

Antibribery Alert

May 16, 2016

If you only read one thing...

- The U.K. government has publicly raised the potential for new legislation making corporations liable for "failure to prevent" fraud or money-laundering offenses, contrary to an earlier stance on the issue.
- Additional international anticorruption measures were announced at a summit of world leaders in London.



Anti-Corruption Summit: Extending Corporate Liability for Economic Crimes?

In a keynote address at the London Anti-Corruption Summit, Prime Minister David Cameron raised the possibility of new U.K. legislation to make corporations liable for "failure to prevent" fraud or money-laundering offenses committed by their "associated persons." The concept already exists under the UK Bribery Act, and U.K. regulators have long been lobbying for a broadening of the criminal offense of "failure to prevent." The U.K. government committed to expanding the offense to encompass tax evasion last month, but otherwise appeared to have limited appetite for expanding this form of corporate liability.¹ That stance appears to have now changed.

In his speech on May 12, 2016, which described corruption as "*one of the greatest enemies of progress in our time*," Mr. Cameron stated that "*in addition to prosecuting companies that fail to prevent bribery and tax evasion, we will consult on extending the criminal offence of "failure to prevent" to other economic crimes such as fraud and money laundering so that firms are properly held to account for criminal activity that takes place within them.*" Therefore, whilst the current commitment is only to conduct a consultation, the direction of travel for the U.K. government appears to have shifted notably toward an expansion of corporate liability for economic crimes.

The Ministry of Justice added that "*the government is finding new ways to tackle economic crime and we are taking a rigorous and robust approach to corporations that fail to prevent bribery or allow the tax evasion on their behalf. We now want to carefully consider whether the evidence justifies any further extension of this model to other areas of economic crime, so that large corporations are properly held to*

¹ <http://www.bloomberg.com/news/articles/2015-09-28/companies-can-breathe-easy-as-u-k-criminal-law-change-abandoned>.

account."² No specific timetable has been publicly announced, but the initial consultation is expected to be published over the summer.

Also announced at the summit were the following measures:

- Britain, Afghanistan, Kenya, France, the Netherlands and Nigeria agreed to publish registers of beneficial ownership of companies. Six more countries (Australia, Ireland, Georgia, Indonesia, New Zealand and Norway) will consider doing so
- 11 countries, including the Cayman Islands, Jersey, Bermuda, the Isle of Man and the U.A.E. will join a 29-country cooperative group among whom non-public beneficial ownership information can be shared by law enforcement and regulatory agencies
- Non-U.K. companies that own property in the United Kingdom will be required to disclose their beneficial ownership, a move expected to affect more than 100,000 companies worldwide
- An International Anti-Corruption Coordination Centre will be founded in London, to coordinate efforts to prosecute the corrupt and seize stolen assets. The United States, United Kingdom, Germany, Canada, Singapore, Switzerland, New Zealand and Australia will all be founding members.

² <https://www.gov.uk/government/news/new-plans-to-tackle-corporate-fraud>.

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