

3 KEY TAKEAWAYS

Navigating Cross-Border Legal Issues in Brazil and Mexico: Anti-Corruption, Ethics, and Compliance

[Kilpatrick Townsend](#) recently partnered with the [ACC Georgia Chapter](#) to offer again this year the [Annual International Seminar: Navigating Cross-Border Legal Issues in Brazil and Mexico](#). Speakers covered issues organizations face when conducting business in Brazil and Mexico, including Privacy and Data Transfers, Anti-Corruption, Ethics, and Compliance, Intellectual Property, and Labor and Employment. Panels featured Kilpatrick Townsend's attorneys, in-house counsel, and local counsel to provide first-hand perspectives and practical information. Kilpatrick Townsend partner [Adria Perez](#), who participated on the panel addressing Anti-Corruption, Ethics, and Compliance, offers her key takeaways from the discussion. Joining Adria on the panel were [Ana-Paola \(AP\) Capaldo-Aoun](#), Tech Data; [Gustavo Alocer](#), Olivares; [Andre Gilberto](#), CGM; and [Adriana Ibarra Vazquez](#), NTT Cloud Communications.

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1. Mexico & Brazil Are Not Identical Countries with the Same Corruption Risks:

Mexico and Brazil are different countries with diverse cultures, languages, history, and enforcement mechanisms. There is not a standard approach to dealing with corruption risks in both countries. Be open to tailoring your company's anti-corruption compliance approach based on the company's highest risks in those locations.

2. Changing Anti-Corruption Risk Landscape: Risks are not static. The pandemic has increased some corruption risks while decreasing others. While there may not be as many spontaneous in-person government inspections and audits, other risks may be problematic, such as:

- Requests for:
 - "Facilitation" or additional payments from third-party business partners, agents, and suppliers since distribution and supply chains are under strain;
 - "Facilitation" or additional payments from government officials for licenses or permits to fully re-open operations or become "essential businesses";
 - "Charitable" donations or societal contributions in order to provide, for example, medication, vaccines, or masks to key areas where your company operates;
- Direct government procurement awards without any open tender procedure; and
- Reimbursement requests for gifts to third-parties.

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3. Enforcement Trends:

- Even though corruption enforcement in Mexico may be inconsistent, both U.S. and Brazilian authorities are continuing to cooperate. At least three of the DOJ resolutions, since January 2020, referenced how the U.S. and Brazilian authorities cooperated with one another in enforcing their respective anti-corruption laws.
- Several of the resolutions noted how the DOJ credited the company's penalties paid to the Brazilian authorities.
- Many of the resolutions noted enforcement efforts against individuals as well, and the companies agreed to further cooperate with regard to further investigations of executives, employees and agents.

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