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ANTI-CORRUPTION ENFORCEMENT TRENDS IN LATIN AMERICA: LOOK BACK TO LOOK AHEAD

In this article the authors look back at 2021 to discuss five key trends that are likely to drive anti-corruption enforcement in Latin America in 2022. These are: U.S. enforcement priorities; Latin America as a focus; the important role of international cooperation; prosecutions of individuals; and imposition of compliance monitors as part of a company's criminal resolution with U.S. authorities.

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By the numbers, 2021 was the slowest year of enforcement of the Foreign Corrupt Practices Act (“FCPA”) in the last decade, with the fewest corporate and individual resolutions, and a steep decline in the penalties assessed. But these numbers alone do not paint a full picture of FCPA enforcement and are not likely to be accurate predictors of what is to come in 2022. As one senior U.S. Department of Justice official recently explained, “I wouldn’t overread or really read much into the numbers of prosecutions in a given year. . . . [DOJ has] what we view as a very robust pipeline. . . . I would expect to see some significant resolutions in the next year.”¹

And even despite a slowdown in enforcement activity, 2021 demonstrated the U.S. government’s concerted efforts to continue the fight against corruption, particularly with respect to Latin America — efforts that are expected to be sustained, if not increased, in 2022. Based on learning from recent FCPA enforcement

actions, we discuss five key trends that are likely to drive anti-corruption enforcement in Latin America in 2022.

1. COMBATING CORRUPTION AS A U.S. GOVERNMENT ENFORCEMENT PRIORITY

During his 2020 presidential campaign, President Biden spoke generally about the impact of corruption and the need to increase efforts to counter it.² Since taking office, Biden’s administration has focused on advancing campaign promises and issued a number of policy directives emphasizing the administration’s continued commitment to the fight against corruption. For example, on June 3, 2021, President Biden issued a National Security Study Memorandum establishing the fight against corruption as a core national security interest.³ The Memorandum signaled the Biden

¹ Dylan Tokar, *DOJ Promises Robust Antibribery Enforcement Despite Dip in Cases* (Jan. 27, 2022), <https://www.wsj.com/articles/doj-promises-robust-antibribery-enforcement-despite-dip-in-cases-11643328054>.

² Joseph R. Biden, Jr., *Why America Must Lead Again*, Foreign Affairs (Jan. 23, 2020), <https://www.foreignaffairs.com/articles/united-states/2020-01-23/why-america-must-lead-again>.

³ Memorandum on Establishing the Fight Against Corruption as a Core United States National Security Interest (Jun. 3, 2021), <https://www.whitehouse.gov/briefing-room/presidential->

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