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Meet Pedro Ruske Freitas: The evolution of Brazilian compliance

Integrity Promotion Director at the Office of the Comptroller General in Brasília, Brazil.

Pedro Ruske Freitas (pedro.ruske@cgu.gov.br) was interviewed by Adam Turteltaub (adam.turteltaub@corporatecompliance.org), Vice President, Strategic Initiatives & International Programs at SCCE & HCCA.

AT: First, let's start with you sharing some background on the Brazilian Office of Comptroller General, its history, and its mission. What can you tell us?

PR: The Office of the Comptroller General (CGU) was created in 2003 to act as the internal control of the Federal Executive Branch and to promote a better use of public funds. Since its creation, CGU has gained several other attributions, and today, it acts in five main areas: audit and internal control of the Federal Executive Branch; conducting and supervising corrective and disciplinary measures related to public officers and legal entities; performing and supervising ombudsman's activities; promoting integrity and transparency and preventing corruption; and fighting corruption, which includes the special operations conducted with agencies like the Federal Police Department.

AT: The CGU has played an enormous role in the promotion of compliance programs and the fight against corruption. There has been a great deal of activity since Operation Carwash and the exposure of corrupt payments in the country. One notable outcome of the scandal was the passage of the Brazil Clean Companies Act. Could you share what the Act said?

PR: The Brazilian Clean Companies Act (the Act), or Anti-corruption Law—best known as Law No 12,846/2013—brought important juridical innovations to aid the fight against corruption in the country. The Act sets forth strict administrative and civil liability for legal entities that carried out acts of corruption, including frauds in public procurements, against both national and foreign public administrations.

Apart from the Act's clear deterrent effect due its huge fines (ranging from 0.1% to 20% of the company's gross revenue) and other penalties, Law No 12,846/2013 was the starting point of the anti-corruption compliance era in Brazil. For the first time, the importance of compliance and integrity mechanisms was acknowledged by the national legal system. Adopting and applying an effective integrity program ("integrity program" being understood as an "anti-corruption compliance program") is one of the factors that can reduce the amount of the fine imposed on legal entities.

Another very important aspect of the Act is that it allows for the public administration to negotiate leniency agreements (which would be similar to the United States' non-prosecution agreement and deferred prosecution agreement) with legal entities that, having carried out acts of corruption, want to settle with the public administration by cooperating with the investigations and providing all the necessary information on the misconducts, such as other legal entities involved. Also, one of the hallmarks of a leniency agreement is that the legal entity is obliged to adopt, apply, and/or improve its integrity program. Once the agreement is signed, the legal entity is then directly monitored by CGU during the entire term of the agreement.

Decree No 8,420/15, which further regulates the Clean Companies Act, specifies the standards and parameters of

an adequate integrity program. The decree is the norm that paved the way for the surge in anti-corruption compliance programs in Brazil.

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