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## **New Anti-Corruption Law in France: Mandatory Compliance Program for Large Companies**

On 8 November 2016, the French Parliament approved new anti-corruption legislation. Championed by the Minister of Finance Michel Sapin, the law that is commonly known as Sapin II will fundamentally change the compliance landscape for French companies. In particular, it will place a positive obligation on large companies, and their subsidiaries, to implement anti-corruption compliance programs. Failure to comply with this mandatory obligation will open the company, and its directors, to sanctions. This can include a fine of up to 200,000 Euros imposed on the CEO or board of directors, and a fine of up to 1m Euros for the company itself.

Companies falling within the scope of this obligation include those whose head office is located in France, employ at least 500 people and have revenue of at least 100m Euros. The compliance program must include a code of conduct, whistleblowing procedures, risk assessments, due diligence on suppliers and third parties, accounting controls, training, and disciplinary policy for non-compliant staff.

These new rules will be enforced by a new anti-corruption agency created under Sapin II and headed by Xaviere Simeoni. The aims of the new agency are to assist companies in setting up compliance programs, perform controls, sanction non-compliance and supervise monitorships. Guidelines setting out its policies and procedures in more detail are anticipated.

In addition to the new offences regarding compliance programs, the existing sanctions will remain in force for acts of bribery, with individuals found guilty of these offences facing up to 10 years of imprisonment and a fine of up to 1m Euros, which can be increased to twice the value of the profits made through the criminal activity. For companies found guilty of bribery offences the fine may be up to five times the value of the profits. Other sanctions include publication of the judgment, exclusion from participating in public bids and even liquidation of the company. The agency will also have

the ability to make use of deferred prosecution agreements in order to emulate the methods of regulation and enforcement successfully employed in the U.S. and, more recently, in the UK and the Netherlands. The lack of incentives for self-reporting, however, such as reduced penalties, means that there is some speculation about how this will work in practice. Indeed, a company that enters into a deferred prosecution agreement may still find itself subject to fines of up to 30% of its average annual turnover. A further new sanction introduced by Sapin II is the potential imposition of a monitorship, under the supervision of the anticorruption agency, for up to three years.

Sapin II is expected to enter into force before the end of 2016. For all large companies active in France that do not have effective anti-corruption compliance programs in place, remedying this should be a matter of priority for the company and senior management. In doing that, lessons can be learnt from the experience in the U.S. and UK of designing and implementing effective anti-corruption compliance programs that will satisfy the Sapin II requirements, but remain proportionate and appropriate for the businesses in question.

Greenberg Traurig's [Global Anti-Corruption Group](#) is a multidisciplinary team of global governance, compliance, economic crime, securities, and corporate lawyers with extensive experience in evaluating, designing, enhancing, monitoring and defending global corporations' anti-corruption compliance programs based on international laws and standards, and will be able to assist companies in developing strategies to satisfy the Sapin II requirements.

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