
U.K. Ministry of Justice Guidance on Bribery Act 2010

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The United Kingdom's Bribery Act 2010 ("Bribery Act" or "Act"), which becomes effective on July 1, 2011, presents compliance challenges that may well exceed those presented by the Foreign Corrupt Practices Act ("FCPA") in the United States. Among those, Section 7 of the Bribery Act criminalizes an organization's failure to prevent an "associated person" from engaging in commercial or official bribery prohibited by the Act, although the existence of "adequate procedures" to prevent bribery-such as a well tailored and effective compliance program-provides a defense under the Act. On March 30, 2011, the U.K. Ministry of Justice issued the long awaited and much anticipated Guidance on how businesses can effectively comply with the Act, and the Serious Fraud Office and the Director of Public Prosecutions issued Joint Prosecution Guidance ("SFO Prosecution Guidance") to prosecutors enforcing the Bribery Act. The Guidance makes clear that there will be a large number of U.S. companies subject to the Act and that their compliance and business programs designed to comply with the FCPA should be evaluated in order to make certain that they are consistent with the new Act's requirements.

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