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U.K. BRIBERY ACT ENFORCEMENT DELAYED

This week, British Justice Secretary Ken Clarke announced a delay in the introduction of the U.K. Bribery Act ("Bribery Act"), an important anti-corruption law which was due to come into force in April. The delay follows complaints that the legislation's rules were too strict and created an unacceptable level of uncertainty in the business community. While there appears to be general support for tightening current anti-bribery laws, some fear that the proposed guidelines will not be clear enough to prevent businesses and the individuals who operate them from running afoul of the law while carrying out routine corporate hospitality and the recruitment of necessary agents and third parties overseas.

The failure of the Ministry of Justice to publish clear guidance for companies by its self-imposed January deadline and its ongoing review of the regulatory impact of the Bribery Act are the widely reported reasons for the delay. Once the guidance is issued, the Ministry of Justice has assured the business community of a three-month notice period before the Bribery Act would be enforced.

The new law is similar but tougher than the U.S. Foreign Corrupt Practices Act ("FCPA"), which prohibits companies from bribing non-U.S. government officials to gain a business advantage. For example, the U.K. law, whose jurisdictional reach extends to any company or person that conducts business in the U.K., bars making or receiving illicit payments to anyone. In addition, companies that violate the Bribery Act face unlimited fines if they cannot show that they have "adequate procedures" in place to prevent any such bribery.

The delay is being heavily criticized by multiple anti-corruption groups, including the widely respected Transparency International which called the decision "disastrous news" that raises doubts about the credibility of the British government's commitment to the Bribery Act.

We will continue to monitor the progress of the Bribery Act enforcement, as well as other relevant developments. Chadbourne is available to assist clients with evaluating the Bribery Act and any corresponding guidance once it is issued, and to determine its application to clients' business operations.

Our client alerts are for general informational purposes and should not be regarded as legal advice. If you would like additional information or have any questions, please contact any of the following:

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