



March 2011

www.ssd.com

China Adopts Amendment to the Criminal Law to Outlaw Bribery of Foreign Officials

On February 25, 2011 the PRC adopted Amendment No. 8 of the PRC Criminal Law, criminalizing bribery of foreign government officials and "international public organizations" to secure illegitimate business benefits. This amendment goes into effect on May 1, 2011.

The PRC did not have any law addressing cross-border bribery before and this law will be the first law to condemn bribery of foreign officials. This amendment is the PRC's effort to comply with the United Nations Convention Against Corruption to which the PRC is a signatory.

The amendment was made to Article 164 of the PRC Criminal Law prohibiting entities or individuals from offering bribes to employees of companies and enterprises who are not government officials. With the amendment, it is a criminal act to bribe foreign government officials or international public organizations.

According to this Article 164, if the payor is an individual, depending on the value of the bribes, he or she is subject to imprisonment up to 10 years; if the payor is an entity, criminal penalties will be imposed against the violating entity and the supervisor chiefly responsible and other directly responsible personnel may also face imprisonment of up to 10 years. Penalties may be reduced or waived if the violating individual or entity discloses the crime before being charged. According to the PRC Supreme Procuratorate issued in 2001, individuals offering bribes of more than RMB10,000 and entities offering bribes of more than

The Squire Sanders' Anticorruption Blog provides a unique perspective on anticorruption law. By gathering insights and observations about anticorruption compliance from on-the-ground practitioners around the world, The [Anticorruption Blog](#) offers a forum for discussion on developments such as arrests, investigations, settlements, trials and penalties; new anticorruption laws; tricky local customs; and comments and guidance from local governmental agencies and politicians.

Founded in 1890, Squire, Sanders & Dempsey has lawyers in 37 offices and 17 countries around the world and now includes the nearly 500 lawyers from leading UK legal practice Hammonds. With one of the strongest integrated global platforms and our longstanding "one-firm firm" philosophy, Squire Sanders provides seamless [legal counsel worldwide](#).

Contacts:

[Amy L. Sommers](#)
+86.21.6103.6308

[Zijie \(Lesley\) Li](#)
+86.21.6103.6307

[Nicholas Chan](#)
+852.2103.0388

[Laura Wang](#)
+86.10.8529.9176

Squire Sanders emphasizes quality, efficiency and alignment with client goals

RMB 200,000 may be prosecuted under Article 164.

Unlike other bribery-related crimes in the PRC, which focus on the receipt by the briber of "illegitimate benefits," bribery of foreign officials or international organizations prohibits securing illegitimate business benefits. In advance of the release of judicial interpretation of what may be "illegitimate business benefits," the current legal understanding of what is "to secure illegitimate benefits" means in other bribery-related crimes may provide a reasonable basis for understanding this amendment.

The law refers to "officials of foreign countries and international public organizations," but does not define these terms. For example, it is not clear whether international public organization includes foreign non-governmental organizations.

As of this Alert, no judicial interpretation or administrative regulations regarding the implementation of this provision has been promulgated. It is not clear whether foreign companies may also be subject to jurisdiction under the PRC Criminal Law with respect to this new amendment. We will continue to closely monitor future development related to this amendment.

Be certain to check the Squire Sanders' [Anticorruption Blog](#) for more information on anticorruption issues. The Anticorruption Blog offers a forum for discussion on developments such as arrests, investigations, settlements, trials and penalties; new anticorruption laws; tricky local customs; and comments and guidance from local governmental agencies and politicians. To learn more about Amendment No. 8 or anticorruption issues in China, please contact your primary Squire Sanders lawyer or one of the lawyers listed in this Alert.

as core standards. Our [Partnering for Worldwide Value®](#) initiative is focused on continuously improving our service delivery to maximize the value of our services to clients. Squire Sanders wholeheartedly endorses the Association of Corporate Counsel's Value Challenge® and encourages and manages development and implementation of processes and tools to continually improve staffing and pricing models, training and resource optimization, knowledge management and more.

Squire Sanders publishes on a number of other topics. To see a list of options and to sign up for a mailing, visit our [subscription page](#).

Beijing • Berlin • Birmingham
Bratislava • Brussels • Budapest
Caracas • Cincinnati • Cleveland
Columbus • Frankfurt • Hong Kong
Houston • Kyiv • Leeds • London
Los Angeles • Madrid • Manchester
Miami • Moscow • New York
Northern Virginia • Palo Alto • Paris
Phoenix • Prague • Rio de Janeiro
San Francisco • Santo Domingo
São Paulo • Shanghai • Tampa
Tokyo • Warsaw • Washington DC
West Palm Beach |
Independent Network Firms:
Beirut • Bogotá • Bucharest
Buenos Aires • La Paz • Lima
Panamá • Riyadh • Santiago

The information in this bulletin was compiled by the China offices of Squire, Sanders & Dempsey.

This newsletter provides free information on the influence of certain aspects of the Chinese legal environment and does not constitute legal advice.

©Squire, Sanders & Dempsey
All Rights Reserved
2011

This email was sent by Squire, Sanders & Dempsey
1500 W. 3rd St., Suite 450, Cleveland, OH 44114, USA

We respect your right to privacy – [view our policy](#)

[Manage My Profile](#) | [One-Click Unsubscribe](#) | [Forward to a Friend](#)

Squire, Sanders & Dempsey refers to an international legal practice which operates worldwide through a number of separate legal entities. Please visit www.ssd.com for more information.