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New data reveal the growth of compliance in Latin America

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A perennial challenge for chief compliance officers (CCOs) is assessing corruption risk in their companies' countries of operation. Many CCOs turn to Transparency International's Corruption Perception Index (CPI), which annually ranks countries based on the perceived levels of corruption in their public sector generally. Companies use CPI scores to determine what amount of due diligence to conduct on a third party, what locations to audit, what employees to train, and whether to enter into a new market. Yet a CPI score does not tell the whole story for a particular country, and overreliance on the CPI can lead companies to miss specific risks or focus too many resources on low-risk areas.

With this challenge in mind, our firm, in partnership with several law firms across Latin America, began conducting a corruption survey of the countries in the region every four years to provide CCOs with more detailed corruption data to help organizations assess and address particularized risks within each jurisdiction. The 2020 survey[1] yielded important information about the changing corruption landscape in the region that CCOs will find useful in making risk-based decisions related to the region. It additionally assessed anti-corruption compliance practices, which can help CCOs benchmark their programs and determine where compliance concepts are accepted and where more efforts may be required to implement effective compliance components.

Ranking government corruption

Understanding the corruption risks of the countries in which businesses operate is the starting point to an effective anti-corruption compliance program, so the survey asked the respondents to evaluate corruption in countries within the region. Consistent with CPI results, respondents viewed corruption as a significant obstacle in multiple countries, including Venezuela, Nicaragua, Honduras, and Ecuador. The majority of respondents viewed corruption as an insignificant obstacle in Uruguay, Chile, and the United States. It should be noted that while conducting the survey, the continued instability in Venezuela made it difficult to obtain reliable data from respondents in the country. While respondents from other countries numbered in the dozens and Venezuelan respondents actively participated in our prior surveys, only eight people in total from Venezuela responded in 2020. Because of these low numbers, we were unable to include the results for Venezuela in assessing responses to most of the questions. Notably, respondents in other countries overwhelmingly ranked Venezuela as the most corrupt country surveyed in the region.

Respondents also evaluated corruption in nine specific areas of government within their countries: executive branch, legislative branch, judicial branch, customs, prosecution service or investigators, police, municipal/local authorities, political parties, and state-owned companies. These questions were designed to help CCOs better understand whether corruption risk varies within a country's government and, if so, where that risk is most heightened. This breakdown of corruption risk by government areas can be leveraged by CCOs to help guide risk assessments of their own operations. For example:

- Companies importing into multiple countries in the region will be interested in knowing the percentages of respondents who viewed **customs authorities** in particular countries as "significantly corrupt." Colombia (82%), Argentina (76%), and Nicaragua (75%) achieved the highest percentages, and Chile (22%) and the United States (25%) received the lowest percentages of the countries evaluated. CCOs may also be interested in understanding where their risk profile may have shifted in the last four years. Although in 2020 Argentina and Chile are at different ends of the corruption risk spectrum, when compared to the 2016 results, it's apparent that these countries were heading in different directions: Argentina's risk profile improved from 91% to 76%, while Chile's risk profile increased from 8% to 22%.
- Companies contracting with **state-owned companies** in Ecuador (81% respondents viewed them as significantly corrupt) and Colombia (77%) should be more concerned about the corruption risk associated with those relationships than companies contracting with state-owned companies in the United States (25%), Chile (32%), and Costa Rica (37%).
- Companies facing litigation or criminal actions in the region can evaluate risks in dealing with **prosecution services or investigators**—viewed as most corrupt in Mexico (77%) and Bolivia (74%)—and **the judiciary**—viewed as most corrupt in Nicaragua (94%) and El Salvador (86%).
- Finally, companies that interact often with local **police** in the course of their operations would benefit from understanding that respondents viewed the police in the following countries as significantly corrupt: Mexico (88%), Peru (85%), and Bolivia (85%).

These specific data points have become more relevant to CCOs in light of the recent U.S. Department of Justice (DOJ) update to its *Evaluation of Corporate Compliance Programs* guidance,[2] in which it stresses that companies should conduct risk assessments that help identify particularized corruption risks.