

THE REVIEW OF SECURITIES & COMMODITIES REGULATION

AN ANALYSIS OF CURRENT LAWS AND REGULATIONS
AFFECTING THE SECURITIES AND FUTURES INDUSTRIES

Vol. 58 No. 7

April 9, 2025

2024 ANTI-CORRUPTION TRENDS IN LATIN AMERICA: A DYNAMIC ENVIRONMENT FOR ENFORCEMENT AND COMPLIANCE

In this article the authors address key trends in FCPA enforcement in Latin America in 2024, including: few resolutions, high penalties; individuals at risk; the impact of legislative and policy updates; and evolving regional corruption perspectives and compliance practices as reflected by Miller & Chevalier's 2024 Latin America Corruption Survey. The authors draw on these insights to offer an outlook for what we can expect for enforcement in the region in 2025.

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The anti-corruption landscape in Latin America saw notable developments in 2024, despite an overall decline in enforcement by U.S. authorities. There were high corporate penalties associated with U.S. Foreign Corrupt Practices Act (“FCPA”) enforcement involving problematic conduct in Latin America and continued FCPA enforcement against Latin American individuals. Moreover, Miller & Chevalier Chartered’s 2024 Latin America Corruption Survey revealed that corporations operating in the region perceive corruption risk as entrenched.¹ As a result, companies are looking to corporate compliance measures as a key way to address corruption risks. Those compliance efforts will become increasingly critical in light of President Trump’s February 10, 2025, executive order pausing DOJ enforcement of the FCPA.²

¹ Miller & Chevalier Chartered, *2024 Latin America Corruption Survey* at 5, 58 (2024), https://www.millerchevalier.com/sites/default/files/2024-04/Miller-and-Chevalier_2024-Latin-America-Corruption-Survey_ENG.pdf.

² Exec. Order No. 14209, 90 Fed. Reg. 9,587 (Feb. 10, 2025).

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FEW RESOLUTIONS, HIGH PENALTIES

The number of FCPA resolutions involving misconduct in Latin America decreased in 2024 compared to recent years, with only three of 15 corporate enforcement actions involving the region.³ The three actions involved Gunvor, Trafigura, and Telefónica Venezolana, all non-U.S. companies with operations in Latin America. However, when considering FCPA enforcement trends since 2018, around 40% of corporate FCPA enforcement actions have involved misconduct in Latin America during that time.⁴

Corporate FCPA monetary fines and penalties collected in 2024 by the DOJ and the U.S. Securities and

³ Miller & Chevalier Chartered performed internal data analysis to compile these statistics, which count each distinct resolution with a company and its affiliates as separate enforcement actions. They include enforcement actions that involve FCPA charges or conspiracy to violate the FCPA charges, SEC default judgments, as well as “declinations with disgorgements.”

⁴ *Id.*

Exchange Commission (“SEC”) and associated with problematic conduct in Latin America represented 52% of the total fines and penalties collected in connection with FCPA enforcement actions.⁵ Much of this can be attributed to the Gunvor S.A. (“Gunvor”) plea agreement, which included a penalty of nearly USD \$662 million: the highest sanction imposed in 2024, and one of the highest in the history of FCPA enforcement.⁶ Since 2018, approximately half of all FCPA monetary fines and penalties can be attributed to settlements that involved misconduct in Latin America.⁷

Two of the three corporate resolutions continued the long line of enforcement actions in Latin America involving state-owned oil companies. On March 1, 2024, the DOJ charged Gunvor, a Swiss international commodities trading company, for making approximately USD \$97 million in bribes to Ecuadorian officials to obtain business with Empresa Pública de Hidrocarburos del Ecuador (“Petroecuador”), a state-owned entity.⁸ Of particular note is that the DOJ required Gunvor to enter a guilty plea in part due to Gunvor’s prior history of corruption and controls issues — even though those breaches were not previously the subject of U.S. enforcement action; they were resolved instead with Swiss authorities.⁹ The case highlights the

risks companies face when failing to appropriately respond to compliance risks and tighten internal controls. It also illustrates that settling with other countries’ authorities will not spare companies from aggressive U.S. enforcement.

Later in March 2024, the DOJ secured another guilty plea against Swiss commodities trading company Trafigura Beheer B.V. (“Trafigura”) for a scheme lasting over a decade in which Trafigura personnel and agents conspired to bribe Brazilian officials to secure business advantages with Petrobras, Brazil’s state-owned oil company.¹⁰ Trafigura admitted to having made approximately USD \$19.7 million in corrupt payments, some of which were passed along to foreign officials.¹¹ Notably, following the announcement of the plea agreement, the DOJ issued a press release the same day highlighting that the DOJ’s investigation into international commodities trading schemes had produced six corporate resolutions and the convictions of 20 individuals, as well as aggregate penalties exceeding USD \$1.7 billion.¹² All of the corporate enforcements the DOJ named involved corruption schemes in Latin America, illustrating an effective industry sweep of the region over the past several years.¹³

Finally, in November 2024, the DOJ entered into a deferred prosecution agreement with Telefónica Venezolana C.A. (“Telefónica Venezolana”), the Venezuelan subsidiary of a Spanish multinational telecommunications company, based on conspiracy to

⁵ Miller & Chevalier Chartered performed internal data analysis to compile these statistics, which reflect the settlement amounts (including penalties, disgorgements, interest, and declinations with disgorgement) collected as a result of resolving corporate FCPA enforcement actions.

⁶ Stanford Law School, *FCPA Clearinghouse: Enforcement Actions*, https://fcpa.stanford.edu/enforcement-actions.html?sort=total_sanctions_usa_gp (last visited Feb. 20, 2025).

⁷ *Supra* note 6.

⁸ Plea Agreement, Attachment A ¶ 21, *United States v. Gunvor S.A.*, No. 1:24-cr-00085 (E.D.N.Y. filed Mar. 1, 2024), ECF No. 9, <https://www.justice.gov/archives/opa/media/1341011/dl?inline>.

⁹ Press Release, DOJ, *Commodities Trading Company Will Pay Over \$661M to Resolve Foreign Bribery Case* (Mar. 1, 2024), <https://www.justice.gov/archives/opa/pr/commodities-trading-company-will-pay-over-661m-resolve-foreign-bribery-case>.

¹⁰ Plea Agreement, Attachment A ¶ 14, *United States v. Trafigura Beheer B.V.*, No. 1:23-cr-20476 (S.D. Fla. filed Mar. 29, 2024), ECF No. 33, <https://www.justice.gov/archives/opa/media/1346006/dl?inline>.

¹¹ *Id.*

¹² Press Release, DOJ, *Justice Department’s Investigation into International Commodities Trading Companies’ Foreign Bribery Schemes Results in Six Corporate Resolutions and 20 Individuals Convicted* (Mar. 28, 2024), <https://www.justice.gov/archives/opa/pr/justice-departments-investigation-international-commodities-trading-companies-foreign>.

¹³ *Id.*

bribe Venezuelan officials for preferential treatment in a state-sponsored currency auction.¹⁴ The corruption stemmed from limited access to currency conversion to U.S. dollars, induced by attempts under the Chávez regime to stabilize the Venezuelan bolívar.¹⁵ This resolution provides an important reminder that companies in Latin America should tailor their compliance programs to the risks posed by the specific climates where they operate and continuously monitor the evolution of those risks.

INDIVIDUALS AT RISK

Unlike the relative downturn in corporate enforcement in Latin America, 2024 saw a significant uptick in enforcement actions against individuals for their misconduct in the region, particularly those affiliated with major corporate investigations. Four of the seven individuals who faced FCPA convictions or guilty pleas in 2024 were involved in bribery schemes in Latin America, including Mauricio Gomez Baez (Argentina/Brazil/Mexico), Paulo Casqueiro Murta (Venezuela), Javier Aguilar (Ecuador/Mexico), and Glenn Oztemel (Brazil).¹⁶ Several of these individuals were affiliated with previously resolved major corporate investigations, namely Stericycle, Vitol, and Petrobras. Furthermore, it merits noting that at the time of Gunvor's plea agreement, four individuals had already been convicted for their roles in the scheme and an additional Gunvor employee still faces charges.¹⁷ More generally, since 2018, it should be noted that about a third of the total individuals charged for FCPA-related violations were from Latin America.¹⁸

¹⁴ Deferred Prosecution Agreement, *United States v. Telefónica Venezolana, C.A.*, No. 1:24-cr-00633 (S.D.N.Y. filed Nov. 8, 2024), ECF No. 4, <https://www.justice.gov/criminal/media/1376656/dl>.

¹⁵ *Id.*

¹⁶ Miller & Chevalier Chartered performed internal data analysis to compile these statistics, which count each individual once (even if charged by both the DOJ and the SEC).

¹⁷ Press Release, *supra* note 10; for additional discussion, see Miller & Chevalier Chartered, *Gunvor Reaches Resolution with U.S. and Swiss Authorities for Misconduct in Ecuador*, FCPA Spring Review 2024 (Apr. 16, 2024), <https://www.millerchevalier.com/publication/fcpa-spring-review-2024#Gunvor+Reaches+Resolution+with+US+and+Swiss+Authorities+for+Misconduct+in+Ecuador>.

¹⁸ *Supra* note 17.

IMPACT OF LEGISLATIVE AND POLICY UPDATES

Several legislative and policy updates occurred in 2024 related to anti-corruption enforcement, including the passage of the Foreign Extortion Prevention Technical Corrections Act,¹⁹ the launch of the DOJ Corporate Whistleblower Rewards Pilot Program ("Whistleblower Pilot Program"), and issuance of updates to DOJ's Evaluation of Corporate Compliance Programs ("ECCP") and the Criminal Division Corporate Enforcement and Voluntary Self-Disclosure Policy ("CEP"). In July 2024, the Foreign Extortion Prevention Technical Corrections Act amended the Foreign Extortion Prevention Act ("FEPA") to bring it closer in line with the FCPA.²⁰ Key changes included narrowing the definition of "foreign official" by eliminating references to "unofficial" activity in FEPA as initially enacted; limiting the extraterritorial reach of the statute by requiring that bribes subject to the law be requested by someone within the United States; and clarifying that "any act or decision" of foreign officials made in their official capacity falls within the statute's scope.²¹

In August 2024, the DOJ simultaneously launched its new Whistleblower Pilot Program and announced revisions to the CEP.²² The Whistleblower Pilot Program rewards individuals who provide the DOJ with original information, in writing, that results in forfeiture of at least USD \$1 million in conjunction with successful enforcement in one of four target areas: foreign corruption, domestic bribery, crimes involving financial institutions, and healthcare fraud related to private insurance.²³ The CEP, which was temporarily amended

¹⁹ Pub. L. No. 118–78, 138 Stat. 1512 (2024).

²⁰ Miller & Chevalier Chartered, *Foreign Extortion Prevention Technical Corrections Act Both Narrows and Broadens FEPA's Reach*, FCPA Autumn Review 2024 (Oct. 29, 2024), <https://www.millerchevalier.com/publication/fcpa-autumn-review-2024#Foreign+Extortion+Prevention+Technical+Corrections+Act+Both+Narrows+and+Broadens+FEPA's+Reach>.

²¹ Pub. L. No. 118–78, 138 Stat. 1512 (2024).

²² DOJ, *Principal Deputy Assistant Attorney General Nicole M. Argentieri Delivers Remarks on New Corporate Whistleblower Awards Pilot Program* (Aug. 1, 2024), <https://www.justice.gov/archives/opa/speech/principal-deputy-assistant-attorney-general-nicole-m-argentieri-delivers-remarks-new>.

²³ DOJ, *Criminal Division Corporate Whistleblower Awards Pilot Program* (last updated Aug. 1, 2024), <https://www.justice.gov/criminal/criminal-division-corporate-whistleblower-awards-pilot-program>.

in August and then formally updated in November 2024, was revised to further incentivize voluntary self-disclosure by crediting companies that self-disclose in good faith, even if their disclosures do not rise to the level of “voluntary self-disclosure” that would entitle them to the presumption of a declination.²⁴

Finally, the updates to the ECCP issued in September 2024 — the first changes to the guidance in 18 months — signal several focal points for the DOJ in assessing compliance programs.²⁵ The revisions emphasize data and emerging technology, expecting companies to use them as tools within their compliance programs and to assess the risks they pose; integrating lessons learned from companies’ own prior misconduct and that of their industry peers; and enhancing reporting mechanisms, in line with the DOJ’s renewed focus on incentivizing whistleblowers.²⁶

The DOJ utilized FCPA enforcement actions in Latin America to illustrate the practical impact of many of these changes. The Gunvor resolution provides a good example of the DOJ’s 2024 policy updates.²⁷ In a speech at an American Bar Association conference shortly after the resolution was announced, former Assistant Attorney General Nicole Argentieri focused on Gunvor’s efforts to “update[] and evaluate[] its compensation policy to better incentivize compliance with the law and corporate policies.”²⁸ This point aligns with the updated CEP program, which seeks to reward companies that have taken significant steps to improve their compliance programs even if they cannot benefit from voluntary self-disclosure.²⁹

The Gunvor plea agreement also demonstrates the DOJ’s heightened focus on data access in evaluating corporate cooperation, in line with the latest ECCP updates, probing how companies are managing employees’ use of personal and encrypted means of communication.³⁰ Another key aspect of the ECCP revisions appeared in the Telefónica Venezolana resolution, where, in crediting the company with timely remedial measures, the DOJ underscored ways in which the company had empowered an independent compliance function.³¹ Also notably, all three corporate enforcement actions involving Latin America emphasized the role of recidivism in DOJ charging and sentencing decisions. Although the number of resolutions may have declined in 2024, these outcomes illustrate that regardless of enforcement trends, the risk of corruption remains a reality for companies operating in the region.

REGIONAL CORRUPTION PERCEPTIONS AND COMPLIANCE PRACTICES

Since 2008, Miller & Chevalier Chartered has conducted a Latin America Corruption Survey every four years. The 2024 survey, which obtained insights from more than 1,000 professionals in 18 Latin American countries, revealed that corruption remains entrenched throughout the region.³² Nearly half of all respondents stated that corruption is a “significant obstacle” to doing business, a response level that has remained largely consistent since 2012.³³

Political parties and municipal/local governments were ranked as the most corrupt areas in the countries where respondents work, with 72% and 67% of respondents respectively identifying “significant corruption” in those institutions.³⁴ The percentage of respondents who stated that their companies had lost business due to corruption decreased to 41% overall in 2024 — down nearly 20% since our initial survey in 2008 — but remained above 50% in more than half of the countries surveyed.³⁵ Furthermore, the 2024 survey

²⁴ DOJ: Criminal Division, *Criminal Division Corporate Enforcement and Voluntary Self-Disclosure Policy* § 9-47.120 (updated Nov. 2024), <https://www.justice.gov/criminal/criminal-fraud/file/1562831/dl?inline=>.

²⁵ DOJ: Criminal Division, *Evaluation of Corporate Compliance Programs* (updated Sept. 2024), <https://www.justice.gov/criminal/criminal-fraud/page/file/937501/dl>.

²⁶ *Id.*

²⁷ Plea Agreement, *United States v. Gunvor S.A.*, *supra* note 9.

²⁸ DOJ, Acting Assistant Attorney General Nicole M. Argentieri, *Keynote Speech at American Bar Association’s 39th National Institute on White Collar Crime* (Mar. 8, 2024), <https://www.justice.gov/archives/opa/speech/acting-assistant-attorney-general-nicole-m-argentieri-delivers-keynote-speech-american>.

²⁹ DOJ: Criminal Division, *Evaluation of Corporate Compliance Programs*, *supra* note 26.

³⁰ Plea Agreement, *United States v. Gunvor S.A.*, *supra* note 9.

³¹ Deferred Prosecution Agreement, *supra* note 15.

³² Miller & Chevalier Chartered, *2024 Latin America Corruption Survey* at 5, 58 (2024), https://www.millerchevalier.com/sites/default/files/2024-04/Miller-and-Chevalier_2024-Latin-America-Corruption-Survey_ENG.pdf.

³³ *Id.* at 5.

³⁴ *Id.* at 35.

³⁵ *Id.* at 5, 22.

showed a 10 percent increase in the number of respondents who perceived local anti-corruption laws to be moderately or significantly effective (although the number remains relatively low at 40%).³⁶

Importantly, especially in light of the DOJ's updated policy expectations, the survey also found that more companies are embracing nuanced compliance program elements.³⁷ As has been the norm in past years, nearly 80% of respondents stated that their companies had basic compliance program elements, in particular anti-corruption policies, contract terms, training, and procedures for gifts, travel, and entertainment ("GTE").³⁸ However, in 2024, 65-75% of respondents also reported that their companies had more sophisticated procedures in place, such as third-party due diligence policies, anonymous reporting mechanisms, and mergers and acquisitions due diligence.³⁹ These findings bode well for companies in the region proactively addressing corruption risks, regardless of whether they fear enforcement consequences.

2025 OUTLOOK

The future of anti-corruption enforcement in Latin America promises to be an engaging landscape, with the new Trump administration taking several early steps to focus prosecutorial resources on the region. A Day One Executive Order and subsequent memorandum from Attorney General Pam Bondi promote "total elimination" of cartels and transnational criminal organizations ("TCOs"), in part by designating certain criminal enterprises as Foreign Terrorist Organizations ("FTOs").⁴⁰ An FTO designation opens the door to civil and criminal liability for anyone who provides "material

support" to designated entities, which includes the provision of any tangible or intangible property or services.⁴¹ This substantially heightens risks for companies operating in areas of Latin America where cartels, gangs, and other TCOs have infiltrated the local economy and government.⁴² On February 20, 2025, the State Department announced FTO designations for eight cartels and TCOs that are based in Mexico, Venezuela, and El Salvador but operate throughout Latin America.⁴³

Furthermore, on February 10, 2025, the Trump administration temporarily paused all FCPA enforcement (subject to the Attorney General's discretion) for at least 180 days to allow for realignment with the Administration's foreign policy objectives.⁴⁴ After the flurry of activity priming companies engaged in Latin America for an uptick in government investigations, this change raises questions regarding what FCPA enforcement will look like on the other side of the hiatus. However, given the Trump administration's express policy priorities to crack down on cross-border criminal conduct, what remains clear is that companies doing business in Latin America must bolster their internal compliance protocols now more than ever — building off of the growth illustrated in our 2024 Latin America Survey to adequately respond to the evolving enforcement climate. Implementing safeguards such as tailored risk assessments, crisis response protocols for handling extortion attempts, and employee training to recognize and avoid cartel-related threats will help companies in the region avoid unintentional association with cartels and TCOs, protecting themselves in this high-risk environment by demonstrating a firm commitment to ethics and compliance. ■

³⁶ *Id.* at 28.

³⁷ *Id.* at 7–8.

³⁸ *Id.* at 42.

³⁹ *Id.* at 43.

⁴⁰ Exec. Order No. 14157, 90 Fed. Reg. 8,439 (Jan. 20, 2025); Mem. from Att'y Gen. on Total Elimination of Cartels and Transnational Criminal Organizations to All Dep't Emp. (Feb. 5, 2025), <https://www.justice.gov/ag/media/1388546/dl?inline>.

⁴¹ 18 U.S.C. § 2339A.

⁴² Kathryn Cameron Atkinson, et al., *International Alert: Actions by the Trump Administration Increase the Risk for Corporations Interacting with Cartels*, Miller & Chevalier Chartered (Feb. 10, 2025), <https://www.millerchevalier.com/publication/actions-trump-administration-increase-risk-corporations-interacting-cartels>.

⁴³ Press Release, U.S. Dep't of State, *Fact Sheet: Designation of International Cartels* (Feb. 20, 2025), <https://www.state.gov/designation-of-international-cartels/>.

⁴⁴ Exec. Order No. 14209, 90 Fed. Reg. 9,587 (Feb. 10, 2025).