

# *Dancing with Danger*

**How to Respond to the Changing Risk Environment in Latin America**

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## *Dancing with Danger*

### DISCLAIMER:

The contents of this session were prepared by its presenters in their personal capacity. The views and opinions expressed in this presentation are those of the speakers and do not necessarily reflect the official position of their employers.

COMPLIANCE & ETHICS INSTITUTE 2018  Las Vegas

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### Agenda

Argentina, Colombia, and Mexico: Gain insight into recent corruption headlines and their impact on local anti-corruption laws and the overall culture of compliance.

Due Diligence: What you need to know about your business partners and the significance of due diligence in risk management.

2018 SOCE Summit, Argentina, Colombia, and Mexico and the impact on governance. Increasing collaboration with American authorities. What you need to know about the regulatory landscape.

COMPLIANCE & ETHICS INSTITUTE

2018 SOCE Summit Las Vegas

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BREAKING NEWS

ALERT

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### Corruption Risks in Brazil, Argentina, Colombia, and Mexico:

Gain insight into recent corruption headlines and their impact on local anti-corruption laws and the overall culture of compliance.



BREAKING NEWS

LIVE

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## Argentina – Latest News

### ● Investigation into President Mauricio Macri:

- ◆ Money laundering and conflict of interest investigations related to Mr. Macri's family extensive business holdings.



### ● Investigation into Former President Cristina Kirchner:

- ◆ 2 indictments since leaving office includes charges of money laundering and corruption;
- ◆ Former vice-president Amado Boudou and former planning minister arrested for illicit enrichment.

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## Argentina – Recent Anti-Corruption Legislation & Initiatives

### ● New Anti-Corruption legislation went into force in March, 2018:

- ◆ Crimes such as bribery, extortion, or illicit enrichment of public officials that are committed, directly or indirectly, in their name, interest, or benefit;
- ◆ Establishes criminal liability for companies doing business in Argentina;
- ◆ Imposes successor liability;
- ◆ Punishment for violating the law may result in one or a combination of criminal fines, suspension of state benefits, debarment, and dissolution;
- ◆ Exemption of penalties and administrative responsibility : proper internal investigation and existence of a compliance program prior and returned the benefit that was wrongfully obtained.



### ● Dedicated Secretary for Public Ethics, Transparency and Fight for Corruption.

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## Brazil – Latest News

### ■ LAVA JATO ("CAR WASH") IN NUMBERS...

2.476 judicial proceeding installed

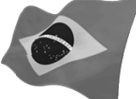
236 arrest warranties

More than 300 people charged

211 convictions against 139 people

Active cooperation request with 45 countries

Approximately US\$ 1.6 billions of bribes paid




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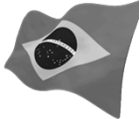
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## Brazil – Latest News

### ● Operation Car Wash:

➤ Charges includes, corruption, money laundering, drug trafficking etc.;

➤ Former President Luiz Inácio Lula da Silva was convicted for corruption and money laundering charges and in April 2018, he was ordered to turn himself in and began serving his 12-year prison sentence.




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## Brazil – Latest News

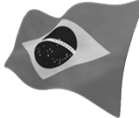
UNBELIEVABLE !

**Extra!**  
**Extra!**

Compliance News

### ● Operation Zelotes:

- ◆ Multi-year investigation into Brazil's Administrative Board of Tax Appeals;
- ◆ Tax evasion scheme of nearly BRL 19 billion;
- ◆ Government officials being investigation for misappropriating public funds;
- ◆ Over 22 public servants involved.




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## Brazil – Recent Anti-Corruption Legislation & Initiatives

### ● Brazil's Clean Company Act 2014.

### ● State regulations:

- ◆ Some States passed a state law requiring companies contracting with the state to have compliance programs;
- ◆ Several states working on similar projects as well as the Federal Government.

### ● Under discussion: Ten Measures Against Corruption.




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### Colombia – Latest News

#### ● Fonade Scandal (2018):

- ◆ Corruption network in Colombia's Financial Development Fund;
- ◆ Irregularities in the bidding process for a Housing Program that benefitted a senator and house representative. 6 people admitted the wrongdoing.

#### ● Reficar Oil Refinery (2017):

- ◆ American Engineering firm Chicago, Bridge & Iron Company ("CB&I") executive charged with corruption in connection with Colombian oil refinery Reficar, a state owned company. Reficar directed contracts to CB&I with following public bidding requirements and there were irregularities in several payments made to CB&I.



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### Colombia – Latest News

#### ● Luis Gustavo Moreno (2017).

- ◆ Former anti-corruption chief charged and arrested for receiving bribes in return to intervening with investigations into a former governor. After his arrest he collaborated with authorities to shed a light in massive corruption scandals in the judicial and congressional branch.



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### Colombia – Recent Anti-Corruption legislation & Initiatives

#### ● Transnational Corruption Act ("TCA") implemented in 2016.

#### ● Additional measures announced by President Juan Manuel Santos in 2017:

- ◆ Labor protection and whistleblower incentives;
- ◆ Create group of judges who specialize in corruption;
- ◆ Require lobbyist to disclose meeting with government officials.



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### Mexico – Latest news

- Pemex :

- ◆ 8 administrative proceedings in connection with contract irregularities involving Odebrecht;
- ◆ Pemex history of corruption allegations;
- ◆ Former senior executive stated that corruption is imbedded in the company's culture.



- Alejandro Gutierrez (Former Deputy Mr. Pena Nieto):

- ◆ Illegal use of public money to fuel his party's campaigns in Mexican elections in 2016;
- ◆ Favorable contract to President Mr. Pena Nieto's wife;
- ◆ 300 public servants from at least 41 government agencies are currently under investigation for corruption.

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### Mexico – Recent Anti-corruption Legislation & Initiatives

- National Anti-Corruption System implemented in 2016;

- Mexico's new General Law of Administrative Responsibility ("GLAR") took effect on July 19, 2017;

- In October 2017, Santiago Nieto was fired from his post as Special Prosecutor for Electoral Crimes, Nieto claimed that his firing was politically motivated to halt his investigation into whether funds solicited by Emilio Lozoya Austin—CEO of PEMEX—were used to finance President Enrique Peña Nieto's 2012 campaign;



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### Mexico – Recent Anti-corruption Legislation & Initiatives

- In April, Mexico issued administrative sanctions against Odebrecht, barring the company from doing business in the country for at least two years and three months. The Mexican government also has fined Odebrecht \$30 million.



- In May, 2018, Mexican government published new requirements for companies wishing to contract with Petroleos Mexicanos ("PEMEX"). The new rules require parties contracting with PEMEX to have compliance programs designed to prevent and detect any instances of corruption.

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### People's perspective in corruption



- The majority of the people in Latin American believe the corruption has increased in their country.
- After the Police, Elected representatives and government are the most corrupt institution in society.
- Society is becoming more outspoken against corruption.

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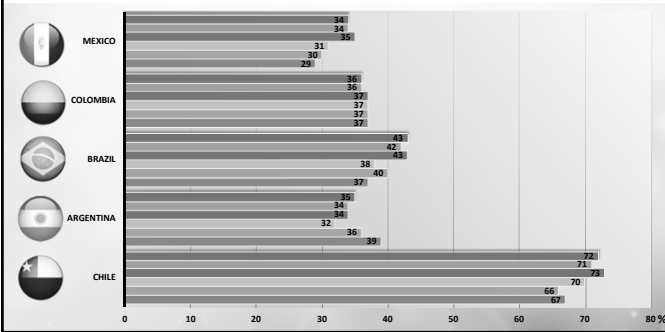
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### Culture impact – Transparency International Study




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### How confident is the business community in the laws and judicial system?

A 2016 survey from Miller Chevalier discussed business community perception on effectiveness of the laws and judicial system.

*Do you believe that an offender in prosecution for corruption will be punished?*

Country	2016	2012
Argentina	53%	54%
Brazil	90%	75%
Colombia	63%	81%
Mexico	28%	40%

*Do you believe anti-corruption laws are effective in your country?*

Country	2016	2012
Argentina	3%	12%
Brazil	26%	17%
Colombia	17%	29%
Mexico	8%	16%

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Understanding Local Nuances:  
What you need to know about your third parties in the region and the significance of due diligence in identifying and mitigating risks.

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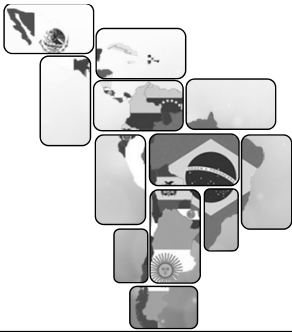
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### Doing business in Latin America



- \* It's a complex exercise – mostly for Compliance professionals.
  - ◊ Massive land size and population;
  - ◊ 24 nations with different cultures;
  - ◊ Different languages: Portuguese, Spanish, English and French.
- \* And...
  - ◊ High corrupt environment!!!!

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### What are the factors that supports the corrupt environment ?

While it is impossible to make sweeping generalization of corruption risks in Latin America, it's helpful to be alert to certain risk themes.

#### **DESCENTRALIZED POWER :**

- ✓ Companies are required to seek a number of approvals from several different government agencies (federal, state and local) to sign off on a license;
- ✓ The more government actors who are involved in a regulatory process, the more places where bribe requests payments can occur.
- ✓ The procedures are time-consuming , bureaucratic, complicated and expensive;
- ✓ Given these issues, some companies/individuals might feel pressure to pay bribes to pass inspections and obtain approvals. It's not rare to face situations where the inspector asks for a bribe in order to give the permit or otherwise he/she will create more difficulties.

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### What are the factors that supports the corrupt environment ?

#### **PUBLIC PROCUREMENT**

- ✓ Throughout Latin America, except for very few specific situations, governments can only purchase goods and contract services through public biddings designed to ensure equal conditions for all bidders. Such procedures usually have strict and formal rules.

**Case #1** - Eli Lilly paid US\$ 29 million in penalties for bribes paid by company's Brazilian Distributor to win local local government contracts.

**Case #2** - BizJet paid US\$ 11.8 million in penalties in connection with bribes paid to Mexican, Panamanian and Brazilian officials to obtain aircraft maintenance services, including for the Mexican presidential fleet.

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### What are the factors that supports the corrupt environment ?

#### **REGULATORY SYSTEMS**

- ◇ Latin American regulatory regimes are often found to be vague, overlapping, or enforced by multiple government agencies.
- ◇ Regulatory quality and corruption risk are directly linked: the more ambiguity in the law, the more opportunity there is for corruption to occur.
- ◇ Ambiguity and complexity create the potential for authorities to use discretion in decision making, creating greater opportunity for manipulation which can form the basis for corrupt acts.

**Case #3** - The FCPA investigation over Wal-Mart in Mexico targeted alleged payments the company made to obtain local licenses (zoning, environmental and others) in order to build its stores.

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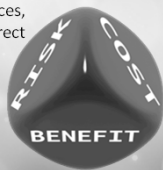
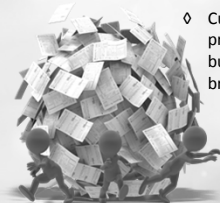
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### What are the factors that supports the corrupt environment ?

#### **CUSTOMS CLEARANCE**

- ◇ Understaffed ports lead to paperwork and decision bottlenecks, creating incentives for some companies to provide favors to officials to skip lines;
- ◇ Companies with perishable goods, in particular, might feel pressured to give into official's demands to not lose their product while awaiting customs clearance;
  - ◇ Customs brokers with expertise in specific procedures can be valuable resources, but they also can create risk of indirect bribes.



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What are the factors that supports the corrupt environment ?

**CUSTOMS CLEARANCE**

**Case #4** - Ralph Lauren Corporation's FCPA action was based on the company's acceptance of responsibility for bribes paid by its agents to customs officials in Argentina over the span of five years, in order to obtain paperwork for customs clearance, permit clearance without necessary paperwork and also permit clearance for prohibited items. The broker submitted invoices to the company with false line items to disguise the bribe payment.

U.S. authorities found that Ralph Lauren failed to conduct proper due diligence on the customs broker. Settlement amount \$1.6 million.

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What are the factors that supports the corrupt environment ?

**GIFTS, HOSPITALITY AND ENTERTAINMENT**

- ✓ In most countries in Latin America, business is often conducted in social settings, and thus developing personal relationship is key. Paying for lunch or tickets to a sporting event might be a basic expectation...but what happens when the recipient is a public official?



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What are the factors that supports the corrupt environment ?

**GIFTS, HOSPITALITY AND ENTERTAINMENT**

- ✓ FCPA – “reasonable and bona fide” expenditures involving foreign officials, “such as travel and lodging expenses” are acceptable, as long as they are “directly related” to “the promotion, demonstration, or explanation of the products or services; or execution or performance of a contract with a foreign government or agency thereof”.
- ✓ Even though, FCPA has room for gifts, hospitality and entertainment, these practices are high risk and should be conducted with great care and attention to compliance.

**Case #5** - Dallas Airmotive paid US\$ 14 million in penalties after the company, among other things, treated a sergeant in the Brazilian Air Force and his wife to a paid vacation.

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### What are the factors that supports the corrupt environment ?

#### GIFTS, HOSPITALITY AND ENTERTAINMENT

Besides, it's important to verify local laws in what regards gifts, hospitality and entertainment, since they might have prohibitions and also some threshold.

Even when allowed by local laws, it's important to confirm the following:

- ◊ Does the company have a clear policy stating rules for gift, hospitality and entertainment?
- ◊ What is the intent?
- ◊ Is there a legitimate business reason for the activity or is it a qui pro quo?
- ◊ Is the activity transparent?



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### What are the factors that supports the corrupt environment ?

#### GIFTS, HOSPITALITY AND ENTERTAINMENT

- ◊ Is the activity adequately reviewed, approved, recorded and tracked?
- ◊ Are all facts and circumstances considered in the review?

**Note:** Usually KOL from different industries, but mostly doctors, are deemed as public officials since they might work as teachers or researchers at public Universities, what requires a greater scrutiny when providing gifts, hospitality and entertainment.



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### What are the factors that supports the corrupt environment ?

#### FACILITATION PAYMENTS

- ◊ There are some circumstances in which these types of payments can be legally permissible under FCPA → payment is done to expedite or secure a "routine government action" and the official action must be non-discretionary.

#### **Attention:**

- ◊ No statutory value limit does not justify significant payments;
- ◊ Local laws may not allow facilitating payment. In Brazil, for example, such payments can subject companies to civil and administrative liability, and can subject individuals to imprisonment of up to 12 years;
- ◊ U.K. Bribery act prohibits facilitating payments

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## What are the factors that supports the corrupt environment ?

### FAMILY OWNED BUSINESS

- ◊ In 2014, E&Y conducted a study which concluded that 85% of the companies in Latin America are family-owned, generating 60% of Latin America's GDP;
- ◊ The prevalence of family ownership is highly relevant to managing corruption risk. Frequently, foreigners investing in the region will find themselves partnering with homegrown companies that lack common accounting standards, corporate governance transparency or basic internal controls;
- ◊ In particular, companies can be liable for corrupt acts of the companies they purchase.



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## Major Concern: Third Parties

- ◊ An important component of anti-corruption compliance in Latin America is managing the risk of indirect bribery payments.
- ◊ Since 1990s, the majority of FCPA actions involving bribery in Latin America included the participation of third parties.
  - ✓ Argentina – 75%
  - ✓ Brazil - 60%
  - ✓ Mexico – 65%
- ◊ There are some red flags that are not intuitive for U.S. compliance practitioners.



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## Major Concern: Third Parties

- ◊ Despite of the high risk involved, it's a big challenge to avoid the use of third parties when doing business in Latin America:
  - ✓ Due to complex nature of regulatory regimes in Latin America, companies are forced to seek a third party's expertise;
  - ✓ In some cases, legal systems require the use of third party, for instance, customs brokers in Mexico ("gestor");
  - ✓ Interpersonal relationship are sometimes essential to the business: opens the door to viable sales channel in a country.



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### Third party due diligence



Without proper vetting and controls, use of these types of third parties creates risk that they will make improper payments on a company's behalf.

However, proper anti-corruption due diligence investigation in Latin America is not a straightforward exercise.

It is required a lot of contextualization, which, in turn, requires a deep knowledge of the local players, politics and industry dynamics at play in a given jurisdiction. Consulting legal counsel to gain a clearer understanding about the results of due diligence, it's extremely recommendable.

Here are some common issues that requires a deeper look...

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### Third party due diligence

#### RELATIONSHIPS

- ◊ Does the target company (or its executives) have significant relationships with government officials?
- ◊ Is there a "revolving door" dynamic where high-level executives in the industry tend to be former government officials?

Here, one must go beyond the potentially limited and inconsistent definitions of a "politically exposed person" (PEP) and the more "traditional" methods of searching for such information. For example, in some jurisdictions, there are databases of public employees and it can be extremely useful to mine public data found in, say, an executive's social media accounts in order to establish any connections with current or former government officials.

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### Third party due diligence

#### LOCAL RECORDS

Any due diligence in Latin America should involve a thorough investigation of the subject in locally available open sources.

- ◊ Has the subject been party to civil, administrative, labor, tax or other legal proceedings?
- ◊ If the subject is a company in a regulated or licensed industry what is the status of its license and/or has it had any issues with the relevant regulator?

A search of more "traditional" sanctions databases may provide information on whether the target of your due diligence has been sanctioned by a global body or a regulator in say, the United States; it may not necessarily yield a result of the company in question has been fined or even banned from public contracting in Mexico or Brazil, for example.

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### Third party due diligence

#### PAST NEGOTIATIONS WITH THE GOVERNMENT

◊ Has the subject company in your anti-corruption due diligence been awarded a significant amount of government contracts? If so, what were those contracts for?



◊ Do the prices seem reasonable compared with the local market? What is the payment structure?

◊ When were the contracts awarded and is there a pattern (for example, if a company begins receiving significant government contracts during a particular government, this may indicate it has a relationship with officials in that government or in the ruling political party)?

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### Third party due diligence

#### PAST NEGOTIATIONS WITH THE GOVERNMENT

◊ What sort of contracts is the company awarded (for instance, are they no-bid contracts and, if so, how common is this practice in that jurisdiction)?

◊ Are there any data on the subject's contract compliance rate and how does it compare with other providers for that agency (for instance, the company may deliver the products as requested on 50% of its procurement contracts but this rate may be high compared to other contractors)?

◊ Has the company ever had issues involving its status as a government provider (e.g. revocation of status, competitor complaints involving its tender offers, etc.)?

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### Third party due diligence

#### REPUTATION

The target's reputation in the local market is also important to understand:

- ◊ Does it have a reputation for obtaining lucrative government contracts?
- ◊ How is it viewed by its competitors, clients, and providers?
- ◊ What about regulators or industry leaders?

Ideally, this sort of reputational assessment combines a thorough review of open sources (including media, blogs, consumer protection bodies etc.) and confidential inquiries with key individuals in the particular jurisdiction(s).



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### Additional steps in mitigating the risks



- ✓ Request the third party to complete a risk-based questionnaire about its beneficial ownership, license, registration status, history of unlawful activity, business activities etc.;
- ✓ Request references from the third party's customers and business associates;
- ✓ Online searches: international and local denied party lists, sanctions screening, enforcement actions, adverse news – consider the language and key words;
- ✓ Interviews with third party personnel to understand risk profile and include questions about financial controls, company policies, procurement process;

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### Additional steps in mitigating the risks

- ✓ Establish and document the reasonableness of third party's fees structure based on market rates. No cash payments clause in the contracts, and in higher risk situations avoid success fees;
- ✓ Execute a written contract with the third party that describes in detail the specific services it will provide, as well as its acceptance to adopt company's compliance policies.



- ✓ Require periodic reviews of third party's books and records;
- ✓ Ongoing monitoring based on the risk profile of each third party;

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### Additional steps in mitigating the risks

- ✓ Require prior notice for the third party's contact with government officials as well as minutes meeting;
- ✓ Conduct compliance training of relevant third-party personnel;
- ✓ Document the business justification for use of each third party;
- ✓ Use of subcontractors and subagents only with Company's prior approval (and proper due diligence);
- ✓ Termination: there must be a clear provision specifying that a company can immediately terminate an agreement, at company's sole discretion if it has reason to believe the third party violated anti-corruption laws.




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**Compliance trends in Brazil, Argentina, Colombia, and Mexico and their impact to corporate governance. Increasing collaboration between US and Latin American authorities. What you need to know to navigate the global regulatory landscape.**

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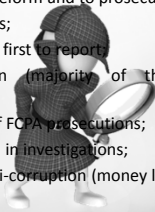
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### Anti-Corruption Reform Across Latin America

#### Common Trends Among Reforming Countries:

- Strong public pressure to reform and to prosecute;
- Stronger investigation tools;
- Credits for self-reporting – first to report;
- Whistleblower protection (majority of the countries does not set remuneration);
- Follow-on investigations of FCPA prosecutions;
- Cross-border collaboration in investigations;
- Use of laws other than anti-corruption (money laundering, organized crime);



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### International Enforcement and Global Coordination

- Foreign jurisdictions are expanding their enforcement capabilities and laws/regulations.
- Will likely result in voluntary disclosures, based on joint efforts and evidence of misconduct being collected.
- Potential for US sharing information with foreign partners to conduct additional investigations/prosecutions.
- Non-US anti-bribery enforcement activity has doubled over last few years.
- Almost 90% of all FCPA actions identified involved the use of third party intermediaries.
- Companies are being forced to view compliance requirements from a global perspective.
- Anti-bribery enforcement actions are highest in China, Peru, Poland, Ukraine, Russia, and Brazil.

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Multinational Anti-Corruption Enforcement Actions – 2016 & 2017				
Company	Total Resolution	U.S. Portion	Other Countries Involved – Payments	
Keppel Offshore & Marine (Dec. 2017)	\$ 422,216,980	\$ 105,554,245 (DOJ)	Brazil (Federal Prosecution Office) Singapore (Atty. Gen.'s Chambers)	\$ 211,108,490 \$ 105,554,245
SBM Offshore (Nov. 2017)	\$ 820,000,000	\$ 238,000,000 (DOJ)	Brazil (Federal Prosecution Office) Netherlands (Openbaar Ministerie)	\$ 342,000,000 \$ 240,000,000
Telia (Sep. 2017)	\$ 965,773,949	\$ 483,273,949 (DOJ / SEC)	Netherlands (Openbaar Ministerie) Sweden (Åklagarmyndigheten)	\$ 274,000,000 \$ 208,500,000
Rolls-Royce (Jan. 2017)	\$ 800,305,272	\$ 169,917,710 (DOJ)	Brazil (Federal Prosecution Office) United Kingdom (Serious Fraud Office)	\$ 25,579,170 \$ 604,808,392
Odebrecht & Braskem (Dec. 2016)	\$ 3,557,625,337	\$ 252,893,801 (DOJ / SEC)	Switzerland (Swiss Attorney General) Brazil (Federal Prosecution Office)	\$ 210,893,801 \$ 3,093,837,736
Embraer (Oct. 2016)	\$ 205,000,000	\$ 185,000,000 (DOJ / SEC)	Brazil (Federal Prosecution Office) Brazil (Securities & Exchange Comm.)	\$ 19,300,000 \$ 1,800,000
GlaxoSmithKline (Sep. 2016)	\$ 509,000,000	\$ 20,000,000 (SEC)	China (Changsha People's Court)	\$ 489,000,000
VimpelCom (Feb. 2016)	\$ 795,300,000	\$ 397,600,000 (DOJ / SEC)	Netherlands (Openbaar Ministerie)	\$ 397,500,000

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### Anti-Corruption Trends Globally

- Seeking extraditions of suspects and the recovery of assets;
- Altering public perception of bribery and corruption;
- Defining and educating the public and corporations in regards to compliance program requirements;
- Conducting thorough and aggressive investigations and regulatory reviews;
- Increased punishment of offenders.



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### Compliance Trends: Challenges with Anti-Bribery and Corruption Programs

- 93 percent of all risk and compliance professionals surveyed expect their organization's risk to stay the same or rise in 2018;
- Third parties and general reputational concerns continue to be top sources of risk ... but increased enforcement of existing regulations is the number-one reason respondents expect greater ABC-related risks in 2018;
- 58 percent of respondents uncovered legal, ethical, or compliance issues with a third party after initial due diligence. Most often, organizations' due diligence practices—such as ongoing and active monitoring—are responsible for bringing these issues to light. However, in a growing number of cases, third parties are self-disclosing.



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### Compliance Trends: Challenges with Anti-Bribery and Corruption Programs

Q: What do you perceive to be the top risk to your anti-bribery and corruption program in 2018




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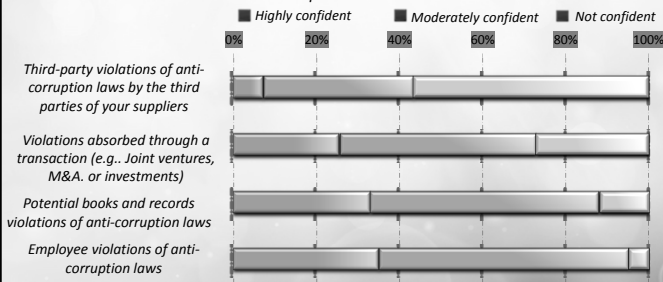
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### Compliance Trends: Ongoing Third Party Risk

Q: How confident are you in your organization's ability to catch each of the following types of anti-corruption violations?




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### Compliance Trends: Challenges with Beneficial Ownership

- The most notable year-over-year change in survey responses was the increased concern over opaque ownership structures, which rose this year to become the third most common reason why third parties are failing to meet an organization's standards.
- However, current mitigation efforts have not translated into confidence for compliance teams: less than a quarter of respondents reported that they are very comfortable with their ability to effectively address the risks associated with beneficial ownership




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### Compliance Trends: Challenges with Beneficial Ownership

REASON	2018 OVERALL RANK	2017 OVERALL RANK
General reputational or integrity concerns	1	1
Conflict of interest	2	2
Opaque or suspect corporate structures	3	5
Questionable relationship with politically exposed persons	4	3
Unusual contract and payment structures	5	4
Clear-cut evidence of bribes in previous business dealings	6	6
Known dealings with sanctioned entities	7	7

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### Compliance Trends: Monitoring and Data Refresh

- A baseline regulatory expectation, ongoing **monitoring demonstrates its value in uncovering risks that did not exist or were hidden at onboarding, according to 50 percent and 28 percent, respectively, of survey respondents.**
- In order to ensure a third party's risk profile has not fundamentally changed, **ongoing monitoring in conjunction with regular data refresh is increasingly a factor in risk mitigation and defense.**




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### Compliance Trends: Monitoring and Data Refresh

Q: - Why do you think you experience legal, ethical, or compliance issues with a third party after due diligence had been conducted?

PERCENT	VALUE
45%	Issues or risks did not exist the time of onboarding
29%	Third party coealed issues upfront
27%	Due diligence assessment did not return risk-relevant information
20%	Issues identified at the time of onboarding were not adequately addressed
16%	Issues or risks occurred at a level in our supply chain that was not part of our standard due diligence program
14%	Initial risk categorization or risk scoring of the third party was incorrect (and therefore an improper due diligence scope was selected)

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## Compliance Trends: Monitoring and Data Refresh

Q: - When is the last time you conducted a complete refresh of your third-party universe?

A refresh could include re-running third-party questionnaires and/or refreshing third-party data and due diligence that would normally be part to the onboarding process.

Percent	Value
22%	Between one five years ago
17%	Whitin the last six months
15%	Never, we only collect data at time of onboarding
14%	Six months too ne year ago
12%	Ongoing our data is refreshed through the monitoring process
12%	Ad hoc, we revisit third-party data based on perceived risk
4%	Other
3%	More than five years ago

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## FCPA Challenges

- The illicit activity conducted is neither publicized nor conducted openly by nature;
- The activity occurs in a remote and/or distanced location from where a compliance officer may be located;
- The desire and intent of those involved may be compelling to conduct the illicit activity;
- The results of the illicit activity and those involved may be extremely lucrative and exceed their financial expectations.

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