

August 3, 2015

## New Disclosure Requirements Relating to Human Trafficking in the Supply Chain to Take Effect in October 2015

Last week, the U.K. government announced that, beginning in October 2015, the transparency in supply chains provision of the Modern Slavery Act will take effect. As discussed in this Alert, this new disclosure requirement is of broad applicability and is not limited to U.K. entities or entities with their primary place of business in the United Kingdom. A significant number of U.S. and other companies, including many that already come within the scope of the California Transparency in Supply Chains Act, will be required to make disclosures under the Modern Slavery Act.

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Under the Act, a “commercial organisation” must prepare a slavery and human trafficking statement (a “Statement”) for each financial year. A commercial organisation is an entity that supplies goods or services and has turnover of at least £36 million. A commercial organisation includes a corporation or partnership, wherever incorporated or formed, that carries on a business or part of a business in any part of the United Kingdom.

The Statement is required to indicate the steps that the organisation has taken during the applicable financial year to ensure that slavery and human trafficking is not taking place in any of its supply chains and in any part of its own business. Alternatively, if the commercial organisation has not taken any steps to eradicate slavery and human trafficking, it is required to indicate that it has taken no such steps. The Act does not impose an affirmative obligation to adopt a human trafficking policy, conduct supply chain due diligence or put in place a compliance program.

The Act and subsequent Home Office commentary indicate the following areas that an organisation may wish to discuss in its Statement, although it is not required to do so:

- The organisation’s structure, its business model and its supply chain relationships;
- The organisation’s policies in relation to slavery and human trafficking;
- Its due diligence and auditing processes in relation to slavery and human trafficking in its business and supply chains;
- The parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk;
- Its effectiveness in ensuring that slavery and human trafficking are not taking place in its business or supply chains, measured against such key performance indicators as it considers appropriate; and
- The training regarding slavery and human trafficking available to its staff, including supply chain management, and the rest of the organisation.

If the commercial organisation has a website, the Statement must be published on its website. The website must include a link to the Statement in a prominent place on the website’s homepage. If the organisation does not have a website, it must provide a copy of the Statement upon written request, within 30 days after the request is received.

Transitional provisions and additional guidance under the Act are expected to be published, including guidance relating to voluntary due diligence practices.

### Selected Next Steps and Take-Aways

- As an initial matter, assess whether any of the entities in your corporate group must prepare a Statement. Many larger U.S. and other companies that derive a relatively small portion of their revenues from the United Kingdom will be required to prepare a Statement, since the application of the Act is not limited to organisations that derive a threshold portion of their turnover from the United Kingdom. Note that the business activities picked up by the U.K. Act are broader than those that come within the scope of the California Act, which is limited to manufacturers and retailers.
- Many companies that will be required to prepare a Statement already prepare disclosure under the California Act. Although the disclosures under the two acts are somewhat different, there will be overlap. Disclosures should be coordinated, and consideration should be given to whether to prepare a single combined disclosure. Consideration also should be given to coordinating and harmonizing anti-human trafficking compliance processes and procedures among reporting entities if different entities within the group are subject to each reporting requirement.
- As noted above, like its California counterpart, the U.K. Act does not create an affirmative obligation to put in place a compliance program to eradicate slavery and human trafficking in the supply chain, nor does it require that supply chain due diligence be performed. However, given the increasing focus on this issue by governments, NGOs, socially responsible investors, and commercial and retail customers, as well as the mandatory due diligence requirements under the new U.S. FAR rule, we are seeing a significant number of mid-sized and larger companies starting to put in place anti-human trafficking compliance programs and making existing programs more robust.

### For Further Information

If you would like to learn more about the issues in this Alert, please contact your usual Ropes & Gray attorney.

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