

FCPA Update

A Global Anti-Corruption Newsletter



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Progress and Setbacks in Latin America's Anti-Corruption Efforts

During the first half of 2025, anti-corruption developments in Latin America proceeded unevenly, reflecting a mix of progress and setbacks. In Argentina, the Supreme Court affirmed the conviction of former President Cristina Fernández de Kirchner, while separate controversies emerged concerning judicial appointments and alleged corruption in the judiciary. Despite ongoing challenges in the aftermath of *Lava Jato*, Brazil continues to actively pursue anti-corruption initiatives, including improved coordination among local enforcement agencies, heightened expectations for compliance programs, and further enforcement. In Mexico, controversial judicial reforms have raised serious concerns about judicial independence, and anti-corruption enforcement remains relatively limited, notwithstanding some significant institutional restructuring and recent public procurement investigations.

[Continued on page 2](#)

**Progress and Setbacks
in Latin America's
Anti-Corruption Efforts**

Continued from page 1

More broadly, legislative developments and enforcement activity in jurisdictions such as Chile, Colombia, Ecuador, Guatemala, and Peru reflect both significant opportunities and persistent challenges across Latin America.

Argentina

Although President Javier Milei took office promising a crackdown on public corruption, recent developments cast doubt on such prospects in the near term. Enforcement locally has targeted primarily current or former high-ranking government officials. Meanwhile, Argentina's latest score on Transparency International's Corruption Perceptions Index held steady at 37/100, ranking it 99 out of 180 countries reviewed.¹

Legal and Policy Developments

In February, President Milei issued a decree appointing federal judge Ariel Lijo and legal scholar García-Mansilla to Argentina's Supreme Court, following a failed attempt to nominate them through the traditional confirmation process. Critics of Judge Lijo's nomination pointed to past allegations of conspiracy, money laundering, and illicit enrichment, which were dismissed in 2021 for lack of evidence. Civil society groups expressed concerns about the use of a presidential decree to bypass the legislature's rejection, with Human Rights Watch accusing President Milei of undermining judicial independence. The Senate ultimately rejected the decree on procedural grounds.²

On the legislative front, in March, Law 27,786 – commonly known as the “Anti-Mafia Law” – expanded criminal liability for offenses tied to organized crime, including public corruption, money laundering, and terrorism financing. This law aims to strengthen the government's ability to dismantle criminal networks.³

In May, the Senate narrowly rejected President Milei's “Clean Slate” (“Ficha Limpia”) bill, which now cannot be reintroduced until 2026. If enacted, the legislation would have barred individuals with corruption convictions from running for office. Critics argued that this targeted political rivals, notably former president Cristina Fernández de Kirchner.⁴

Continued on page 3

1. “Corruption Perceptions Index,” Transparency International, <https://www.transparency.org/en/countries/argentina>.
2. “Argentina's Milei skirts Congress to seat a divisive judge in the Supreme Court,” AP News (Feb. 25, 2025), <https://apnews.com/article/argentina-supreme-court-constitution-milei-rightwing-b909c354c2fc3ce8c4d499be0bcf5f21>; Andrew M. Levine et al., “Challenges and Opportunities in Latin America's Ever-Evolving Anti-Corruption Landscape,” at 2, FCPA Update, Vol. 15, No. 12 (July 2024), <https://www.debevoise.com/insights/publications/2024/07/fcpa-update-july-2024>; “Argentina: Milei Undermines Judicial Independence,” Human Rights Watch (Feb. 26, 2025), <https://www.hrw.org/news/2025/02/26/argentina-milei-undermines-judicial-independence>; “Argentine senate rejects President Milei's Supreme Court appointees in blow to libertarian leader,” AP News (Apr. 4, 2025), <https://apnews.com/article/argentina-supreme-court-milei-judicial-independence-democracy-803ab867478445183d6e95e1ac1a64fb>.
3. “Argentina: Anti-Mafia Law Enacted,” Library of Congress (June 20, 2025), <https://www.loc.gov/item/global-legal-monitor/2025-06-20/argentina-anti-mafia-law-enacted>.
4. “Ficha Limpia’ falls – Senate rejects anti-corruption bill by one vote,” Buenos Aires Times (May 8, 2025), <https://www.batimes.com.ar/news/argentina/ficha-limpia-falls-senate-rejects-anti-corruption-bill-by-one-vote.phtml>.

**Progress and Setbacks
in Latin America's
Anti-Corruption Efforts**
Continued from page 2

Enforcement Efforts

Enforcement activity in Argentina continued to focus on high-profile prosecutions of both current and former public officials.

- In February, President Milei publicly endorsed the \$LIBRA cryptocurrency project, prompting a surge in investor activity that briefly pushed the asset's market capitalization above \$4 billion. The token's developers reportedly withdrew nearly \$100 million within hours of its launch, triggering significant losses. A federal judge initiated an investigation, now led by a federal prosecutor, into President Milei's endorsement of \$LIBRA as well as the conduct of the President's chief of staff and those who created the token.⁵
- Relatedly, in May, President Milei dissolved the special investigative unit he had created to examine his conduct in promoting the \$LIBRA cryptocurrency, stating the unit "had completed its assigned task." Argentina's Anti-Corruption Office later determined that President Milei had not broken any laws regarding the ethics of public office when he promoted \$LIBRA.⁶

"Although President Javier Milei took office promising a crackdown on public corruption, recent developments cast doubt on such prospects in the near term."

- Alleged judicial corruption came under scrutiny in May, following the arrest and formal indictment of federal judge Marcelo Bailaque. He was charged with offenses including benefiting narcotraffickers, diverting funds to associates, and extorting local business leaders. Led by the Office of the Prosecutor for Economic Crime and Money Laundering, the investigation centers around a

Continued on page 4

5. "Argentina's Milei faces fraud probe after boosting a crypto coin that crashed hours after its launch," AP News (Feb. 18, 2025), <https://apnews.com/article/argentina-milei-cryptocurrency-fraud-charges-3f572a5f294d7c25437a08151798b917>; "Ruling on Milei X post against autistic boy could set precedent in \$LIBRA case," Buenos Aires Herald (July 14, 2025), <https://buenosairesherald.com/politics/ruling-on-milei-x-post-against-autistic-boy-could-set-precedent-in-libra-case>.

6. "Milei shuts office investigating 'cryptogate' \$LIBRA Scandal," Buenos Aires Times (May 5, 2025), <https://www.batimes.com.ar/news/argentina/milei-shuts-office-investigating-cryptogate-libra-scandal.phtml>; "Anti-corruption office clears Milei of ethical misconduct in \$LIBRA cryptoscandal," Buenos Aires Herald (June 7, 2025), <https://buenosairesherald.com/politics/anti-corruption-office-clears-milei-of-ethical-misconduct-in-libra-cryptoscandal>.

**Progress and Setbacks
in Latin America's
Anti-Corruption Efforts**

Continued from page 3

network of intermediaries who allegedly brokered favorable judicial outcomes in exchange for bribes. Disciplinary proceedings are now running in parallel with the criminal case, amid growing calls for systemic judicial reform.⁷

- In June, the Supreme Court issued its final affirmation of former President Cristina Fernandez de Kirchner's conviction for fraud and her six-year sentence, marking a rare instance of a former head of state being held criminally liable for corruption offenses. This decision, which her supporters denounced as political persecution, closes off avenues for appeal, though she is permitted to serve the sentence at home due to her age.⁸
- In July, former President Alberto Fernandez was charged with abuse of public office in connection with an alleged scheme involving the procurement of insurance policies for government entities. Authorities allege that Fernandez facilitated commission payments to brokers who served as intermediaries in procuring policies at prices significantly above market rates.⁹

Looking Ahead

As President Milei nears his term's midpoint, governmental efforts to combat corruption in Argentina appear to be a lesser priority. Nevertheless, the prosecution of Judge Marcelo Bailaque and other ongoing investigations may offer some indication of the country's institutional capacity to achieve anti-corruption objectives, though the ultimate outcomes of such matters remain uncertain.

Continued on page 5

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7. "La trama secreta de la coimas al juez Bailque, un empresario 'poderoso' y el supuesto vinculo con ex presidentes ["The secret plot of bribes to Judge Bailaque, a 'powerful' businessman, and the alleged link to former presidents"] (May 4, 2025), <https://infobae.com/politica/2025/05/04/la-trama-secreta-de-las-coimas-al-juez-bailaque-un-empresario-poderoso-y-el-supuesto-vinculo-con-ex-presidentes>.
 8. "Argentine Ex-president Kirchner To Serve Prison Term At Home," IBTimes (June 17, 2025), <https://www.ibtimes.com/argentine-ex-president-kirchner-serve-prison-term-home-3776011>.
 9. "Ex President Alberto Fernández charged in insurance corruption case," Buenos Aires Herald (July, 11, 2025), <https://buenosairesherald.com/politics/ex-president-alberto-fernandez-charged-in-insurance-corruption-case>; "Procesaron a Alberto Fernández en el caso de los seguros por 'negociaciones incompatibles' con su cargo de Presidente" ["Alberto Fernández was prosecuted in the insurance case for 'negotiations incompatible' with his position as President"], La Nación (July 11, 2025), <https://www.lanacion.com.ar/politica/procesaron-a-alberto-fernandez-en-el-caso-de-los-seguros-por-negociaciones-incompatibles-con-su-nid10072025>.

**Progress and Setbacks
in Latin America's
Anti-Corruption Efforts**
Continued from page 4

Brazil

Brazil continues to position itself as an anti-corruption leader in the region and beyond, spearheading the 2025 work of the BRICS Anti-Corruption Working Group. Domestically, a unanimous ruling by the Superior Court reinforced corporate liability, and new leniency agreements continue to be reached. At the same time, Brazil received its lowest score ever on Transparency International's Corruption Perceptions Index (34/100), placing it alongside countries such as Algeria, Malawi, Nepal, Niger, Thailand, and Turkey.¹⁰

Legal and Policy Developments

Legislative, Regulatory, and Executive Developments

In April 2025, the Comptroller General of the Union (*Controladoria Geral da União* or "CGU"), the Attorney General's Office (*Advocacia-Geral da União* or "AGU"), and the Federal Prosecution's Office (*Ministério Público Federal* or "MPF") signed a Technical Cooperation Agreement to coordinate the execution of leniency agreements under the Anti-Corruption Law. This agreement aims to improve information sharing and better align actions among these agencies, providing cooperating companies with greater predictability regarding potential sanctions and related outcomes. MPF had declined in 2020 to sign a cooperation agreement among CGU, AGU, and TCU.¹¹

Also in April, CGU initiated a public consultation on a draft ordinance for evaluating integrity programs under the New Law on Bidding and Contracts (Law No. 14.133/2021). Adopted in 2021, the law seeks to simplify government procurement systems by improving efficiency and reducing bureaucracy. To mitigate associated corruption risks, the law introduced ESG criteria into public bid assessments and a mandatory compliance program for winners. This consultation aims to encourage broader societal participation in strengthening these compliance measures.¹²

Continued on page 6

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10. "Corruption Perceptions Index," Transparency International, <https://www.transparency.org/en/cpi/2024>.
 11. "CGU, AGU e MPF firmam Acordo de Cooperação Técnica sobre atuação conjunta em acordos de leniência disciplinados pela Lei Anticorrupção" ["CGU, AGU and MPF sign Technical Cooperation Agreement on joint action in leniency agreements governed by the Anti-Corruption Law"], *Saud Advogados* (May 1, 2025), <https://www.saudlaw.com/2025/05/cgu-agu-e-mpf-firmam-acordo-de-cooperacao-tecnica-sobre-atuacao-conjunta-em-acordos-de-leniencia-disciplinados-pela-lei-anticorrupcao/>; "Brazil Announces New Anti-Corruption Cooperation Framework; MPF's 5th Chamber Opposes It," Debevoise & Plimpton (Aug. 14, 2020), <https://www.debevoise.com/-/media/files/insights/publications/2020/08/20200814-brazil-announces-new-anti-corruption.pdf?rev=a8aaf0da1dd64d9da22f9d4452063876&hash=4D2DA873A73D2899E1B1461766E3DF06>.
 12. "CGU abre consulta pública sobre norma de avaliação de programas de integridade na nova Lei de Licitações" ["CGU opens public consultation on the standard for evaluating integrity programs in the new Public Procurement Law"], *Controladoria-Geral da União* (Mar. 4, 2025), <https://www.gov.br/cgu/pt-br/assuntos/noticias/2025/04/cgu-abre-consulta-publica-sobre-norma-de-avaliacao-de-programas-de-integridade-na-nova-lei-de-licitacoes/>; "New Public Procurement Law Focuses on Environmental, Social and Governance Compliance", International Bar Association, (Aug. 4, 2021), <https://www.ibanet.org/june-2021-new-public-procurement-law#:~:text=Introduction,against%20a%20corrupt%20business%20environment>.

**Progress and Setbacks
in Latin America's
Anti-Corruption Efforts**

Continued from page 5

In May 2025, CGU opened registration for a new edition of the Pro-Ethics Register (*Empresa Pro-Ética*) focused on corporate integrity, which closes on July 31. The Register publicly recognizes companies that adopt measures to detect and remedy corruption. This latest edition includes new participation requirements, including sustainability, social responsibility, and human rights criteria aligned with recommendations by the Organization for Economic Co-operation and Development (“OECD”) and United Nations guidelines.¹³

In parallel with these domestic initiatives, Brazil remained active on the international stage. During 2025, Brazil co-chairs the G20 Anti-Corruption Working Group alongside South Africa. Additionally, in May, Brazil led multilateral efforts to advance anti-corruption cooperation across BRICS nations. The BRICS Anti-Corruption Working Group addressed topics such as international cooperation in asset recovery, technological solutions to enhance integrity (such as blockchain and AI), and the impact of corruption on environmental crises.¹⁴

Earlier this month, the Anti-Corruption Working Group convened at the BRICS Summit in Rio, where it proposed a joint action plan through 2030. BRICS leaders endorsed this proposal in the *Declaration on Strengthening Global South Cooperation for a More Inclusive and Sustainable Governance*. The declaration called for greater cooperation on anti-corruption matters, denial of safe havens for illicit assets, and capacity building.¹⁵

Judicial Developments

Going forward, DOJ expects to impose monitors less frequently and only where it expects the monitorship’s benefits will outweigh its monetary costs and its burdens on a company’s operations. Specifically, in determining whether to require a monitor, prosecutors will consider four factors:

In June 2025, the Superior Court of Justice (*Superior Tribunal de Justiça* or “STJ”), the highest appellate court in Brazil for nonconstitutional federal legal issues,

Continued on page 7

13. “Pro-Ética: CGU lança edição renovada com destaque a práticas empresariais sustentáveis e éticas” [“Pro-Ethics: CGU launches renewed edition highlighting sustainable and ethical business practices”], Controladoria-Geral da União (Apr. 15, 2025), <https://www.gov.br/cgu/pt-br/assuntos/noticias/2025/04/pro-etica-cgu-lanca-edicao-renovada-com-destaque-a-praticas-empresariais-sustentaveis-e-eticas>.
14. “G20 anti-corruption resources,” United Nations (2025), <https://www.unodc.org/corruption/en/tools-and-services/g20-anti-corruption-resources/by-thematic-area.html#:~:text=The%20G20%20Anti%20Corruption%20Working,by%20South%20Africa%20and%20Brazil>.
15. “Brasil lidera a agenda anticorrupção no BRICS em 2025” [“Brazil leads the anti-corruption agenda in BRICS in 2025”], Controladoria-Geral da União (Mar. 7, 2025), <https://www.gov.br/cgu/pt-br/assuntos/noticias/2025/03/brasil-lidera-a-agenda-anticorruptao-no-brics-em-2025>; “BRICS strengthens anti-corruption cooperation in meeting led by Brasil’s Office of the Comptroller General (CGU),” BRICS Brasil 2025 (May 6, 2025), <https://brics.br/en/news/brics-strengthens-anti-corruption-cooperation-in-meeting-led-by-brasils-office-of-the-comptroller-general-cgu>; “Rio de Janeiro Declaration: Strengthening Global South Cooperation for a More Inclusive and Sustainable Governance, BRICS Information Center” (July 6, 2025), http://www.brics.utoronto.ca/docs/250706-BRICS_Leaders_Declaration_EN.pdf.

**Progress and Setbacks
in Latin America's
Anti-Corruption Efforts**

Continued from page 6

reaffirmed a broad application of joint and several liability under the Anti-Corruption Law (which imposes civil and administrative liability on companies, though its penalties may resemble criminal sanctions in other jurisdictions). The case, Special Appeal No. 2209077/RS, arose from a civil lawsuit filed by MPF against a public service concessionaire, its parent, and affiliate companies. An affiliate filed the appeal, arguing there was no evidence it participated in or benefited from alleged misconduct and that the joint and several liability provision of the Anti-Corruption Law should apply only in cases involving mergers, acquisitions, or other corporate reorganizations expressly mentioned in the Anti-Corruption Law.

The ruling is particularly significant as it confirms that parent companies, subsidiaries, affiliates, and consortium partners are jointly and severally liable for misconduct committed by any part of the corporate group, even absent mergers or reorganizations. Even without direct involvement in the misconduct, companies that are part of a corporate group can be held liable for corruption within any entity in the group. This ruling further incentivizes companies to adopt compliance mechanisms across their entire corporate structure.¹⁶

“Brazil continues to position itself as an anti-corruption leader in the region and beyond, spearheading the 2025 work of the BRICS Anti-Corruption Working Group. Domestically, a unanimous ruling by the Superior Court reinforced corporate liability, and new leniency agreements continue to be reached.”

Enforcement Efforts

Anti-corruption enforcement continued in Brazil, building on the previous year's record number of leniency agreements.

- In March 2025, CGU and AGU signed a leniency agreement with Trafigura Beheer B.V. (“Trafigura”), a Dutch multinational commodities company. Trafigura agreed to pay R\$ 435 million (USD \$76.5 million) to the Union and Petrobras for improper payments to public officials in exchange for privileged information related to transactions with Petrobras between 2003 and 2014.

Continued on page 8

16. “Empresas que integram conglomerado solidário podem responder solidariamente por crimes da Lei Anticorrupção” [“Companies that are part of a corporate conglomerate may be held jointly liable for crimes under the Anti-Corruption Law”], Superior Tribunal de Justiça (June 18, 2025), <https://www.stj.jus.br/sites/porta/p/Paginas/Comunicacao/Noticias/2025/18062025-Empresas-que-integram-conglomerado-societario-podem-responder-solidariamente-por-crimes-da-Lei-Anticorrupcao.aspx>; “Recurso Especial N° 2209077 - RS (2021/0223807-5),” (2025), Superior Tribunal de Justiça, https://processo.stj.jus.br/processo/julgamento/eletronico/documento/mediado/?documento_tipo=integra&documento_sequencial=317452998®istro_numero=202102238075&peticao_numero=&publicacao_data=20250611&formato=PDF.

**Progress and Setbacks
in Latin America's
Anti-Corruption Efforts**

Continued from page 7

CGU and AGU acknowledged the collaboration of U.S. authorities in this investigation. More recently, in July 2025, MPF similarly approved a leniency agreement with Trafigura.¹⁷

- The same month, CGU and AGU entered into a leniency agreement with Qualicorp Consultoria e Corretora de Seguros S.A, under which Qualicorp agreed to pay R\$ 44 million (USD \$7.8 million) to the Federal Union. This resolution followed investigations by the Federal Police into improper payments to avoid tax audits and electoral crimes through unaccounted electoral donations.¹⁸
- Also in March 2025, the Public Labour Prosecution Office (*Ministério Público do Trabalho*) opened a formal investigation into recurring allegations of moral harassment and retaliation at BB Seguridade, the insurance branch of Banco do Brasil. The investigation reportedly was prompted by internal allegations of irregularities and claims that BB Seguridade's internal anti-corruption unit was being deliberately downsized and weakened.¹⁹
- In April 2025, CGU imposed an administrative sanction on Toyo Engineering Corporation of more than R\$ 500 million (US \$90.3 million) for corruption and fraudulent practices related to a contract with Petrobras. The fine stems from a proceeding that CGU initiated as part of *Lava Jato*. Consequently, Toyo and its subsidiary are now ineligible to bid for or enter into contracts with the Brazilian federal government.²⁰
- In May 2025, CGU and AGU signed a leniency agreement with Minerva S.A., a Brazilian food processing company, which agreed to pay R\$ 22 million (USD \$3.9 million) to CGU for pre-2018 payment of undue benefits to agricultural inspectors from the Ministry of Agriculture, Livestock, and Fisheries in Araguaína.²¹

Continued on page 9

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17. "CGU e AGU assinam acordo de leniência com a empresa Trafigura Beheer B.V." ["CGU and AGU sign leniency agreement with Trafigura Beheer BV"], Controladoria-Geral da União (Mar. 31 2025), <https://www.gov.br/cgu/pt-br/assuntos/noticias/2025/03/cgu-e-agu-assinam-acordo-de-leniencia-com-a-empresa-trafigura-beheer-b-v>; "MPF homologa acordo de leniência com multinacional de commodities Trafigura" ["Federal Public Prosecutor's Office approves leniency agreement with multinational commodities company Trafigura"], Ministério Público Federal (July 16, 2025), <https://www.mpf.mp.br/pr/sala-de-imprensa/noticias-pr/mpf-homologa-acordo-de-leniencia-com-multinacional-de-commodities-trafigura>.
 18. "CGU e AGU Assinam Acordo de Leniência com a Qualicorp" ["CGU and AGU sign leniency agreement with Qualicorp"], Controladoria-Geral da União (Mar. 17, 2025), <https://www.gov.br/cgu/pt-br/assuntos/noticias/2025/03/cgu-e-agu-assinam-acordo-de-leniencia-com-a-qualicorp>.
 19. "Empresa de seguros do Banco do Brasil tem denúncias de assédio e 'desmonte' de setor anticorrupção" ["Banco do Brasil's insurance company faces allegations of harassment and the 'dismantling' of its anti-corruption department"], G1 (Mar. 24, 2025), <https://g1.globo.com/politica/noticia/2025/03/24/empresa-de-seguros-do-banco-do-brasil-tem-denuncias-de-assedio-e-desmonte-de-setor-anticorrupcao.ghtml>.
 20. "CGU multa empresa em mais de 500 milhões de reais por fraude em contrato com a Petrobras" ["CGU fines company over R\$500 million for fraud in contract with Petrobras"], Controladoria-Geral da União (Apr. 7, 2025), <https://www.gov.br/cgu/pt-br/assuntos/noticias/2025/04/cgu-multa-empresa-em-mais-de-500-milhoes-de-reais-por-fraude-em-contrato-com-a-petrobras>.
 21. "CGU e AGU assinam acordo de leniência com empresa de processamento de alimentos" ["CGU and AGU sign leniency agreement with food processing company"], Controladoria-Geral da União (May 9, 2025), <https://www.gov.br/cgu/pt-br/assuntos/noticias/2025/05/cgu-e-agu-assinam-acordo-de-leniencia-com-empresa-de-processamento-de-alimentos>.

**Progress and Setbacks
in Latin America's
Anti-Corruption Efforts**

Continued from page 8

- Most recently, in June 2025, CGU sanctioned two companies under Brazil's Anti-Corruption Law. SERVCON Informática e Construções Ltda. was fined R\$2,034,970.35 and declared ineligible to bid or contract with the government based on evidence of bidding fraud related to federally funded engineering works and services in Paraíba. Similarly, Scotch House (LG Comércio de Alimentos LTDA.) was fined R\$25,176.78 for providing gifts to officials of the National Land Transport Agency, facilitated by falsified invoices to conceal the gifts' value.²²

Looking Ahead

Notwithstanding its historic low in the 2024 Corruption Perceptions Index, Brazil continues taking concrete steps to combat corruption. While institutional recalibration remains a reality post-*Lava Jato*, significant elements of the country's anti-corruption agenda appear to be moving forward. Maintaining momentum may depend, in part, on sustained attention to corporate integrity and related enforcement initiatives, including in terms of interagency coordination.

Mexico

Mexico experienced significant anti-corruption institutional restructuring in recent months, though enforcement progress remained limited. Since her inauguration in 2024, President Claudia Sheinbaum has consistently pledged to promote economic growth, improve transparency, and combat corruption. However, Mexico's latest score on Transparency International's Corruption Perceptions Index suggests these ideals have not yet come to fruition. Mexico's score declined to 26 from 31 – the country's lowest ever rating – and Mexico fell 14 places to 140 out of 180 countries.²³

Legal and Policy Developments

In March 2025, the government dissolved the National Institute for Transparency, Access to Information, and Personal Data Protection (the "INAI"), despite criticism that the move could politicize oversight of transparency and access to information. Most of the INAI's functions were transferred to the Anti-Corruption and Good Governance Secretariat (the "SABG"), which established a decentralized administrative unit called "Transparency for the People." This new unit is responsible for handling access-to-information requests and managing the national transparency platform. Given that the SABG retains ultimate decision-making

Continued on page 10

22. "CGU sanciona empresa em mais de R\$ 2 milhões por fraude em licitação" ["CGU fines company over R\$2 million for bidding fraud"], Controladoria-Geral da União (June 17, 2025), <https://www.gov.br/cgu/pt-br/assuntos/noticias/2025/06/cgu-sanciona-empresa-em-mais-de-r-2-milhoes-por-fraude-em-licitacao>.

23. "Corruption Perceptions Index," Transparency International, <https://www.transparency.org/en/cpi/2024/index/mex>.

**Progress and Setbacks
in Latin America's
Anti-Corruption Efforts**

Continued from page 9

authority regarding disclosure, critics contend that the new model lacks the independence previously provided by the INAI.²⁴

Notably, the First Chamber of Mexico's Supreme Court of Justice held in April that the country's current criminal code – which limits corporate liability in each state to a “closed catalogue” or list of offenses – is unconstitutional. In a potentially landmark decision, the Supreme Court ruled that judges and prosecutors may attach corporate criminal liability for any crime contemplated in state law without relying on a state-specific list of enumerated offenses. This ruling is expected to broaden the range of conduct subject to corporate criminal prosecution.²⁵

“Mexico experienced significant anti-corruption institutional restructuring in recent months, though enforcement progress remained limited.”

In May, President Sheinbaum issued a presidential decree establishing a new division within Mexico's Financial Intelligence Unit: the General Directorate Specialized in Criminal Organizations. Mexican authorities claim the division will centralize intelligence on cartel activities and strengthen coordination among Mexican prosecutors.²⁶

Continued on page 11

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24. “Buen Gobierno presenta reformas legales para mayor transparencia y protección de datos personales” [“The Good Government presents legal reforms for greater transparency and protection of personal data”], Gobierno de Mexico (Jan. 31, 2025), <https://www.gob.mx/buengobierno/prensa/buen-gobierno-presenta-reformas-legales-para-mayor-transparencia-y-proteccion-de-datos-personales?idiom=es>; Priscila Cardenas, “Mexico's Transparency Institute Helped Reporters Uncover Corruption and Wrongdoing: How Will Investigation Journalism Fare Once It's Gone?”, Global Investigative Journalism Network (May 23, 2025), <https://gijn.org/stories/mexicos-transparency-institute-helped-reporters-uncover-corruption-wrongdoing>; “Inician trabajos autoridades garantes federales de Acceso a la Información y Protección de Datos Personales” [“Federal authorities guaranteeing access to information and personal data protection begin work”], Gobierno de Mexico (May 12, 2025), <https://www.gob.mx/buengobierno/prensa/inician-trabajos-autoridades-garantes-federales-de-acceso-a-la-informacion-y-proteccion-de-datos-personales>.
 25. Los Congresos De Los Estados Pueden Definir La Responsabilidad Penal De Las Empresas Sin Necesidad De Un Catálogo Cerrado De Delitos” [“State congresses can define the criminal liability of companies without the need for a closed catalogue of crimes”], Suprema Corte de Justicia de la Nación (May 6, 2025), <https://www.internet2.scjn.gob.mx/red2/comunicados/comunicado.asp?id=8246>; Ana de Liz, “Mexico Supreme Court expands corporate criminal liability scope,” Latin Lawyer (June 6, 2025), <https://latinlawyer.com/article/mexico-supreme-court-expands-corporate-criminal-liability-scope>.
 26. Belén Saldívar, “UIF estrenará la Dirección General Especializada en Organizaciones Delictivas” [“The UIF will launch the General Directorate Specialized in Criminal Organizations”], El Economista (May 27, 2025), <https://www.eleconomista.com.mx/economia/uif-estrenara-direccion-general-especializada-organizaciones-delictivas-20250527-761000.html>.

**Progress and Setbacks
in Latin America's
Anti-Corruption Efforts**

Continued from page 10

Mexico also began implementing its new requirement that all judges be elected by popular vote, with the first elections held in June and the next scheduled for 2027. Over 2,600 judicial officials were elected, including judges, magistrates, and all nine Supreme Court justices. Voter turnout was extremely low – only 13% of eligible voters (approximately 13 million of 100 million) – marking one of the lowest participation rates in any federal election since the consolidation of Mexico's democratic system in the early 2000s and significantly below the approximately 60% turnout in the 2024 general elections. Critics warn that this reform could politicize judicial appointments, undermine independence, and increase vulnerability to organized crime influence.²⁷

In late June 2025, U.S. authorities designated three Mexican financial institutions – CIBanco, InterCam Banco, and Vector Casa de Bolsa – as “primary money laundering concerns” for allegedly facilitating cartel-related transactions and fentanyl precursor purchases from China. In response, Mexico's National Banking and Securities Commission seized control of the banks to safeguard depositors and creditors, while President Sheinbaum criticized the U.S. action, stating that no concrete evidence of wrongdoing had been presented. Although the United States postponed the effective date of the prohibitions from July 21 to September 4, 2025, the move has generated considerable uncertainty and concern in Mexico.²⁸

Most recently, in July, Mexico's Congress enacted significant reforms to the Federal Law for the Prevention and Identification of Transactions with Illicit Proceeds (the “LFPIORPI”) and the Federal Criminal Code. These reforms aim to strengthen Mexico's AML regulatory framework, including by: (1) modifying the definition of ultimate beneficial owners to lower the voting control threshold; (2) introducing the concept of politically exposed persons to the LFPIORPI; (3) creating new requirements for virtual asset exchanges; and (4) imposing stricter recordkeeping, reporting, and compliance obligations.²⁹

Continued on page 12

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27. Emiliano Rodríguez et al., “Low Turnout in Mexico's Far-Reaching Judicial Election Fuels Legitimacy Concerns,” *New York Times* (June 4, 2025), <https://www.nytimes.com/2025/06/02/world/americas/mexico-judicial-election-low-turnout.html>; David Shirk, “Mexico's 2024 Judicial Reform: The Politicization of Justice,” *Wilson Center* (March 20, 2025), <https://www.wilsoncenter.org/article/mexicos-2024-judicial-reform-politicization-justice>.
 28. “U.S. Prohibits Transactions with Three Mexican Financial Institutions for Cartel-Linked Money Laundering,” *Debevoise & Plimpton LLP* (June 30, 2025) <https://www.debevoise.com/insights/publications/2025/06/us-prohibits-transactions-with-three-mexican>; “FinCEN Delays the Effective Date for Prohibitions Targeting CIBanco, InterCam, and Vector,” *Debevoise & Plimpton LLP* (July 11, 2025), <https://www.debevoise.com/insights/publications/2025/07/fincen-delays-the-effective-date-for-prohibitions>.
 29. “Decreto por el que se reforman y adicionan diversas disposiciones de la Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita, y se reforma el artículo 400 Bis del Código Penal Federal” [“Decree amending and adding various provisions of the Federal Law for the Prevention and Identification of Operations with Illicit Proceeds, and amending Article 400 Bis of the Federal Penal Code”], *Diario Oficial de la Federación* (July 16, 2025), <https://sidof.segob.gob.mx/notas/5763161>.

**Progress and Setbacks
in Latin America's
Anti-Corruption Efforts**
Continued from page 11

Enforcement Efforts

While high-profile anti-corruption enforcement remains relatively limited in Mexico, several notable actions generated significant attention:

- In March, following complaints about inflated medicine prices, the SABG declared null and void the entire Birmex procurement process for 2025-26, citing regulatory and legal violations including overpricing in 175 medications. Executives were removed from their positions and remain under investigation, and President Sheinbaum announced the dismissal of several Birmex officials. Approximately 59 pharmaceutical companies now face similar investigations. Additionally, the SABG, working with the Ministry of Health, launched a platform to increase transparency by sharing medication purchase data.³⁰
- In May, federal authorities arrested Teuchitlán mayor, José Asunción Murguía Santiago, accusing him of collusion with the Jalisco New Generation Cartel to operate a cartel recruitment and training center. Authorities allege he was compensated by the cartel in exchange for turning a blind eye and providing surveillance services to prevent camp participants from escaping. Authorities also arrested former police officers and a police chief for allegedly facilitating the scheme.³¹
- In July, the SABG fined Avacor, SA de CV more than 1.5 million pesos and banned the company from soliciting or receiving government contracts for 30 months. The penalty was for providing false information in a national bid for uniforms, footwear, and protective gear. Six other companies were also sanctioned for related violations in the same tender.³²

Looking Ahead

Mexico's anti-corruption efforts under President Sheinbaum reflect institutional changes, ongoing challenges, and relatively limited enforcement. While reforms aim to enhance coordination and transparency, concerns remain regarding judicial independence, public access to information, and Mexico's broader anti-corruption agenda.

Continued on page 13

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30. Armando Arenas and Alejandro Luna Fandino, "Ex officio interventions by the Anti-Corruption and Good Government Ministry in public tenders in Mexico," *The National Law Review* (Mar. 24, 2025), <https://natlawreview.com/article/ex-officio-interventions-anti-corruption-and-good-government-ministry-public>; "Funcionarios de Birmex son destituidos tras comprar medicamentos a sobreprecio" ["Birmex officials dismissed after buying overpriced medicines"], *Posta* (Apr. 10, 2025), <https://www.posta.com.mx/mexico/funcionarios-de-birmex-son-destituidos-tras-comprar-medicamentos-a-sobreprecio/vl2023507>; "Secretaría Anticorrupción y Buen Gobierno investiga a 59 empresas farmacéuticas por irregularidades e inhabilita a Biomix Lab México" ["The Anti-Corruption and Good Governance Secretariat is investigating 59 pharmaceutical companies for irregularities and disqualifying Biomix Lab Mexico"], *Gobierno de México* (Apr. 29, 2025), <https://www.gob.mx/buengobierno/prensa/secretaria-anticorrupcion-y-buen-gobierno-investiga-a-59-empresas-farmacauticas-por-irregularidades-e-inhabilita-a-biomix-lab-mexico>.
31. "Mexican Mayor Implicated in Drug Cartel Ranch Inquiry," *New York Times* (May 2, 2025), <https://www.nytimes.com/2025/05/09/world/americas/mexico-mayor-arrested-ranch-cartels.html>.
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Progress and Setbacks
in Latin America's
Anti-Corruption Efforts
Continued from page 12

Other Latin American Developments

Thus far in 2025, relevant anti-corruption developments elsewhere in the region include:

- **Chile:** In March 2025, Chile's Financial Analysis Unit issued Circular No. 62, consolidating existing anti-money laundering and counterterrorist financing obligations and introducing new requirements for regulated entities. These include structured analysis and reporting of suspicious transactions, enhanced due diligence for politically exposed persons, and documentation of relevant risk assessments. The circular also requires regulated companies to appoint a Chile-based compliance officer, implement a prevention manual, and regularly train employees on money-laundering detection and compliance obligations.³³
- **Colombia:** In January, the government launched Anti-Corruption Hotline 157, allowing citizens to anonymously and safely report suspected corruption. In February, Vice President Francia Márquez resigned from her concurrent position as Minister of Equality and Equity, citing concerns over the department's policy direction and lack of transparency. Subsequently, in March, the Office of the Attorney General petitioned the Supreme Court to initiate formal investigations into members of six political parties. The request encompasses contracts awarded by the National Institute of Roads, and this investigation remains ongoing.³⁴
- **Ecuador:** As of March 2025, 14 defendants have been sentenced in the *Casa Plaga* corruption case, which involves bribery of judges, police, and other officials to unlawfully release detainees accused of serious crimes such as drug trafficking and organized crime. A former judge was sentenced in February, followed by a lawyer in March who had helped execute the detainees' releases and cover up related payments. Separately, in July, Ecuador's former vice president received a 13-year prison sentence for embezzling earthquake recovery funds.³⁵

Continued on page 14

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33. "Chile publishes new AML Rules for Regulated Entities," STEP, (Apr. 16, 2025), <https://www.step.org/industry-news/chile-publishes-new-aml-rules-regulated-entities>; "Informe Normativo e Impacto Regulatorio de la Circular N°62" ["Regulatory Report and Regulatory Impact of Circular No. 62"], Unidad de Análisis Financiero (Mar. 19, 2025), https://www.uaf.cl/media/documentos/Informe_normativo_e_impacto_regulatorio.pdf.
34. Joseph Freixes, "Columbia Launches Anti-Corruption Hotline 157," Colombia News (Jan. 23, 2025), <https://colombiaone.com/2025/01/23/colombia-anti-corruption-hotline>; Victor Cohen, "Colombia to Investigate 28 Congress Members over Corruption Allegations," Colombia News (Mar. 1, 2025), <https://colombiaone.com/2025/03/01/colombia-congress-corruption>.
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**Progress and Setbacks
in Latin America's
Anti-Corruption Efforts**

Continued from page 13

- **Guatemala:** In June, a Guatemalan court issued arrest warrants for Colombian Attorney General Luz Adriana Camargo Garzón and former Colombian Defense Minister Iván Velásquez, who both previously served in leadership roles at the UN-backed International Commission against Impunity in Guatemala. The Attorney General's office alleges these former officials were involved in the Odebrecht scandal, though President Arévalo and senior Colombian officials condemned the move as politically motivated and an attempt to undermine international anti-corruption efforts.³⁶

“More broadly, legislative developments and enforcement activity in jurisdictions such as Chile, Colombia, Ecuador, Guatemala, and Peru reflect both significant opportunities and persistent challenges across Latin America.”

- **Peru:** Peru is actively pursuing membership in the OECD Working Group. In January 2025, a High-Level OECD Mission met in Lima with senior officials to assess Peru's efforts to address judicial corruption as part of its accession process. Additionally, in April, the Peruvian company Alpha Consult was convicted of money laundering related to the Odebrecht matter. Company executives were found guilty of participating in a scheme to transfer \$2 million to Odebrecht through illicit means. Alpha Consult was fined approximately 7 million soles (approximately \$1.9 million USD) and ordered to forfeit two properties and several bank accounts.³⁷

Continued on page 15

36. Alexandra Fuenmayor Starr, “Guatemalan Prosecutor Target Top Colombians in Campaign against Corruption Probes,” International Crisis Group (June 4, 2025), <https://www.crisisgroup.org/latin-america-caribbean/central-america/guatemala-colombia/guatemalan-prosecutors-target-top-colombians>.

37. “Peru must enhance protection for prosecutors and judges against potential political interference, says OECD Working Group on Bribery following High-Level Mission in Lima,” OECD (Jan. 22, 2025), [https://www.oecd.org/en/about/news/press-releases/2025/01/peru-must-enhance-protection-for-prosecutors-and-judges-against-potential-political-interference-says-oecd-working-group-on-bribery-following-high-level-mission-in-lima.html#:~:text=During%20the%20same%20period%2C%20initiatives,recent%20years%20against%20senior%20officials;\"Equipo Especial Lava Jato logra sentencia para representantes de la empresa Alpha Consult S. A. vinculada a Odebrecht\" \[\"Lava JATO Special Team Secures Conviction for representative of Alpha Consult SA, a company linked to Odebrecht\"\], Gob.pe \(Apr. 28, 2025\), https://www.gob.pe/institucion/mpfn/noticias/1157664-equipo-especial-lava-jato-logra-sentencia-para-representantes-de-la-empresa-alpha-consult-s-a-vinculada-a-odebrecht](https://www.oecd.org/en/about/news/press-releases/2025/01/peru-must-enhance-protection-for-prosecutors-and-judges-against-potential-political-interference-says-oecd-working-group-on-bribery-following-high-level-mission-in-lima.html#:~:text=During%20the%20same%20period%2C%20initiatives,recent%20years%20against%20senior%20officials;\).

**Progress and Setbacks
in Latin America's
Anti-Corruption Efforts**

Continued from page 14

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Continued on page 16

U.S. Prohibits Transactions with Three Mexican Financial Institutions for Cartel-Linked Money Laundering

On June 25, 2025, the U.S. Treasury Department's Financial Crimes Enforcement Network ("FinCEN") issued orders identifying three well-known Mexican financial institutions as being "of primary money laundering concern in connection with illicit opioid trafficking."¹ These institutions include two banks—CIBanco S.A., Institución de Banca Múltiple and Intercam Banco S.A., Institución de Banca Múltiple—and brokerage firm Vector Casa de Bolsa, S.A. de C.V. (collectively, the "Designated FIs").

The orders prohibit covered financial institutions—including, as described below, banks, broker-dealers, money services businesses, and mutual funds—from transmitting funds from or to the Designated FIs. The effective date of the orders was extended within weeks of their issuance from July 21, 2025, to September 4, 2025, in response to measures taken by the Mexican government,² and it is possible that further developments may impact the effective date.

These orders are the first that FinCEN has issued pursuant to new authority under 21 U.S.C. § 2313a ("Section 2313a").³ The Section 2313a orders are part of a larger effort by the Trump Administration to target international cartels and, in turn, the financial institutions that allegedly assist them. Notably, the U.S. State Department previously designated as Foreign Terrorist Organizations ("FTOs") several of the Mexican drug trafficking organizations with which FinCEN alleges the Designated FIs had dealings. Thus, any party continuing to deal with the Designated FIs may need to consider potential legal and reputational risks of doing so, including potential exposure under the material support statute,⁴ which prohibits knowingly providing "material support or resources" to an FTO.⁵

Continued on page 17

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1. FinCEN, Press Release, "Treasury Issues Unprecedented Orders under Powerful New Authority to Counter Fentanyl" (June 25, 2025), [available here](#); FinCEN, Imposition of Special Measure Prohibiting Certain Transmittals of Funds Involving CIBanco S.A., Institución De Banca Múltiple (June 30, 2025), [available here](#); FinCEN, Imposition of Special Measure Prohibiting Certain Transmittals of Funds Involving Intercam Banco S.A., Institución de Banca Múltiple (June 30, 2025), [available here](#); FinCEN, Imposition of Special Measure Prohibiting Certain Transmittals of Funds Involving Vector Casa de Bolsa, S.A. de C.V. (June 30, 2025), [available here](#).
 2. See FinCEN, Imposition of Special Measures Prohibiting Certain Transmittals of Funds Involving CIBanco S.A., Institución de Banca Múltiple, Intercam Banco S.A., Institución de Banca Múltiple, and Vector Casa de Bolsa, S.A. de C.V.; Extension of Effective Date, 90 Fed. Reg. 30826 (July 11, 2025), [available here](#). For a discussion of this extension and FinCEN's Frequently Asked Questions related to the orders, please refer to our prior Debevoise Update, "FinCEN Delays the Effective Date for Prohibitions Targeting CIBanco, Intercam, and Vector" (July 11, 2025), [available here](#).
 3. Codifying section 7213A of the Fentanyl Sanctions Act, as amended by the FEND Off Fentanyl Act, Division E, Title II, section 3201(a) of Public Law 118-50 (Apr. 24, 2024).
 4. 18 U.S.C. § 2339B.
 5. For a more detailed discussion of the risks associated with the recent FTO designations of eight cartels, please refer to our prior client update. Debevoise In Depth, "Cartels as Foreign Terrorist Organizations: Key Implications for Multinational Companies" (March 5, 2025), [available here](#).

**U.S. Prohibits Transactions
with Three Mexican Financial
Institutions for Cartel-Linked
Money Laundering**

Continued from page 16

Background

Section 2313a authorizes the U.S. Treasury Secretary to impose targeted obligations or restrictions on U.S. domestic financial institutions when the Secretary determines that reasonable grounds exist to conclude that a foreign financial institution, transaction, or account is “of primary money laundering concern” in connection with illicit opioid trafficking. On such a finding, the Secretary may require U.S. domestic financial institutions to comply with one or more “special measures.”

These special measures include those available under Section 311 of the USA PATRIOT Act, such as enhanced record keeping and reporting requirements and conditions or restrictions on foreign correspondent accounts. They also include a sixth special measure not available under Section 311 to prohibit or impose conditions on certain transmittals of funds. Unlike the notice-and-comment rulemaking required for Section 311 actions, Section 2313a authorizes Treasury to act by agency order or rulemaking.

Summary Of The Orders

The Treasury Department alleges the Designated FIs have “collectively played a longstanding and vital role in laundering millions of dollars on behalf of Mexico-based cartels and facilitating payments for the procurement of precursor chemicals needed to produce fentanyl.”⁶ FinCEN further notes in the orders that, based on public and nonpublic information available to it, reasonable grounds exist to conclude that the Designated FIs are of primary money laundering concern in connection with illicit opioid trafficking through their provision of financial services that facilitate illicit opioid trafficking by Mexico-based drug trafficking organizations.

Which Institutions Must Comply?

The restrictions imposed by the orders apply to covered financial institutions under the Bank Secrecy Act—namely, any agent, agency, branch, or office within the United States of a person doing business in a listed capacity, including as a bank, broker-dealer, money services business (“MSB”), and/or mutual fund. According to FinCEN, whether a Mexico-based subsidiary of a U.S. financial institution is a covered financial institution for this purpose, and therefore bound by the orders, depends on the type of U.S. financial institution involved and the capacity in which an entity operates. FinCEN’s Frequently Asked Questions (“FAQs”) related to the Section 2313a orders differentiate between an MSB and a bank, noting that a

Continued on page 18

6. U.S. Treasury Department, Press Release, “Treasury Issues Historic Orders under Powerful New Authority to Counter Fentanyl” (June 25, 2025), [available here](#).

**U.S. Prohibits Transactions
with Three Mexican Financial
Institutions for Cartel-Linked
Money Laundering**

Continued from page 17

foreign MSB may have Bank Secrecy Act compliance obligations if it does business in the United States, while a bank may not have the same legal obligations with respect to foreign activity and subsidiaries.

However, the FAQs also call attention to covered financial institutions' enterprise-wide risk management requirements and related regulatory standards, including anti-money laundering risk management, requirements, and standards. The FAQs state that U.S. banks should ensure appropriate oversight and support for the activities of their foreign affiliates, particularly with respect to identifying and mitigating illicit finance risks associated with funds transmittals involving the Designated FIs.

“Thus, any party continuing to deal with the Designated FIs may need to consider potential legal and reputational risks of doing so, including potential exposure under the material support statute, which prohibits knowingly providing ‘material support or resources’ to an FTO.”

What Is Restricted?

Covered financial institutions are prohibited from engaging in any transmittal of funds from or to the Designated FIs. The orders define transmittals of funds as the sending and receiving of funds, including convertible virtual currency.

Who Are the Targets?

The orders target only the Mexico-based operations of the three Designated FIs. Specifically, transmittals to and from the Designated FIs or their branches, subsidiaries, and offices located in Mexico are prohibited.

The orders do not target: (i) branches, subsidiaries, or offices of the Designated FIs located outside of Mexico, including those located in the United States; (ii) any other affiliates, whether inside or outside of Mexico; or (iii) parent holding companies.

What Are the Compliance Obligations?

The orders require a covered financial institution to reject any prohibited transmittal of funds that occurs after the Section 2313a orders are effective.

Continued on page 19

**U.S. Prohibits Transactions
with Three Mexican Financial
Institutions for Cartel-Linked
Money Laundering**

Continued from page 18

FinCEN emphasizes in its FAQ guidance that its regulatory actions are not considered sanctions designations or Office of Foreign Assets Control (“OFAC”) actions. The Section 2313a orders have no requirement to block or freeze funds or property and do not independently require a covered financial institution to report transactions to OFAC. The FAQs also clarify that the Designated FIs are not added to the Specially Designated Nationals (“SDN”) list or any non-SDN list maintained by OFAC.

Covered financial institutions are not required to file suspicious activity reports (“SARs”) when rejecting funds transmittals pursuant to a Section 2313a order. However, FinCEN encourages covered financial institutions to consider the designations “of primary money laundering concern” when investigating activity and evaluating whether to file a SAR. If a SAR is filed on transactional activity involving a Designated FI, institutions are asked to include “CIBanco2313a FIN-2025,” “Intercam2313a FIN-2025,” or “Vector2313a FIN-2025,” as appropriate, in Field 2 of the SAR form.

The orders do not restrict correspondent accounts and, therefore, do not trigger the issuance of standard Section 311-style notices used to alert foreign correspondent account holders of such restrictions.

Are There Any Grandfathered Transactions or Exemptions?

There is no grandfathering for future or contingent payment obligations arising under agreements that predate the orders, although FinCEN reserves authority under each order to grant appropriate exemptions or to condition certain transmittals. We understand that industry participants have sought guidance from FinCEN as to whether a covered financial institution may receive payments on bonds issued by a Designated FI or whether payments to and from a Designated FI under a loan, credit facility, letter of credit, or other extension of credit in place prior to FinCEN’s issuance of the orders are prohibited. Absent further guidance, any transmittal of funds to or from a Designated FI on or after the effective date of the Section 2313a orders is prohibited.

When Do the Orders Expire?

The orders do not have a cessation date.

Continued on page 20

**U.S. Prohibits Transactions
with Three Mexican Financial
Institutions for Cartel-Linked
Money Laundering**
Continued from page 19

What Are the Consequences of Noncompliance?

Willful violations of a Section 2313a order may trigger civil and criminal liability for a covered financial institution and its directors, officers, and employees. FinCEN may impose a civil money penalty of not less than two times the amount of the violative transaction, up to a statutory maximum of \$1,776,364 (subject to adjustment for inflation), on any covered financial institution that violates a Section 2313a order.⁷ Willful violations may result also in criminal penalties, including fines of at least two times the amount of the transaction, up to \$1,000,000.⁸

Compliance Implications And Considerations

The Section 2313a orders carry significant implications both for covered financial institutions subject to compliance obligations and more broadly for financial institutions and other parties transacting with the Designated FIs.

Covered financial institutions should begin taking steps to ensure compliance with the Section 2313a orders by the effective date of September 4, 2025. FinCEN expects covered financial institutions to implement procedures to ensure compliance with the orders and to exercise reasonable due diligence to prevent prohibited transactions. Steps covered financial institutions may take to prepare include:

- Ensure that customer screening and transaction monitoring tools are calibrated to detect and reject transmittals involving the Designated FIs.
- If engaged in dealings with Designated FIs, review agreements to understand any consequences or remedial actions with respect to rejecting or prohibiting transmittals of funds.
- Review existing client relationships, counterparties, and transaction flows to evaluate exposure to the Designated FIs and identify and mitigate risks.
- Confirm that relevant stakeholders across all impacted business lines—particularly in their compliance, operations, and customer-facing functions—understand the restrictions and designations of primary money laundering concern and are prepared to identify, reject, and/or escalate, as applicable, prohibited transmittals and other transactions implicating FinCEN’s findings of primary money laundering concern.
- Consider whether updates to red flags or SAR processes may be appropriate to address transactions that may involve a Designated FI.

Continued on page 21

7. 31 U.S.C. § 5321; 31 CFR 1010.821 (civil penalty inflationary adjustment table).

8. 31 U.S.C. § 5322(d).

**U.S. Prohibits Transactions
with Three Mexican Financial
Institutions for Cartel-Linked
Money Laundering**
Continued from page 20

In addition, given FinCEN's authority under Section 2313a, financial institutions operating outside of the United States may wish to consider their exposure to cartel-related activity implicating the findings underlying FinCEN's targeting of the Designated FIs and, as applicable, potential enhancements to compliance controls.

There remain open questions as to how the orders apply where a Designated FI acts solely as trustee to a pension plan or other investment vehicle. Absent clarification from FinCEN, customers of the Designated FIs may wish to evaluate the potential impact of the orders on trust-related transactions and consider whether transitioning to alternative financial institutions may be appropriate.

More broadly, the Section 2313a orders reflect FinCEN's findings that the Designated FIs have relationships with certain Mexican cartels. Those include cartels that are and others that in the future may be designated as FTOs under U.S. law. FTO designations have significant consequences for anyone doing business with such cartels or their affiliated members or partners.⁹ For example, a business that makes payments to a designated cartel—even entirely outside the United States—could face prosecution by the U.S. Department of Justice for providing “material support” to an FTO.

Given the Section 2313a orders, similar risks may exist for transactions involving the Designated FIs. For example, a company that engages with a Designated FI could be investigated on a theory that the company may have conspired with the Designated FI to help a designated cartel. Consequently, even financial institutions and other parties not directly required to comply with the orders should carefully assess their exposure to the Designated FIs, particularly regarding any funds flows that may be prohibited by the covered financial institutions that would process those transactions.

As noted above, the material support statute applies extraterritorially, meaning U.S. authorities can prosecute individuals and entities for conduct occurring outside the United States. Among other bases for jurisdiction, the statute applies to conduct that has even a de minimis effect on interstate or foreign commerce (e.g., most transactions facilitated by a multinational or local bank). In addition, non-U.S. persons determined to have provided “material support” may be designated under U.S. sanctions authorities and become a target of blocking sanctions.

Continued on page 22

9. See Debevoise In Depth, “Cartels as Foreign Terrorist Organizations: Key Implications for Multinational Companies,” *supra* note 5.

**U.S. Prohibits Transactions
with Three Mexican Financial
Institutions for Cartel-Linked
Money Laundering**
Continued from page 21

Potential Future Developments

The legal and diplomatic landscape remains fluid. The Mexican government publicly rejected the allegations underlying FinCEN's designations, asserting that the United States failed to provide supporting evidence.

At the same time, in response to the orders, Mexico's banking regulator (the Comision Nacional Bancaria y de Valores) intervened by appointing temporary administrators at the Designated FIs. These interventions impose direct regulatory supervision and control over key management decisions at the Designated FIs. The Mexican government also has announced steps to transfer temporarily the trust businesses of two of the Designated FIs to one or more of Mexico's development banks, with the sale of those businesses to private institutions to follow. Further developments could alter or provide clarification regarding the scope, effective date, and/or duration of the restrictions under the orders.

In addition, particularly as the first use of Treasury's new statutory authority under Section 2313a, the orders could face legal or political challenges from the Designated FIs or the Mexican government itself.

The Trump Administration has made combatting illicit drug trafficking, especially activity with a nexus to illicit opioids, a high priority. The U.S. government is likely to continue leveraging a combination of new authorities and existing tools, such as its declaration of a national emergency to deal with the threat posed by cartels and FTO designations of cartels, to combat drug trafficking and related threats. Maintaining well-calibrated and up-to-date risk-based compliance programs will be key in navigating this evolving landscape.

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