Latin America’s Anti-corruption Compliance - Risks and Challenges
Webinar – Thursday, September 10, 2020
Overview
FCPA Judgments and Payments

ENTITY GROUPS AND INDIVIDUALS CHARGED PER YEAR (FCPA CLAIMS ONLY)

- **2010:** SEC 19, DOJ 17
- **2011:** SEC 13, DOJ 12
- **2012:** SEC 9, DOJ 6
- **2013:** SEC 8, DOJ 13
- **2014:** SEC 7, DOJ 7
- **2015:** SEC 9, DOJ 2
- **2016:** SEC 24, DOJ 14
- **2017:** SEC 13, DOJ 21
- **2018:** SEC 14, DOJ 13
- **2019:** SEC 8, DOJ 22

**Legend:**
- Red: ENTITY GROUPS
- Gray: INDIVIDUALS
Compliance with the regulations is very expensive to implement and manage but being noncompliant is even more expensive. Noncompliance potentially means regulatory authority action, financial loss, and damage to our reputation & brand.

“If you think compliance is expensive – try non-compliance.”

Former U.S. Deputy Attorney General Paul McNulty
Global Settlements
Global Cooperation

1 | 2020
Airbus SE
$582 million US Sanctions
$3.9 billion Global Sanctions

2 | 2016
Odebrecht SA
$253 million US Sanctions
$3,558 million Global Sanctions

3 | 2017
Telia Company AB
$483 million US Sanctions
$966 million Global Sanctions

4 | 2018
Societe Generale SA
$568 million US Sanctions
$861 million Global Sanctions

5 | 2019
Mobile Telesystems PJSC
$850 million US Sanctions
$850 million Global Sanctions

6 | 2008
Siemens Aktiengesellschaft
$800 million US Sanctions
$800 million Global Sanctions

7 | 2016
VimpelCom Ltd.
$398 million US Sanctions
$795 million Global Sanctions

8 | 2014
Alstom SA
$772 million US Sanctions
$824 million Global Sanctions

9 | 2009
Halliburton Co.
$579 million US Sanctions
$632 million Global Sanctions

10 | 2016
Teva Pharmaceutical Industries Ltd
$519 million US Sanctions
$541 million Global Sanctions

11 | 2017
SBM Offshore NV
$238 million US Sanctions
$478 million Global Sanctions

12 | 2017
Keppel Corp.
$106 million US Sanctions
$422 million Global Sanctions
Overview of corruption in Latin America

Transparency International - Corruption Perception Index 2019

Latin America:
- 21 Countries Listed
- Average CPI ➞ 37
- CPI Range ➞ 16 - 71
- Highest Ranked Country ➞ Uruguay (ranked 21 of 180)
- Lowest Ranked Country ➞ Venezuela (ranked 173 of 180)

#cpi2019
www.transparency.org/cpi
Corruption risks and challenges in Latin America

Taking in consideration of the overview – what is your view regarding the level of corruption in LATAM and what would be an effective indicator method to be adopted in Latin America (for example the CPI score)?

Major corruption risks – What are your main concerns?
Latin America – Bribery and Corruption scheme analysis

Analyzed corruption settlements with companies investigated for potential FCPA violations related to their activities in Latin America from the last 20 years (2000 –2019).

16 Countries
52 Companies
23 Industries

82 Country specific cases
16 Unique bribery schemes
Foreign Corrupt Practices Act (FCPA)


What does it prohibit?
- Giving anything of value
- To foreign government officials, candidates for political office or parties
- Corruptly
- To obtain or retain business or secure an improper advantage

Issuers
- Requires corporations to make and keep books and records that accurately and fairly reflect its transactions
- Requires companies to devise and maintain an adequate system of internal accounting controls

Foreign Government Officials
- Although not subject to the FCPA, they are usually prosecuted in the US and abroad under money laundering charges
Corruption Schemes in Latin America

82% of cases involved third parties

Primary Schemes

1. 74% Payments through business partners
2. 45% Gifts, Travel, Donations and Entertainment
3. 43% Treasury Schemes
4. 15% Fictitious Vendors and Invoices
5. 11% Over-invoicing/kickbacks to Govt. Officials or Family Members
6. 6% Free Services and Products
7. 6% Payroll

Source: Last 20 years FCPA settlements involving LATAM
New Compliance Trends

1. What governments and companies are doing to address these risks and challenges in LATAM?

2. Let’s talk about new initiatives adopted by your organization. Have you seen any shift in priorities to address the risks and challenges in LATAM?

3. Resources for companies?
How are you enhancing your compliance control environment to avoid potential corrupt practices and minimize other compliance risks

Technology has changed the way business is conducted around the world, including Latin America.

Latin American countries have been experiencing important technology growth and more companies operating in the region are taking advantage of technology.

Latin American companies, are opting to use advanced analytics, such as machine learning and artificial intelligence, for their day to day operations.

69%

Of companies are failing to use proactive detection as part of their control environment.

PwC’s 2018 Global Economic Crime and Fraud Survey
How is the Covid-19 pandemic affecting compliance efforts?

1. Can it really be compliance as usual? How to preserve a culture of compliance even during the pandemic Covid-19?

2. Areas of increased risk? Are governments investigating fraud and corruption under COVID?

3. Are there areas where you see less risk?

4. We have been living with the pandemic for almost 6 months, what did you learn from it? What would you do differently if you could get back in time?

5. Are we permanently changing the way that we do business? What changes are feasible and positive to be maintained in the future?