

Brazil: Combating corruption and money laundering – a joint push forward

Brazil represents one of the most dynamic countries in the world in terms of business opportunities. It is Latin America's largest economy and possesses substantial natural resources and a relatively liberal economic environment. Various think tanks and NGOs (e.g., Heritage Foundation/Transparency International) do, however, single out the problem of corruption as a pressing problem undermining economic freedom and therefore the success of business in Brazil. Brazil's president Dilma Rousseff who has made combating corruption a top priority has made significant steps in addressing the corruption problems culminating in corrupt practices within the highest echelons of Brazilian society. Although some experts remain critical of the extent of the changes resulting from Rousseff's efforts, the successes are noteworthy and a critical step in the right direction.

Brazil's fight against corruption

Since Brazilian president Dilma Rousseff was elected in January 2011, the country has witnessed a concerted crackdown on corruption which culminated in the country's largest corruption investigation into Brazilian's political elite, leading to the supreme-court trial of the mensalão (big monthly stipend) — one of the biggest cases to be heard in Brazil since the end of the military dictatorship in 1985.¹

According to an article published by the *BBC*, the mensalão scheme embezzled public funds to buy political support for the then Lula government and to pay off debts from election campaigns. Prosecutor Roberto Gurgel reportedly called the scheme “without doubt the most daring and scandalous case of corruption and embezzlement ever uncovered in Brazilian history.” The central accusation was that politicians from coalition parties were given large payments each month to support the minority government led by the Workers' Party. José Dirceu de Oliveira e Silva (Dirceu) who was Brazil's former president, Luiz Inacio Lula da Silva's

(Lula) chief of staff was accused of being the mastermind behind the scheme. Prosecutors say that Mr. Dirceu and other leaders of the Workers Party (PT), together with bankers and publicists, formed a “criminal organization” that used public and private funds to buy political favors. The trial for the scheme which came to light in 2005, ended on the 17 of December 2012, with 25 of the 38 defendants found guilty of charges including corruption, money-laundering and misuse of public funds.

It was recently reported that Brazil's former president, Lula also faces questions about such ‘discretionary appointments to public office’ when he was in power. On the 14 of December the public prosecutor's office said it was investigating claims of bribery and influence-peddling involving 24 people, including Rosemary de Noronha, a former bank teller who has been close to Lula since before he was president. In 2005, he made her head of a new “presidential office” in São Paulo. Investigators allege that during this time she took bribes to arrange forged permits for construction and transport projects with accomplices in regulatory agencies. Brazilian journalists reportedly dubbed the case “Rosegate,” a riff on Watergate and the shorter version of the name Rosemary Nôvoa de Noronha.²

Brazilian AML legislation amended

As part of her anti-corruption initiative, Rousseff amended the existing AML legislation in mid-2012. The existing AML legislation was first enacted in 1998, Brazil's money laundering laws (Law 9613) did not criminalize the act of money laundering unless the money or assets in question were related to enumerated illegal activities; arms and narcotics trafficking, terrorism, kidnapping and extortion among them.

As reported in the *Rio Times*, the new amendments to Law 9613 does away with the reference to underlying crimes, criminalizing the transfer of funds of which the nature or

source is concealed. In addition to lowering the threshold for prosecution, the new rule enhances the criminal and civil penalties for the offense.³ Under the new rules, prison sentences have been increased from three to ten years and applicable fines drastically increased from R\$200K to R\$20 million (a provision in the new rules provides for the discretionary use of ill-begot funds to be offset against applicable fines).

The same article noted that the significant increase in the penalties will hopefully act as an effective deterrent to money laundering crimes. The new rules also have some bite, providing police and prosecutors expanded investigatory powers. Brazil's decision to embolden the rules on money laundering brings the country more in line with concerted international efforts to stop money laundering.

As reported on its web site, Brazil's financial intelligence unit, Conselho de Controle de Atividades Financeiras (COAF) is part of the Ministry of Finance, and plays a central role in the Brazilian anti-money laundering and counter terrorism financing system, not only at the operational level but also at the policy level through its plenary council, which is comprised of representatives from all the responsible bodies and ministries that meet as needed. Also, COAF has been responsible for coordinating the Brazilian participation in several international organizations, such as FATF, GAFISUD, Egmont Group, and CICAD/OAS.

Brazil also cooperates closely with UNODC in implementing its AML program. The growth of UNODC's areas of work was complemented by the expansion of its geographic reach, which occurred in 2001, when the office became regional, covering the southern cone countries: Argentina, Chile, Paraguay and Uruguay. The thematic areas for the southern cone are also in expansion, with projects on drug prevention, HIV and AIDS prevention, prison reform and prevention against gender-based violence.

¹ <http://www.bbc.co.uk/news/world-latin-america-19081519>

² <http://www.nytimes.com/2012/11/30/world/americas/brazil-faces-a-new-corruption-scandal.html>

³ <http://riotimesonline.com/brazil-news/front-page/new-anti-money-laundering-law-signed/>

