



Corruption of Foreign Public Officials: Facilitation Payment Exception Repeal Now Effective

November 01, 2017

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Global Affairs Canada has just **announced** that the repeal of the facilitation payment exception in the ***Corruption of Foreign Public Officials Act*** (“CFPOA”) is now in effect (as of October 31, 2017). As we previously **discussed**, the exception was actually removed from the CFPOA in 2013, but the effective date of that change was postponed indefinitely.

What are Facilitation Payments?

At a high level, facilitation payments are typically amounts paid to subordinate foreign public officials to expedite routine, non-discretionary decisions. Examples of the types of acts that could be considered routine in this context include:

- Issuing non-discretionary business permits or licences;
- Processing visas or work permits; and
- Providing public utility services (e.g. mail delivery, power and water supply).

What Does the Repeal Mean?

As a result of the repeal, payments to foreign public officials for these types of non-discretionary decisions will no longer be covered by a statutory exception to the CFPOA’s bribery offence. There have been no other amendments or changes to the other provisions of the CFPOA.

How Could This Affect My Business?

Historically, the existence of this exception provided Canadian companies and Canadian nationals with some comfort when interacting with foreign public officials overseas. The repeal of the facilitation payment exception raises compliance issues for Canadian companies operating in foreign jurisdictions. Additionally, the repeal creates an inconsistency between the CFPOA and the U.S. *Foreign Corrupt Practices Act*, as the latter still has an exception for facilitation payments. Canadian companies and Canadian nationals operating abroad need to be aware of this change and should ensure that their compliance policies and training materials are updated to reflect it.

Next Steps

Readers who may be affected by the repeal of the facilitation payment exception are encouraged to read our earlier, more detailed [commentary](#) to better understand how this change could impact their operations and to contact us if further guidance is needed.

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