



MEXICO: ANTI-CORRUPTION TSUNAMI ALERT (LESSONS LEARNED FROM THE OPERAÇÃO LAVA JATO INVESTIGATION)

Strong presidential campaign rhetoric may be an indicator of future increased anti-corruption enforcement activity, both in Mexico and the US, when the new administration takes office in Mexico. The following is a discussion of key considerations for foreign companies with operations in Mexico and what they can do right now to evaluate and mitigate risk.

On July 1, 2018, Mexican citizens will cast their votes in what some call the country's biggest Presidential election. The election takes place amid a swell of corruption allegations in Mexico and in the region. Foreign companies operating in Mexico – particularly those that have connections to the United States and thus could have exposure under the U.S. Foreign Corrupt Practices Act – as well as under the new Mexican anti-corruption laws, should ensure they have assessed their businesses' potential for corruption risks and taken appropriate mitigating steps as corruption is a key focus of the current presidential campaign.

Currently, Andrés Manuel López Obrador, the *Juntos Haremos Historia* coalition candidate, leads in the polls followed by Ricardo Anaya (*Por Mexico al Frente*) and José Antonio Meade (*Todos Por Mexico*). Although all candidates have different agendas, all of them have emphasized their desire to fight corruption in Mexico. Notably, corruption was the main topic discussed during the first presidential debate held on April 22, 2018.

Over the past few years, Latin America has been awash with corruption allegations tied to *Operação Lava Jato* (Operation Car Wash). The scandal that began in Brazil now touches numerous other countries throughout the Americas including, Venezuela, Argentina, Colombia and Peru. In Mexico, although there were allegations regarding the improper award of government contracts following officials' receipt of illicit payments, related enforcement actions have not materialized—yet. In 2017, Mexico's prosecutor-general signed the Brasilia Declaration for International Judiciary Cooperation against Corruption, under which Mexico and the ten other signatory countries from across South America committed to the "broadest, fastest and most efficient" cooperation to investigate the bribes by the Brazilian construction company, Odebrecht, to numerous officials.

Corruption issues in Mexico, however, are not limited to the companies or industries implicated in *Operação Lava Jato*. Transparency International's Corruption Perceptions Index 2017 ranked Mexico as more corrupt than 134 of the 175 countries reviewed, with a score of 29 out of 100 (where a score of 100 indicates that a country is viewed as very clean and a score of 0 indicates that a country is highly corrupt). This ranking indicates that Mexico is perceived as having a more corrupt environment than Brazil and several other countries featuring in *Operação Lava Jato*.

Although it remains to be seen whether any of the presidential candidates will fulfill their anti-corruption campaign vows upon ascending to office, the aggressive anti-corruption rhetoric used in the campaigns and the growing global outcry against corruption suggests that the new administration will focus on implementing Mexico's new anti-corruption laws, which came into effect in 2017. The new legislation provides the new administration the opportunity to prosecute high-profile cross-border cases of corruption. The new administration will be responsible for appointing the new National Anticorruption Chief Prosecutor, among other actions associated with implementing the new law, and it is anticipated that related efforts may begin shortly following the July 1st elections.

Companies that have engaged in business with the individuals and entities that have been swept up in *Operação Lava Jato* or whose business focuses on government procurement or interaction with state-owned entities are well advised to assess their potential exposure to corruption claims. To the extent they have not already, companies should consider conducting an anti-corruption risk assessment, adopting or enhancing anti-corruption compliance policies and procedures and related internal controls, providing appropriate compliance training to employees, and investigating any allegations of corruption. Companies will be well served to take these and other appropriate compliance steps to best position themselves should they come under investigation during the next administration.

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