

# PROTECTION AND COMPLIANCE: LAWYERS' DUAL ROLE - GÓMEZ-ACEBO & POMBO

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## **The criminalisation of fraudulent corporate conduct will oblige companies to seek legal advice regarding the implementation of preventative measures**

In the wake of large-scale accountancy fraud, modifications are planned to Spain's Criminal Code on the regulation of corporate accountancy. These are aimed at stemming financial crimes and tax fraud, explains Carlos Saiz Díaz, Head of Criminal at Gómez-Acebo & Pombo, and creating a new role for law firms as advisers regarding the implementation of preventive and protective measures. The reform also foment's corporate transparency and good management practices in the companies.

"This is good news for Spain's law firms, and also for the health and reputation of the country's businesses and macro economy, as it obliges companies to seek legal advice regarding the creation of internal preventative procedures," he says. "The new regulations, and the existence of such procedures, will subsequently instil confidence in both shareholders and foreign investors." While law firms have traditionally advised on litigation concerning companies accused of financial

manipulation, lawyers are now also advising firms at the preventative stage, counselling on best practices and participating in the design of procedures allowing companies to achieve transparency and, ultimately, avoid a squandering of resources and possible penalisation, which will now include lengthy prison sentences in addition to fines.

With companies obliged to comply with the new anti-corruption and transparency laws, Spain's law firms are now extending their advisory services beyond the private to the public sector, explains Saiz Díaz, to assist in the creation of so-called 'corporate defence' programmes, designed to shield them from any kind of fraudulent practices. With the modifications to the Code including penalisation that goes beyond mere administrative punishment, prevention will become a company's priority in the light of an application of criminal processes against alleged perpetrators of financial fraud. "As well as toughening penalisation, this creates a culture of dissuasion, incentivising transparency and fomenting a clean-up of the economy that will generate greater performance," Saiz Díaz concludes.