarding the meaning of "adequate procedures" under the Act, it is clear that the existence of a vigorous anti-corruption policy and training, implemented at all levels of a commercial organization and supported by top management, are important characteristics. We continue to watch for further guidance from the Ministry of Justice on this topic, which is expected "early in the New Year."

For assistance navigating these reforms, enhancing your company's anti-corruption compliance program, or reviewing your current U.S. / U.K. business activities, Venable can help.

For more information regarding the U.K. Bribery Act and/or U.S. FCPA issues, please contact Venable's [Foreign Corrupt Practices Act and Anti-Corruption](#) team.

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