

## Alert

### Bribery Act 2010 Update: Delay to Implementation

1 February 2011

In our August 2010 *Client Memorandum*<sup>1</sup> we assessed the implications of the UK's new Bribery Act 2010 (the "Act") for organisations doing business in or from the UK. We noted that of particular significance to commercial organisations is the creation of a new strict liability criminal offence for failure to prevent bribery by a person associated with the organisation. The only defence to the new offence is for the organisation to prove that it had in place "adequate procedures" to prevent such payments from occurring.

As we explained in our subsequent October 2010 *Client Alert*<sup>2</sup>, the UK Ministry of Justice published draft guidance (the "Guidance")<sup>3</sup> on the content of these "adequate procedures" and stated that the final Guidance would be published early in 2011, with the Act becoming effective in April 2011. However, we now understand from the Ministry of Justice that the implementation of the Act is likely to be delayed beyond April 2011 as the Ministry of Justice is "working to ensure that the Guidance is practical and comprehensive for business".

The Ministry of Justice has confirmed that there will now be a delay of three months after the Guidance is published to allow businesses to prepare and adapt for the new regime. However, at the present time the Ministry of Justice is unable to commit to a precise date for the publication of the Guidance — or the subsequent coming into force of the Act.

This latest delay comes after the UK Government had previously announced in July 2010 that it was postponing the implementation of the Act until April 2011 in order to give companies a chance to put proper procedures in place.

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If you have any questions concerning this *Alert*, please contact one of the authors or your attorney at Schulte Roth & Zabel.

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<sup>1</sup> [http://www.srz.com/082610\\_Bribery\\_Act\\_2010/](http://www.srz.com/082610_Bribery_Act_2010/)

<sup>2</sup> [http://www.srz.com/102010\\_Bribery\\_Act\\_2010\\_Update/](http://www.srz.com/102010_Bribery_Act_2010_Update/)

<sup>3</sup> <http://www.justice.gov.uk/consultations/docs/bribery-act-guidance-consultation1.pdf>

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