



Insights: Alerts

3 Top Takeaways: Anti-Corruption in Mexico

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Written by

Kilpatrick Townsend partner **Adria Perez** recently spoke on a panel with other thought leaders at the annual “Doing Business in Mexico” seminar which was offered by the Association of Corporate Counsel and Kilpatrick Townsend. The panel discussed compliance issues in a discussion addressing “**Anti-Corruption in Mexico.**”

Top takeaways from the presentation, include:

There are cultural considerations to keep in mind when conducting an internal investigation or anti-corruption audit in Mexico. A few considerations include:

- How Mexico has a collectivist society with a hierarchical culture;
- There is generally distrust of U.S. parent companies; and
- Texting applications are the preferred method of communicating.

Given the culture, there is often a potential for undisclosed conflicts of interest and heavy reliance on third party intermediaries.

Mexico does not have per se an “attorney-client privilege.” Like most civil law countries, certain professions — including lawyers — have a “duty to secrecy” to not reveal client information or communications. To protect client confidences, it is recommended to involve Mexican outside counsel and limit the amount of attorney-client-privileged information in Mexico by keeping any documented advice in the United States.

Under the new National Anti-Corruption System, a company may mitigate its exposure by 50% to 70% when it self-reports past or ongoing misconduct and has implemented an “integrity policy,” that includes a:

- Document that sets forth corporate functions and leadership’s responsibilities;
- Code of conduct with an enforcement protocol;
- Controls and audit system;
- Whistleblower and reporting system that includes reporting to Mexican authorities; and
- Human resources policies for hiring personnel that may lead to compliance risks.

Potentially, under the Mexican system, a company could receive more leniency than under the U.S. DOJ's FCPA Pilot Program, which provides, at best, a 50% reduction off the bottom end of the U.S. Sentencing Guidelines' fine range.