

# Managing corruption risk in Latin America



Forensics today

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- Corruption in Latin America continues to proliferate despite stepped-up cooperation between US and local law enforcement. In recent years, corrupt tactics have shifted away from gifts and toward payments funneled through third parties (both real and fictitious).
- Companies doing business or planning to do business in the region face potential legal exposure and reputational risk from these activities.
- To manage this evolving risk, companies should have strong compliance programs supported by technology that enables more timely and informed decisions, adding further value to their Latin America operations.

Corruption has persisted throughout Latin America (LATAM) for decades and has not abated despite recent reform efforts in the region. Defined as payments, offers or promises of “anything of value” to a foreign official for the purpose of securing an improper business advantage, corrupt practices in LATAM are evolving and shifting focus — moving away from gifts and toward bribes funneled through business partners and vendors (whether real or fictitious) — according to PwC’s analysis of corruption settlements with companies investigated for potential Foreign Corrupt Practices Act (FCPA) violations.

The Department of Justice (DOJ) has stepped up enforcement of FCPA violations in the region and

has focused increasingly on holding individuals accountable for misconduct. This has been reflected in a number of important convictions and guilty pleas in LATAM since 2019, including 67 individual convictions.

With increased cross-border cooperation between US and local law enforcement, companies currently operating in LATAM or looking to relocate foreign facilities to this region should adopt measures to reduce corruption risks immediately. They can start by adopting innovative technology to strengthen their anti-corruption compliance monitoring and assessment of LATAM operations and their suppliers.



# The problem's scope and intractability

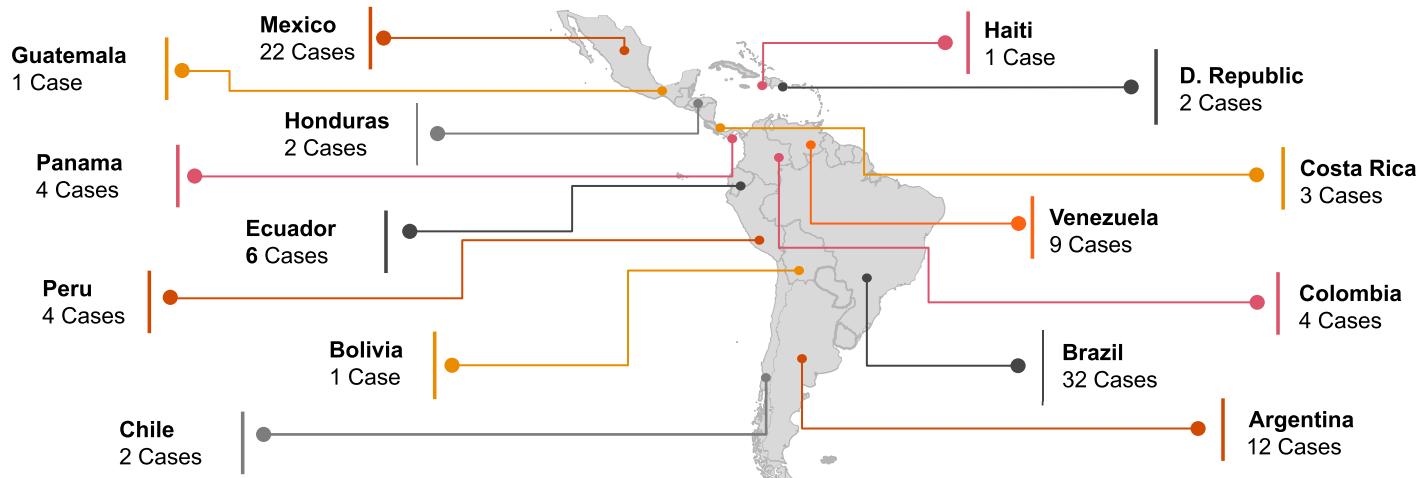
Despite anti-bribery and corruption (ABAC) laws and regulations adopted recently in many LATAM countries, progress has faltered because of weakened democratic institutions. Countries that appeared to be leading the fight against corruption and implementing strong enforcement campaigns, like Brazil, have slowed down on their efforts.

According to [research](#) from Transparency International, the average Corruption Perceptions Index (CPI) for LATAM is 35.95 out of 100, with 100 being "very clean" and 0 being "highly corrupt."

But corruption risks that companies face in the region may differ from those in other parts of the world. To identify these unique risks, we analyzed corruption settlements with companies investigated for potential FCPA violations related to their activities in LATAM over the last 20 years. The results indicated a total of 105 country-specific cases involving 15 countries, and a total of 16 unique bribery patterns in connection with these matters.

## Latin America bribery settlements

During the last 20 years, the LATAM countries that witnessed the highest number of settlements were Brazil, Mexico and Argentina. Brazil, particularly active in enforcing its ABAC laws over the past decade, notably through the Lava Jato investigation that commenced in 2014, reported 14 cases in the last five years. In contrast, Mexico only had 6 cases during the same period. The recent surge in Brazil's cases can likely be attributed to unprecedented levels of cross-border cooperation with US authorities and notable bribery settlements in 2022. In recent years, there has been an observable increase in cooperation with other countries in the region as well.



15 Countries

68 Companies

26 Industries

Source: Last 20 years FCPA settlements involving LATAM

In the last 5 years Brazil had a total of 14 new cases

# Types of corrupt practices

Corruption methods are entrenched in business operations in LATAM. Common types include payments laundered through business partners, disbursements exploiting weak treasury controls and payments disguised as gifts and donations.

Payments through business partners, the most common method, involves colluding with third parties (such as business consultants, sales agents, distributors, or service providers) to facilitate illicit financial transactions. These relationships often result in inflated invoices, overbilling or other

fraudulent activities that divert funds from the company, ultimately securing an unfair business advantage.

Some elected officials and government employees frequently exploit their positions for personal gain through embezzlement, misappropriation of public funds and kickbacks from public contracts. Corruption is equally endemic, as public officials may demand bribes in exchange for essential services or to expedite bureaucratic processes.

## Corruption patterns in LATAM



	Type or method	20 years	5 years
1	Payments through business partners/ third parties	76%	77%
2	Gifts, Travel, Donations and Entertainment	25%	16%
3	Treasury Schemes	37%	32%
4	Fictitious Vendors and Invoices	23%	39%
5	Over-invoicing/kickbacks to Govt. Officials/Family Members	3%	3%
6	Payroll	4%	0%
7	Other	4%	0%

Source: Last 20 years FCPA settlements involving LATAM

To better understand the most recent trends, we also looked at settlements over the last five years. This analysis shows that payments made through business relationships continue to be the top bribery method used by companies. Mechanisms involving gifts, travel, donations and entertainment have declined in the last five years, but that decline

was offset by a doubling in the use of payments involving fictitious vendors and invoices, including the establishment of shell companies to redirect funds towards government officials. When combined, payments through business partners and fictitious vendors and invoices account for 86% of cases observed.

Based on our analysis, the most common types of third parties were business consultants (36%), intermediaries/brokers (28%) and commercial/sales agents (13%). It's worth noting that business service providers — such as catering, IT, waste disposal — were used in 11% of cases over the last 20 years. These tactics included the use of vendors that provide legitimate business services to divert funds to government officials.

Furthermore, our analysis revealed that in 13% of the cases involving third parties, a direct association was found between the third party and a government official. In 79% of the cases, excessive commissions were paid or no services were actually provided by the third party, indicating fraudulent activities and misuse of funds.

This data illustrates the importance of maintaining strong controls in both engaging and monitoring third parties. Companies should confirm that effective controls are implemented not only as part of the onboarding and payment process to third parties but also have proper monitoring controls to identify and assess where there are changes of services provided by vendors involved in the day-to-day operations of the company.

According to our analysis, the second most common method involves taking advantage of weak controls in treasury management to make improper payments. In LATAM, 37% of the cases we examined were due to insufficient monitoring controls in treasury processes, which allowed for improper payments to occur. The most common pattern observed in treasury management involved employees using company funds to make payments to foreign government officials.

Another significant trend observed in the past five years is the increased use of contributions as a means to bribe government officials, particularly through political contributions. This trend should remain top of mind for companies operating in LATAM, as six countries will have presidential elections in 2024.

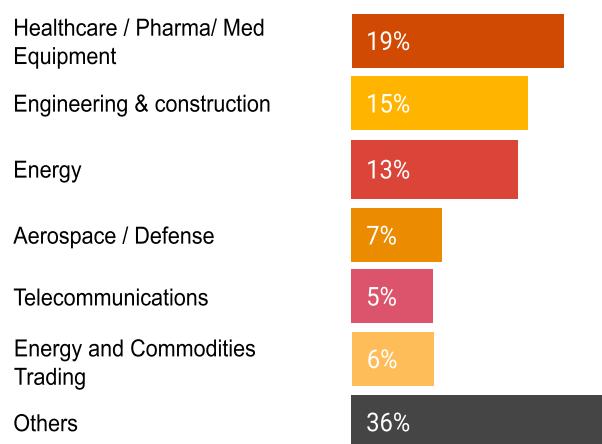


## Industries impacted by corruption in Latin America

### Case breakdown by industry in the last 20 years

**68** Companies

**26** Industries



Source: Last 20 years FCPA settlements involving LATAM

### Many sectors affected

Companies across a wide range of industry sectors in LATAM continue to engage in corrupt conduct. For example, bribery, embezzlement, and political corruption divert precious resources away from critical public services like healthcare and infrastructure. Corrupt practices like illicit payments to secure government contracts or permits also undermine fair competition in industries like construction and energy, which can lead to inflated costs. Ultimately, the consequences of corruption ripple through society, contributing to income inequality, undermining trust in institutions and hindering overall economic and social development in the region.

### How does this impact doing business in LATAM?

As the LATAM market continues to grow, it's important to understand the current corruption landscape in the region. US authorities will likely maintain a strong enforcement posture, and the growing cross-border cooperation between law enforcement agencies suggests that companies lacking strong corruption controls face the potential for costly investigations and penalties. Recent settlements in these cases have involved hundreds of millions of dollars.

# Apply tech, data and insights to manage corruption risk

In light of the evolving corruption risks in LATAM, it's no longer enough for organizations to rely on a universal or global strategy to address these challenges. Companies doing business or planning to do business in LATAM should consider taking the following steps.

- **Assess your potential exposure and tailor your efforts to the local risk environment.** Review your existing and planned LATAM operations and conduct a thorough assessment of industry, regional and country-specific risks. This includes gaining a thorough understanding of the local culture, laws and regulatory environment. These insights are crucial for the effective implementation and continuous improvement of your anti-corruption compliance program.
- **Develop a readiness plan.** Make a plan to address any identified gaps. Remediation efforts may involve implementing new solutions to detect and prevent illegal payments, strengthening policies and procedures, providing detailed training to employees, and enhancing program governance. It's important to document these improvements over time to demonstrate your company's commitment to compliance and risk management.
- **Implement risk-management technology and controls.** Adopt an innovative compliance solution that uses data analytics and automation to effectively monitor and assess compliance efforts. This can help you gain valuable insights into your operations and enhance decision-making by consolidating and visualizing both qualitative and quantitative risk attributes.



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