

FCPA Update

A Global Anti-Corruption Newsletter



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New Prosecution Continues DOJ's Trend of Pursuing Foreign Individuals for Alleged FCPA-Related Misconduct Involving Latin America

The Biden administration has made clear that the U.S. government is ramping up the fight against global corruption and, in particular, violations of the Foreign Corrupt Practices Act.¹ To date, the Department of Justice and the U.S. Securities and Exchange Commission have announced relatively few corporate FCPA resolutions, but DOJ has been actively pursuing cases against individuals.

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1. See Debevoise & Plimpton LLP, "President Biden Declares the Fight Against Corruption a National Security Priority and Directs Federal Agencies To Enhance Enforcement" (June 7, 2021) <https://www.debevoise.com/insights/publications/2021/06/president-biden-declares-the-fight> (discussing the White House's elevation of the fight against corruption as a national security priority). See also, e.g., Clara Hudson, "FCPA Enforcement is 'In An Entirely New' Place, Says Acting Criminal Division Chief," *Global Investigations Review* (June 2, 2021), <https://globalinvestigationsreview.com/just-anti-corruption/fcpa/fcpa-enforcement-in-entirely-new-place-says-acting-criminal-division-chief> (discussing recent public remarks by high-level DOJ officials who have stressed that the Department has "upped [its] detection" abilities and is taking steps to "identify and investigate potential FCPA violations proactively").

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Recently, DOJ announced the indictment and arrest in South Florida of a Syrian national with permanent U.S. residence for allegedly participating in a scheme to bribe Venezuelan government officials. The case against Naman Wakil continues DOJ's recent trend of pursuing cases against individual defendants on FCPA and related charges, even in the absence of a related corporate resolution. The case also highlights a number of characteristics that have been common to many anti-corruption prosecutions and investigations in recent years: efforts to hold individual violators accountable, including non-U.S. citizens; a continued focus on Venezuela and other countries in Latin America; the increasingly prevalent role of the U.S. Attorney's Office for the Southern District of Florida ("SDFL") in bringing such cases; and the frequent use of money laundering charges in these prosecutions.

The Charges

On August 4, 2021, DOJ's Fraud Section and the SDFL announced the arrest of Wakil on charges of conspiring to violate the FCPA, violating the FCPA, conspiring to commit money laundering, committing money laundering, and engaging in transactions involving property derived from criminal activity.²

DOJ accused Wakil and his co-conspirators of paying millions of dollars in bribes to Venezuelan government officials between 2010 and 2017. In return, Wakil allegedly obtained at least \$250 million in contracts to (a) sell food to Corporación de Abastecimiento y Servicios Agrícola ("CASA"), a Venezuelan state-owned entity responsible for purchasing food; and (b) do business with certain joint ventures involving Venezuelan state-owned energy company Petróleos de Venezuela S.A. ("PDVSA").

According to the indictment, in connection with the CASA scheme, Wakil transferred approximately \$750,000 in bribes from the Cayman Islands to a U.S. bank account for the benefit of a Venezuelan government official in mid-to-late 2010 and another \$ 11 million to a Swiss bank account controlled by one of his co-conspirators for the benefit of a second Venezuelan government official between 2012 and 2014 – in both cases using false invoices to conceal and disguise the payments as legitimate. As to the joint ventures involving PDVSA, the indictment alleges that Wakil caused the transfer of \$225,000 to a U.S. bank account for the benefit of a third Venezuelan government official in 2015, and transferred ownership of a \$300,000 property in Miami to an entity linked to a fourth Venezuelan

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2. See U.S. Dep't of Justice, "Executive Arrested and Charged for Bribery and Money-Laundering Scheme" (Aug. 4, 2021), <https://www.justice.gov/opa/pr/executive-arrested-and-charged-bribery-and-money-laundering-scheme>; U.S. Atty's Office for the Southern District of Florida, "Coconut Grove Resident Charged in Multi-Million Dollar Venezuelan Bribery and Money Laundering Scheme" (Aug. 4, 2021), <https://www.justice.gov/usao-sdfl/pr/coconut-grove-resident-charged-multi-million-dollar-venezuelan-bribery-and-money>.

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government official in 2017. Wakil is also charged with money laundering in connection with this alleged bribery scheme for, among other things, using millions of dollars transferred to personal U.S. bank accounts under his name to purchase several apartment units in Florida, a plane, and a yacht.

Recurring Characteristics of Recent FCPA Cases

The case against Wakil shares several of the recurring characteristics we have seen in recent FCPA actions against individuals, particularly in the PDVSA-related cases.

First, Wakil's prosecution highlights DOJ's expansive application of the FCPA. In particular, the fact that Wakil is a Syrian citizen and part of the relevant conduct took place in Venezuela did not insulate him from DOJ's charges. Because Wakil is a legal permanent resident in the United States, DOJ considered him a "domestic concern" under the FCPA and charged him with willfully and corruptly making use of the mails and means and instrumentalities of interstate commerce to conspire to and effectively bribe PDVSA officials. Title 15, U.S.C., Section 78dd-2. DOJ's traditional position is that making a phone call or sending an email or text message to, from, or through the United States, sending a wire transfer to or from a U.S. bank

“The case against Naman Wakil continues DOJ’s recent trend of pursuing cases against individual defendants on FCPA and related charges, even in the absence of a related corporate resolution.”

or otherwise relying on the U.S. banking system, or travelling internationally to or from the United States all implicate interstate commerce. DOJ also takes the view that domestic concerns as Wakil may be prosecuted for FCPA violations even when they take action outside the United States. In addition, and independently of Wakil's status as a legal resident, DOJ also charged him with willfully and corruptly making use of the mails and means and instrumentalities of interstate commerce to conspire to bribe PDVSA officials "while in the territory of the United States." Title 15, U.S.C., Section 78dd-3. DOJ often invokes this concept to prosecute non-U.S. companies and individuals for alleged misconduct and has at times interpreted it so broadly as to prosecute defendants who had not taken any physical action on U.S. soil.

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The same provisions of the FCPA are also used to support DOJ's money laundering-related charges. While DOJ's expansive positions are, of course, subject to potential legal challenges, Wakil's prosecution is a reminder of DOJ's prosecutorial long-arm.

Second, as with other PDVSA-related actions, thus far DOJ has not launched an associated corporate prosecution. This is unusual for FCPA cases generally, but common for the string of PDVSA-related cases that DOJ has brought over the course of the last few years, including against businessmen, former PDVSA officials, a contractor, and a lawyer linked to Venezuela's Ministry of Oil, to name a few examples.

Third, on top of FCPA charges, DOJ charged Wakil with substantive money laundering offenses – more specifically, international promotional money laundering and engaging in transactions in criminally derived property. It has become increasingly common in corruption-related cases for DOJ to charge individuals and companies with money laundering and other charges in addition to or in lieu of FCPA charges. Money laundering offenses allow DOJ to prosecute foreign government officials who allegedly received bribe payments even when DOJ cannot satisfy the FCPA-specific jurisdictional or evidentiary hurdles. Further, money laundering charges can also carry more severe punishment and thus provide prosecutors with greater leverage to foster cooperation. Further, because money laundering charges are predicated on underlying violations of “specified unlawful activity,” their reach can extend to violations of non-U.S. bribery laws. Here, DOJ's money laundering charges are predicated on alleged breaches of both the FCPA and Venezuelan law.

Fourth, Wakil's prosecution is one of dozens of corruption-related prosecutions in recent years involving Latin America, demonstrating that the region remains at the forefront of the U.S. government's efforts. While much of the Latin America-related U.S. anti-corruption efforts have focused on Brazil, cases involving various other countries, including Mexico, Bolivia, Ecuador, and Venezuela have become more prevalent.³ This reflects, in part, concerted U.S. efforts, including the creation in 2019 of an FBI International Corruption Squad field office in Miami focused on Latin America.⁴ Notably, in June, Attorney General Merrick Garland announced the creation of a dedicated law enforcement task force and initiatives to boost

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3. To provide 2021 examples, see, e.g., U.S. Dep't of Justice, “Two Men Charged in Ecuadorian Bribery and Money Laundering Scheme” (Mar. 2, 2021), <https://www.justice.gov/opa/pr/two-men-charged-ecuadorian-bribery-and-money-laundering-scheme>; U.S. Dep't of Justice, “Former Venezuelan Official Pleads Guilty in Connection with International Bribery and Money Laundering Scheme” (Mar. 23, 2021), <https://www.justice.gov/opa/pr/former-venezuelan-official-pleads-guilty-connection-international-bribery-and-money>; U.S. Dep't of Justice, “Former Minister of Government of Bolivia, Owner of Florida-Based Company, and Three Others Charged in Bribery and Money Laundering Scheme” (May 26, 2021), <https://www.justice.gov/opa/pr/former-minister-government-bolivia-owner-florida-based-company-and-three-others-charged>.
 4. See Federal Bureau of Investigation, “FBI Announces New International Corruption Squad in Miami Field Office” (Mar. 5, 2019), <https://www.fbi.gov/news/pressrel/press-releases/fbi-announces-new-international-corruption-squad-in-miami-field-office>.

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investigative, prosecutorial, and asset recovery efforts in Guatemala, El Salvador, and Honduras, including through FCPA enforcement.⁵

And *finally*, Wakil's prosecution by SDFL prosecutors is another example of the increasing prominence of this office in the FCPA space. It also means that courts in SDFL and the Eleventh Circuit may play an increasingly significant role in shaping FCPA law in coming years, as individual defendants put the government to its burden and take their cases to trial.

Conclusion

The prosecution against Wakil is just the latest development in this trend of DOJ aggressively pursuing corrupt executives, officials, and other individual actors. It is also a reminder that Latin America remains a core region for the U.S. government's anti-corruption agenda. Businesses and executives in the region must be mindful of potential exposure to the FCPA and related anti-bribery and money laundering laws as they carry out their business operations. In today's interconnected world – and DOJ's aggressive view of its expansive jurisdiction and related enforcement actions – it would be risky for a sophisticated business person anywhere in the world to assume his or her actions are beyond the reach of U.S. prosecutors.

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5. See U.S. Dep't of Justice, "Attorney General Announces Initiatives to Combat Human Smuggling and Trafficking and to Fight Corruption in Central America" (June 7, 2021), <https://www.justice.gov/opa/pr/attorney-general-announces-initiatives-combat-human-smuggling-and-trafficking-and-fight>.

Latin America's Ever-Evolving Anti-Corruption Landscape

Like much of the world, Latin America has continued struggling with challenges brought by the COVID-19 pandemic.¹ Among other things, as we have written previously, the pandemic has served both as a source of corruption and an obstacle to combatting it.²

Over the course of this year, the region has experienced significant anti-corruption developments, some promising and others discouraging. This is consistent with, for example, the latest Capacity to Combat Corruption (CCC) Index released by the Americas Society / Council of the Americas and Control Risks. One third of surveyed countries, including Brazil and Mexico, experienced significant declines in the rating of their ability to tackle wrongdoing, as part of an overall regional deterioration. In contrast, the ratings for the related capacities of some countries like the Dominican Republic, Costa Rica, and Ecuador improved.³ In parallel, U.S. authorities have continued to investigate and prosecute corruption-related cases involving Latin America and have shown signs that anti-corruption enforcement more broadly features prominently in the new administration's agenda.

Brazil

Anti-corruption developments in Brazil, including *Lava Jato*-related backlash and pronouncements by President Jair Bolsonaro, have triggered serious questions about what will happen next and whether the country is regressing or experiencing temporary struggles as it strives to find a new, post-*Lava Jato* path. In particular:

- The Curitiba and Rio *Lava Jato* Task Forces were dissolved and partially integrated into organized crime prosecutorial units.⁴

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1. Andrew M. Levine, Jane Shvets, et al., "2020's Corruption Perceptions Index: Continued Stagnation, COVID Challenges, and FCPA Enforcement," FCPA Update, Vol. 12, No. 10 (May 2021).
 2. Bruce E. Yannett, Andrew M. Levine, et al., "Compliance Tips Amid Rising Fraud Risk In Latin America," Law 360 (Aug. 31, 2020), <https://www.law360.com/articles/1305800/compliance-tips-amid-rising-fraud-risk-in-latin-america>.
 3. "The Capacity to Combat Corruption (CCC) Index: Assessing Latin America's Ability to Detect, Punish, and Prevent Corruption," Americas Society, Council of the Americas, and Control Risks (June 2021), at 2-3, https://www.controlrisks.com/-/media/corporate/files/campaigns/ccc/ccc_2021_report_english.pdf.
 4. "Lava Jato passa a integrar o Grupo de Ação Especial de Combate ao Crime Organizado no Paraná," Ministério Público Federal (Feb. 3, 2021), <http://www.mpf.mp.br/pr/sala-de-imprensa/noticias-pr/lava-jato-passa-a-integrar-o-gaeco-no-parana>; "Após cinco anos e 55 operações, Lava Jato do Rio também chega ao fim como força isolada," O Estado de S. Paulo (Mar. 31, 2021), <https://politica.estadao.com.br/blogs/fausto-macedo/apos-cinco-anos-e-55-operacoes-lava-jato-do-rio-tambem-chega-ao-fim-como-forca-isolada>.

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- The Supreme Court declared former federal judge Sergio Moro biased in one of former President Lula da Silva's cases⁵ and annulled Lula's convictions.⁶
- Construction companies managed to overturn the Federal Court of Accounts' decisions to debar them due to their involvement in bid-related frauds, given their leniency agreements with government agencies to resolve related issues.⁷

Although anti-corruption enforcement activity in Brazil has been more limited than in recent years, it certainly has not ceased altogether:

- In February, South Korean company Samsung executed a leniency agreement with the Office of the Comptroller-General (CGU), the Attorney-General's Office (AGU), and the Public Prosecutors' Office (MPF), pursuant to which it agreed to pay over R\$ 811 million to settle *Lava Jato*-related allegations.⁸ This leniency agreement came on the heels of a prior coordinated resolution between Samsung and the U.S. DOJ.⁹
- In June, SICPA Brasil and CEPTIS executed a leniency agreement with the CGU and AGU, pursuant to which they agreed to pay over R\$ 760 million to resolve allegations of wrongdoing.¹⁰
- Also in June, subsidiaries of United Kingdom-based John Wood Group agreed to pay a combined total of \$177 million in coordinated resolutions with the MPF, CGU, and AGU in Brazil, DOJ and the Securities & Exchange Commission in the United States, and the Serious Fraud Office in the United Kingdom to resolve

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5. "STF Confirma Suspeição de Sergio Moro na ação do Triplex do Guarujá," Supremo Tribunal Federal (June 23, 2021), <http://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=468086&ori=1>.
 6. "STF Confirma Anulação de Condenações do Ex-presidente Lula na Lava Jato," Supremo Tribunal Federal (Apr. 15, 2021), <http://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=464261&ori=1>.
 7. "2ª Turma suspende sanções impostas pelo TCU a construtoras por supostas fraudes em obras de Angra 3," Supremo Tribunal Federal (Mar. 30, 2021), <https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=463299&ori=1>.
 8. "Leniência: CGU, AGU e MPF Celebram Acordo com a Samsung Heavy Industries," Federative Republic of Brazil (Feb. 22, 2021), <https://www.gov.br/cgu/pt-br/assuntos/noticias/2021/02/leniencia-cgu-agu-e-mpf-celebram-acordo-com-a-samsung-heavy-industries>.
 9. "Samsung Heavy Industries Company Ltd Agrees to Pay \$75 Million in Global Penalties to Resolve Foreign Bribery Case," U.S. Department of Justice (Nov. 22, 2019), <https://www.justice.gov/opa/pr/samsung-heavy-industries-company-ltd-agrees-pay-75-million-global-penalties-resolve-foreign>.
 10. "CGU e AGU Celebram Acordo de Leniência com as Empresas SICPA e CEPTIS No Valor de R\$ 762 Milhões," Federative Republic of Brazil (June 7, 2021), <https://www.gov.br/cgu/pt-br/assuntos/noticias/2021/06/cgu-e-agu-celebram-acordo-de-leniencia-com-as-empresas-sicpa-e-ceptis-no-valor-de-r-762-milhoes>.

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Lava Jato-related allegations concerning entities that the group had acquired more recently.¹¹

Mexico

Like Brazil, Mexico has faced a bumpy anti-corruption road in recent years. Some praise President Andrés Manuel López Obrador for doing more than his predecessors, while others criticize his government for doing less than he had pledged to do when campaigning. As part of Mexico's recent enforcement efforts:

- In February, Mexico's Attorney General's Office launched an investigation into whether Spanish construction company OHL bribed the former head of Mexican state-owned oil company Pemex, Emilio Lozoya, himself previously extradited from Spain in connection with the Odebrecht case.¹²

“U.S. authorities have continued to investigate and prosecute corruption-related cases involving Latin America and have shown signs that anti-corruption enforcement more broadly features prominently in the new administration's agenda.”

- In April, the chairman of steelmaker AHMSA, Alonso Ancira – who also was extradited from Spain – agreed to pay over \$216 million in damages to Pemex to settle misconduct allegations concerning a project with the company.¹³

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11. “CGU e AGU Celebram Acordo de Leniência de R\$ 86 milhões com Empresas por Ilícitos em Projeto com a Petrobras,” Federative Republic of Brazil (June 25, 2021), <https://www.gov.br/cgu/pt-br/assuntos/noticias/2021/06/cgu-e-agu-celebram-acordo-de-leniencia-de-r-86-milhoes-com-empresas-por-ilicitos-em-projeto-com-a-petrobras>; “Amec Foster Wheeler Energy Limited Resolves Foreign Bribery Case and Agrees to Pay Penalty of Over \$18 Million,” U.S. Department of Justice (June 25, 2021), <https://www.justice.gov/usao-edny/pr/amec-foster-wheeler-energy-limited-resolves-foreign-bribery-case-and-agrees-pay-penalty>; “SEC Charges Amec Foster Wheeler Limited With FCPA Violations Related To Brazilian Bribery Scheme,” U.S. Securities and Exchange Commission (June 25, 2021), <https://www.sec.gov/news/press-release/2021-112>; “SFO enters into £103m DPA with Amec Foster Wheeler Energy Limited,” U.K. Serious Fraud Office (July 2, 2021), <https://www.sfo.gov.uk/2021/07/02/sfo-enters-into-103m-dpa-with-amec-foster-wheeler-energy-limited-as-part-of-global-resolution-with-us-and-brazilian-authorities/>; Karolos Seeger, Jane Shvets, et al., “UK, US, and Brazil Reach Bribery-Related Settlements with Amec Foster Wheeler Energy,” FCPA Update, Vol. 12, No. 12 (July 2021), <https://www.debevoise.com/insights/publications/2021/07/fcpa-update-july-2021>.
 12. “La Fiscalía de México indaga posibles nuevos sobornos a Lozoya de una trama de empresas investigadas por su relación con OHL,” El País (Feb. 2, 2021), <https://elpais.com/mexico/2021-02-03/la-fiscalia-de-mexico-investiga-posibles-nuevos-sobornos-a-lozoya-cinco-millones-de-dolares-de-ohl.html>.
 13. “Empresario mexicano acusado de corrupción es liberado tras millonario acuerdo reparatorio,” Infobae (Apr. 19, 2021), <https://www.infobae.com/americas/agencias/2021/04/20/empresario-mexicano-acusado-de-corrupcion-es-liberado-tras-millonario-acuerdo-reparatorio/>.

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- Shortly before that, President Obrador stated that Swiss trading company Vitol had offered to pay Pemex \$30 million to compensate it for supposed past bribe payments, but he turned their offer down because he wanted the company to reveal the bribe takers.¹⁴
- More recently, a Pemex-related entity reportedly temporarily halted new business with Swiss trading company Trafigura due to concerns about dealings with business partners under investigation for corruption.¹⁵

Additionally, in March, the Mexican Special Anti-Corruption Prosecutor's Office reported to the Senate that her office would soon issue guidelines for prosecutors to evaluate corporate compliance programs.¹⁶

Other Notable Developments Elsewhere in Latin America

Lava Jato also continues to reverberate throughout Latin America:

- In Colombia, the antitrust authority fined Odebrecht, other companies, and several individuals for wrongdoing concerning a highway project.¹⁷ In addition, the Attorney General's Office issued arrest warrants for three former Odebrecht employees.¹⁸
- In Peru, Aenza, the successor to local construction company Graña y Montero, entered into a pre-settlement with local authorities to pay over \$120 million in damages to resolve corruption-related allegations concerning *Lava Jato*.¹⁹ Local prosecutors reportedly are also investigating Brazilian construction company Camargo Correa for alleged bribes paid to former President Alejandro Toledo.²⁰

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14. "Mexican President says Vitol Offered Pemex \$30 mln in Damages after Scandal," Reuters (Mar. 3, 2021), <https://www.reuters.com/world/americas/mexico-says-vitol-offered-pay-pemex-millions-damages-2021-03-03/>.

15. "Pemex's Trading Arm Bans New Business with Trafigura," Reuters (July 15, 2021), <https://www.reuters.com/business/energy/exclusive-pemexs-trading-arm-bans-new-business-with-trafigura-sources-2021-07-15/>.

16. Annual Report, Mexico's Prosecutor General's Office (Mar. 11, 2021), https://sna.org.mx/wp-content/uploads/2021/03/INFORME_ANUAL_2020-2021_FISCAL%C3%8DA_ANTICORRUPCI%C3%93N_2021.pdf at 17.

17. "La Superintendencia de Industria y Comercio, en su Rol como Autoridad Única de Competencia, se Permite Informar lo Siguiendo en Relación con el Caso 'Ruta del Sol II', que Involucra a la Transnacional Brasileña Odebrecht," Superintendencia of Industry and Commerce of Colombia (May 24, 2021), <https://www.sic.gov.co/slider/la-superintendencia-de-industria-y-comercio-en-su-rol-como-autoridad-%C3%BAnica-de-competencia-se-permite-informar-lo-siguiente-en-relaci%C3%B3n-con-el-caso-%E2%80%9Cruta-del-sol-ii%E2%80%9D-que-involucra-la-transnacional-brasile%C3%B1a-odebrecht>.

18. "Primeras Imputaciones contra Empresarios Brasileños por el Entramado de Corrupción de Odebrecht," Colombia's Attorney General's Office (Mar. 30, 2021), <https://www.fiscalia.gov.co/colombia/lucha-contra-corrupcion/primeras-imputaciones-contra-empresarios-brasilenos-por-el-entramado-de-corrupcion-de-odebrecht/>.

19. "Lava Jato: Fiscalía y Procuraduría Suscriben Acuerdo Preparatorio de Colaboración Eficaz con la Empresa Aenza," Peru's Attorney General's Office (May 21, 2021), <https://www.gob.pe/institucion/procuraduria/noticias/494370-lava-jato-fiscalia-y-procuraduria-suscriben-acuerdo-preparatorio-de-colaboracion-eficaz-con-la-empresa-aenza>.

20. "Perú Investiga a la Firma Brasileña Camargo Correa por Sobornos a Toledo," Agencia EFE (Mar. 6, 2021), <https://www.efe.com/efe/america/politica/peru-investiga-a-la-firma-brasilena-camargo-correa-por-sobornos-toledo/20000035-4481656>.

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- Anti-corruption prosecutors in Panama requested permission to try 50 individuals – reportedly including former Presidents Ricardo Martinelli and Juan Carlos Varela – and a company for corruption-related crimes relating to Odebrecht.²¹
- Relatedly, in Guatemala, a court authorized the extradition of former President Martinelli's sons to the United States to face Odebrecht-related corruption charges, which was appealed and is under review.²²

The region has also witnessed developments unrelated to *Lava Jato*:

- In Ecuador, for example, former Vice-President Jorge Glass – who had already been convicted for *Lava Jato*-related wrongdoing involving Odebrecht – was again convicted in January, alongside other former Ecuadorean ministers, for misconduct concerning an oil contract.²³ A few months later, newly-elected President Guillermo Lasso pledged to fight corruption.²⁴ In parallel, following the late 2020 passing of an Anti-Corruption Law, local lawmakers approved in May an Asset Forfeiture Law to allow the recovery of unlawfully obtained assets.²⁵
- In Argentina, businessman Lázaro Báez – who reportedly was close to the Kirchner family – and others were convicted in February for laundering over \$55 million.²⁶ More recently, the local Anti-Corruption Office issued resolutions requesting the creation of an integrity and transparency registry to promote good corporate compliance practices²⁷ and directing the Transparency Planning Office with designing a system to monitor the private activities of government officials.²⁸

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21. "Ministerio Público remite al Órgano Judicial vista fiscal de investigaciones del caso 'Odebrecht'," Panama's Public Prosecutor's Office (Apr. 12, 2021), <https://ministeriopublico.gob.pa/ministerio-publico-remite-al-organo-judicial-vista-fiscal-de-investigaciones-del-caso-odebrecht/>. See also "Fiscalía Pide Juicio para Martinelli y Varela por Caso Odebrecht," La Estrella de Panamá (May 25, 2021), <https://www.laestrella.com.pa/nacional/210525/fiscalia-pide-juicio-martinelli-varela>.
 22. MP de Guatemala (@MPguatemala), Twitter, (May 25, 2021, 1:26 PM), <https://twitter.com/MPguatemala/status/1397287938157862919>. See also "Guatemala to extradite former Panama president's son to US," The Hill (May 26, 2021), <https://thehill.com/latino/555603-guatemala-to-extradite-former-panama-presidents-son-to-us>.
 23. Ana Belén Rosero, "Exvicepresidente Jorge Glas Suma la Tercera Sentencia por Corrupción," El Comercio (Jan. 25, 2021), <https://www.elcomercio.com/actualidad/seguridad/jorge-glas-tercera-sentencia-corrupcion.html>.
 24. Ana Maria Cañizares, Julián Zamora, and Fernando del Rincón, "Guillermo Lasso: En Ecuador no Habrá Política de Persecución," CNN Español (Apr. 13, 2021), <https://cnnspanol.cnn.com/2021/04/13/guillermo-lasso-ecuador-conclusiones-orix/>.
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- Dominican authorities have continued to press forward with the prosecution of an alleged corruption scheme involving former President Danilo Medina's brother and others.²⁹ Relatedly, in June, Medina's former attorney-general was arrested on corruption and other charges.³⁰ And just a few weeks ago, President Luis Abinader stated that he expects the local Congress to approve soon an asset recovery law that would further the ability of local authorities to tackle corruption.³¹
- The Costa Rican Prosecutor General's Office recently charged a businessman, a former congressman, and two former government officials with influence peddling concerning the improper cement imports from China.³² And in late July, the Guatemalan Attorney General removed the head of the country's anti-corruption unit from his post due to alleged distrust and abuses,³³ in a move that U.S. authorities harshly criticized.³⁴

U.S. Enforcement

As noted, the U.S. government remains active on the anti-corruption enforcement front, even though 2021 has seen a relative lull in corporate FCPA resolutions to date. On June 3, 2021, President Biden issued a memorandum elevating corruption to a core U.S. national security risk and instructing government agencies to prepare a presidential anti-corruption strategy.³⁵ While it will take time to prepare and implement that strategy, the memorandum portends a potentially wide range of measures. These include possible initiatives to curb illicit finance, prosecute facilitators and bribe-takers along with bribe payers, recover and return stolen assets, and boost cooperation and multilateral efforts.

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In addition, shortly thereafter, DOJ announced a corruption and human smuggling and trafficking initiative focused on Central America, reflecting “its focus on investigations, prosecutions, and asset recoveries relating to corruption in Northern Triangle countries through its [FCPA] enforcement program, counternarcotics prosecutions, and Kleptocracy Asset Recovery Initiative.”³⁶ Coupled with the work of the FBI’s Latin America-focused anti-corruption task force in Miami, that strongly suggests that the region will remain in the FCPA-related enforcement spotlight.

“Cross-border government investigations are likely to accelerate as more countries begin to have more access to vaccines and travel restrictions are lifted, key law enforcement positions in the United States are filled, and the U.S. government’s anti-corruption enforcement strategy takes shape.”

FCPA-related enforcement in Latin America continues to make the headlines:

- Ecuador has featured in multiple probes and convictions relating to alleged corruption schemes concerning Petroecuador, a local pension fund, and a state-owned insurance company.³⁷
- Venezuelan state-owned oil company PDVSA continues to make the news, including with the guilty pleas of a former PDVSA official³⁸ and a former legal advisor to the Ministry of Oil,³⁹ and the sentencing of a PDVSA contractor.⁴⁰

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- Braskem's former CEO pleaded guilty for his role in the company's corruption scheme,⁴¹ and DOJ unsealed charges against Austrian bankers accused of helping Odebrecht launder bribe payments.⁴²
- And finally, Swiss bank Julius Baer executed a Deferred Prosecution Agreement with DOJ⁴³ and separately the former President of the El Salvadorean soccer federation pleaded guilty to racketeering conspiracy in connection with the FIFA case.⁴⁴

Looking Ahead

Throughout the past year, Latin America and the world has continued to grapple with the unprecedented challenges presented by the pandemic, including as it relates to combatting corruption. This year's Latin America-related developments reflect both progress and setbacks on the anti-corruption front.

Cross-border government investigations are likely to accelerate as more countries begin to have more access to vaccines and travel restrictions are lifted, key law enforcement positions in the United States are filled, and the U.S. government's anti-corruption enforcement strategy takes shape.

For companies operating in the region (and elsewhere), it is crucial that they continue to develop and deploy effective strategies to mitigate compliance risks, including by conducting risk assessments to account for changed circumstances, updating or otherwise enhancing their compliance programs and internal controls as needed, and addressing any allegations of misconduct.

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