



presents

Foreign Corrupt Practices Act in Mexico

Implementing FCPA Compliance Programs and Mitigating Risk

A Live 90-Minute Teleconference/Webinar with Interactive Q&A

Today's panel features:

Joshua C. Wallenstein, Latin American Region Ethics and Compliance Counsel, **Baker Hughes Incorporated**, Mexico City, Mexico
Rebekah J. Poston, Partner, **Squire Sanders**, Miami, Fla.
James G. Tillen, Member, **Miller Chevalier**, Washington, D.C.

Thursday, March 4, 2010

The conference begins at:

1 pm Eastern

12 pm Central

11 am Mountain

10 am Pacific

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LATIN AMERICA CORRUPTION SURVEY

OCTOBER 2008

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Executive Summary

The Inter-American Convention Against Corruption was adopted by the Organization of American States (OAS) 12 years ago, yet corruption continues to be a significant obstacle plaguing businesses throughout the Americas.

In September, seven U.S. and Latin American law firms distributed a survey designed to gauge the understanding and effectiveness of anti-corruption laws that regulate the behavior of business in the region.

The responses were eye-opening. Business leaders consistently said that corruption continues to permeate all levels of government, and more than half say they have lost business to competitors who have made illicit payments.

Furthermore, survey respondents tell us that national anti-corruption laws (which the OAS Convention obligated countries to adopt) are not effective: more than 80% say such laws are not successful in the country where they work. Many companies say they have implemented compliance safeguards, but such actions are not universal. Additionally, companies in the region lack an accurate understanding of the U.S. Foreign Corrupt Practices Act (FCPA), as a number of respondents who are subject to its jurisdiction do not realize its implications.

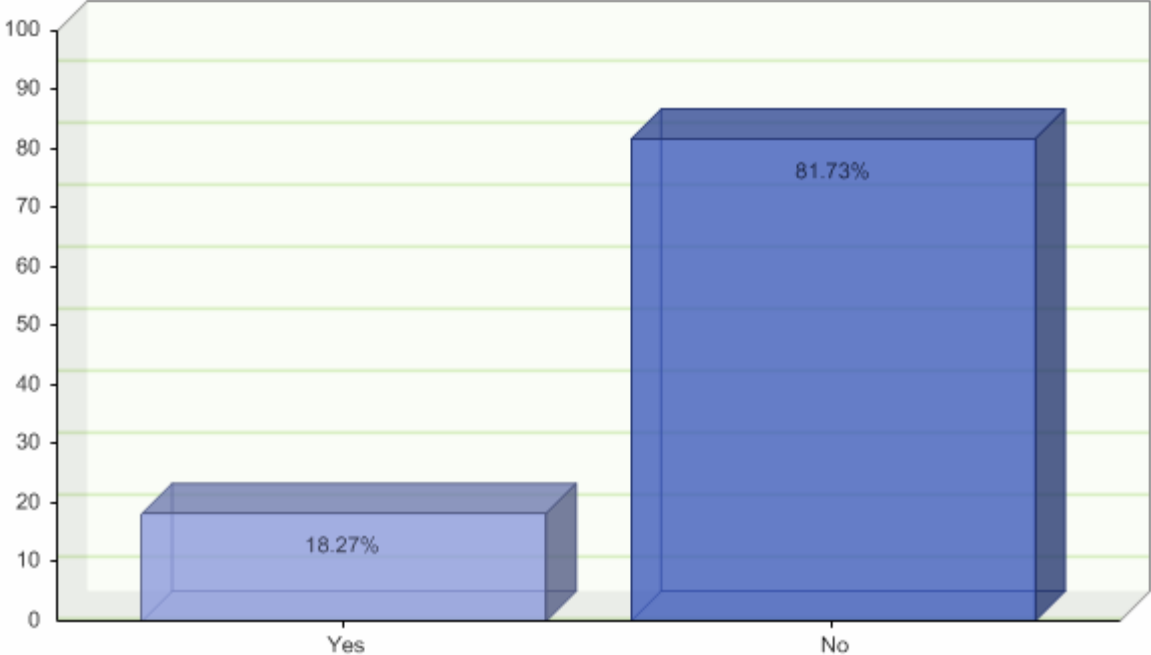
Highlights of the Latin America Corruption Survey Include:

- **Nearly half of all respondents (48%) say corruption is a significant obstacle to doing business in the region.**
- 35% of respondents do not think a company, individual, or government official will be punished for making or receiving illicit payments related to obtaining business.
- **More than half of all respondents (59%) believe they have lost business to competitors who made illicit payments.** After losing business, only 9% of respondents reported their concerns to authorities, demonstrating a lack of faith in corruption laws.
- When asked to rank perceptions of corruption in 12 countries, **respondents say Bolivia and Venezuela are the most corrupt;** conversely, they think the United States and Chile are the least corrupt.
- **Fewer than one in five respondents (18%) think anti-corruption laws are effective in the country where they work.**
- Of the 53% of respondents who are clearly subject to the FCPA – because they are based in the U.S., publicly listed in the U.S., or work for a U.S. multi-national company – 30% do not recognize that they are covered by the law.
- 55% of respondents believe that dealing with corruption risk is a top priority of their companies. 66% believe that the importance of preventing corruption has increased for their companies over the last five years.
- **Despite the low opinion of the effectiveness of anti-corruption laws in the region, or possibly because of it, many companies (77%) say they have taken actions to protect themselves from corruption risk.**
- Of those respondents at companies that have taken action, almost all (91%) say their companies have instituted anti-corruption policies and procedures. The responses, however, indicate that although the OAS Convention and regional laws criminalize indirect payments to officials through third parties, only about half of respondents' companies engage in the due diligence of third parties.
- The survey revealed a disparity in compliance efforts between regional companies and multi-national companies, possibly attributable to the fact that multi-national companies are more likely to implement measures and protect themselves against the aggressively prosecuted FCPA.

Perceptions of Corruption in Latin America

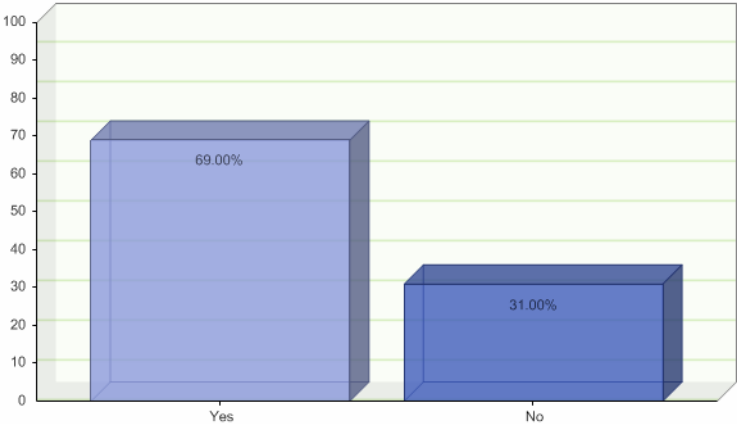
Respondents were asked to complete a short questionnaire designed to measure their perspectives on corruption in Latin America and the United States. The following charts represent the collective input of over 200 respondents to the survey. A full overview of the survey methodology can be found at the end of this report.

1. Do you think anti-corruption laws are effective in the country where you work?

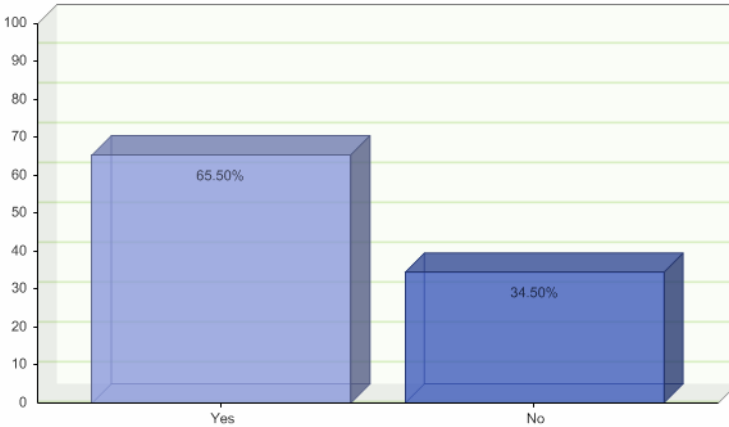


- **Only 18% of respondents say anti-corruption laws are effective in the country where they work.** Of the seven countries surveyed, respondents in Argentina (5%), Peru (5%) and Mexico (8%) think anti-corruption laws are least effective. United States (50%) and Chilean (57%) respondents think such laws are most effective.

2. In the country in which you work, are you aware of any company, individual, or government official being punished for making or receiving illicit payments related to obtaining business?



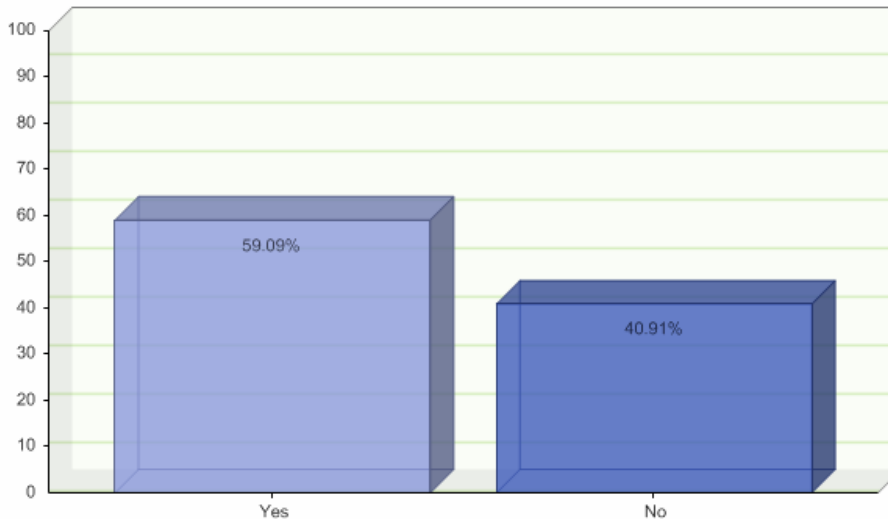
3. Do you believe that an offender is likely to be punished in the country where you work?



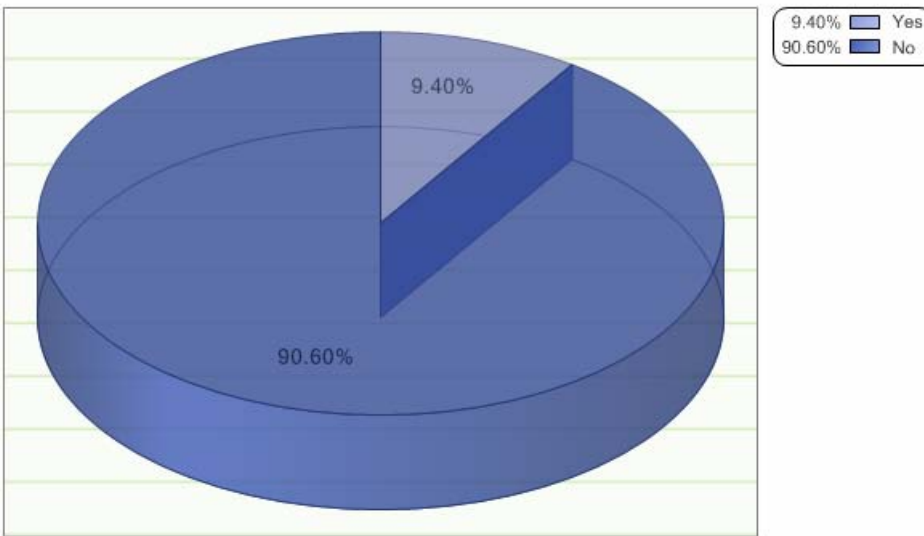
As to questions 2 and 3:

- **Although a majority of respondents were aware of instances where offenders have been punished, one third of respondents do not believe offenders are likely to be punished.**
 - 54% of Mexican respondents, 48% of Argentine respondents, 29% of Colombian respondents, 26% of U.S. respondents, 21% of Brazilian respondents, 18% of Peruvian respondents and 14% of Chilean respondents are not aware of *anyone* being punished for making illicit payments related to obtaining business.
- Of those respondents unaware of any company, individual, or government official being punished for making or receiving illicit payments related to obtaining business, more than half (57%) do not believe an offender is likely to be punished. Among those who are aware of enforcement actions, the deterrent effect of the law is, predictably, higher. 76% of respondents who are aware of a company, individual, or government official being punished for making or receiving illicit payments related to obtaining business, believe an offender is likely to be punished.
 - 69% of Mexican respondents, 55% of Argentine respondents, 36% of Brazilian respondents, 23% of Peruvian respondents, 16% of Colombian respondents, 16% of U.S. respondents and 0% of Chilean respondents believe that an offender is unlikely to be punished.

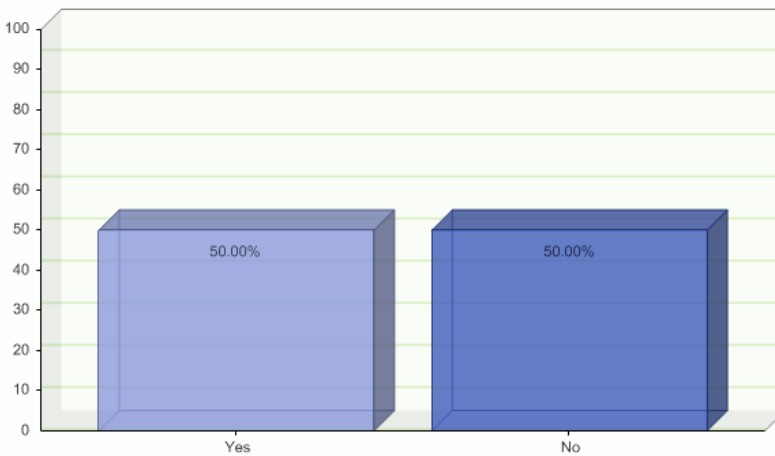
4. Do you believe that you have lost business to competitors that have made illicit payments?



5. After you lost business to competitors that made illicit payments, did you report your concerns to the authorities?



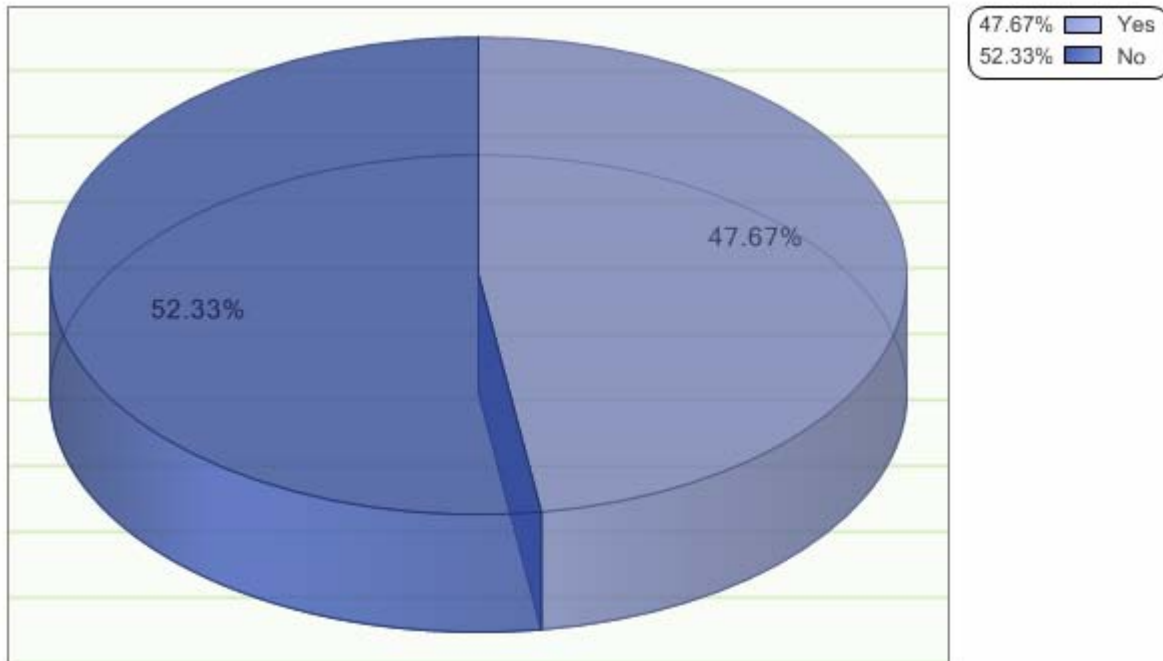
6. After you reported your concerns to the authorities, did the government investigate the matter?



As to questions 4, 5, and 6:

- **59% of respondents believe they have lost business to competitors who made illicit payments.** When examined by respondents' country, 29% of Chilean, 42% of Argentine, 46% of Mexican, 55% of Colombian, 69% of Brazilian, 74% of U.S. and 82% of Peruvian respondents say they have lost business due to corrupt practices by competitors.
- Despite the number of respondents who believe they have lost business to competitors who made illicit payments, fewer than 10% reported these activities to officials.

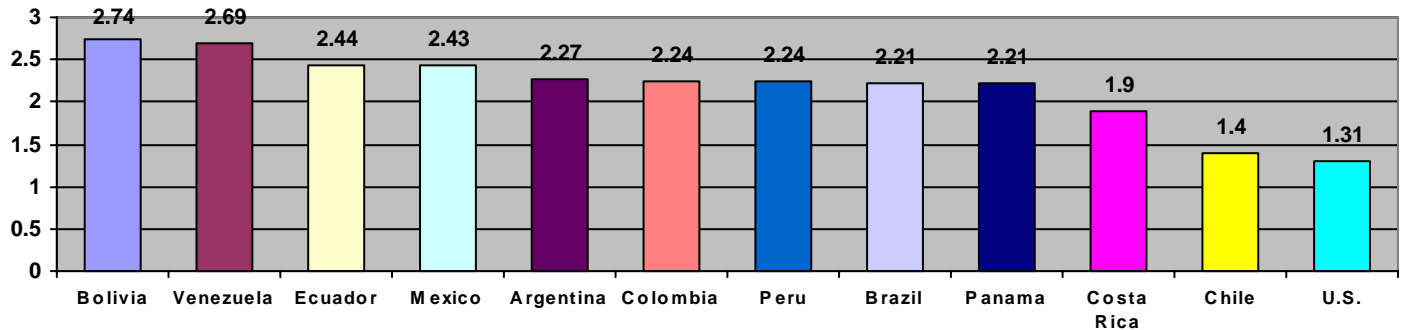
7. Is corruption a significant obstacle to doing business for your company?



- **Nearly half of all respondents (48%) say corruption is a significant obstacle to doing business.**
 - 73% of Peruvian, 56% of Colombian, 50% of Argentine, 38% of Mexican, 34% of Brazilian, 32% of U.S and 14% of Chilean respondents say corruption is a significant obstacle.
- Of respondents who believe corruption is a significant obstacle to doing business for their company, 73% believe they have lost business to competitors that have made illicit payments (as opposed to 59% of all respondents). 95% believe anti-corruption laws are not effective in their country (compared to 82% overall).

8. How would you rate corruption in the countries where you have business experience?

- When asked to rank perceptions of corruption in 12 different countries, respondents say **Bolivia and Venezuela are the most corrupt.** (The following chart weights the cumulative responses on a scale of one to three with “one” being the least corrupt.)



8(a). Corruption in Argentina




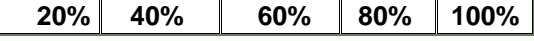
Responses	Assigned Weight	%	Percentage of total respondents
1 - Not a significant obstacle	1	15.89%	
2 - Occasional obstacle	2	42.06%	
3 - Significant obstacle	3	42.06%	
Weighted Score : 2.27			

- 44% of respondents based in Argentina and 41% of those in other countries say corruption is a significant obstacle in Argentina.





8(b). Corruption in Bolivia

Responses	Assigned Weight	%	Percentage of total respondents
1 - Not a significant obstacle	1	4.34%	
2 - Occasional obstacle	2	19.35%	
3 - Significant obstacle	3	75.81%	
Weighted Score : 2.74			




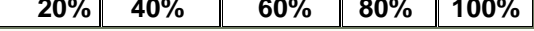
- No survey respondents identified their location as Bolivia.

8(c). Corruption in Brazil			
Responses	Assigned Weight	%	Percentage of total respondents
1 - Not a significant obstacle	1	10.20%	
2 - Occasional obstacle	2	60.20%	
3 - Significant obstacle	3	29.59%	
Weighted Score : 2.21			




- 33% of respondents based in Brazil and 27% of those in other countries say corruption is a significant obstacle in Brazil.

8(d). Corruption in Chile			
Responses	Assigned Weight	%	Percentage of total respondents
1 - Not a significant obstacle	1	65.75%	
2 - Occasional obstacle	2	28.77%	
3 - Significant obstacle	3	5.48%	
Weighted Score : 1.40			




- 0% of respondents based in Chile and 6% of those in other countries say corruption is a significant obstacle in Chile.

8(e). Corruption in Colombia			
Responses	Assigned Weight	%	Percentage of total respondents
1 - Not a significant obstacle	1	17.72%	
2 - Occasional obstacle	2	41.77%	
3 - Significant obstacle	3	40.51%	
Weighted Score : 2.24			




- 42% of respondents based in Colombia and 40% of those in other countries say corruption is a significant obstacle in Colombia.

8(f). Corruption in Costa Rica							
Responses	Assigned Weight	%	Percentage of total respondents				
1 - Not a significant obstacle	1	31.25%					
2 - Occasional obstacle	2	50.00%					
3 - Significant obstacle	3	18.75%					
Weighted Score : 1.90			20%	40%	60%	80%	100%




➤ No survey respondents identified their location as Costa Rica.

8(g). Corruption in Ecuador							
Responses	Assigned Weight	%	Percentage of total respondents				
1 - Not a significant obstacle	1	14.29%					
2 - Occasional obstacle	2	30.95%					
3 - Significant obstacle	3	54.76%					
Weighted Score : 2.44			20%	40%	60%	80%	100%

➤ No survey respondents identified their location as Ecuador.

8(h). Corruption in Mexico							
Responses	Assigned Weight	%	Percentage of total respondents				
1 - Not a significant obstacle	1	11.11%					
2 - Occasional obstacle	2	37.04%					
3 - Significant obstacle	3	51.85%					
Weighted Score : 2.43			20%	40%	60%	80%	100%

➤ 42% of respondents based in Mexico and 54% of those in other countries say corruption is a significant obstacle in Mexico.

8(i). Corruption in Panama							
Responses	Assigned Weight	%	Percentage of total respondents				
1 - Not a significant obstacle	1	15.00%					
2 - Occasional obstacle	2	52.50%					
3 - Significant obstacle	3	32.50%					
Weighted Score : 2.21			20%	40%	60%	80%	100%

➤ No survey respondents identified their location as Panama.

8(j). Corruption in Peru				
Responses	Assigned Weight	%	Percentage of total respondents	
1 - Not a significant obstacle	1	13.24%		
2 - Occasional obstacle	2	51.47%		
3 - Significant obstacle	3	35.29%		
Weighted Score : 2.24			20%	40% 60% 80% 100%

- 35% of respondents based in Peru and 35% of those in other countries say corruption is a significant obstacle in Peru.

8(k). Corruption in United States				
Responses	Assigned Weight	%	Percentage of total respondents	
1 - Not a significant obstacle	1	74.73%		
2 - Occasional obstacle	2	19.78%		
3 - Significant obstacle	3	5.49%		
Weighted Score : 1.31			20%	40% 60% 80% 100%

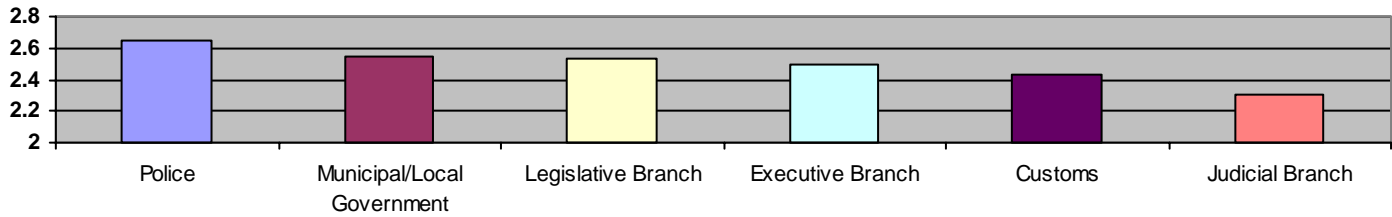
- 0% of respondents based in the U.S. and 7% of those in other countries say corruption is a significant obstacle in the United States.

8(l). Corruption in Venezuela				
Responses	Assigned Weight	%	Percentage of total respondents	
1 - Not a significant obstacle	1	5.63%		
2 - Occasional obstacle	2	22.54%		
3 - Significant obstacle	3	71.83%		
Weighted Score : 2.69			20%	40% 60% 80% 100%

- No survey respondents identified their location as Venezuela.

9. To the extent that public corruption exists in the country where you work, rank the level of corruption in the following areas of government:

- When asked to rank perceptions of corruption in six areas of government, respondents say the Police and Municipal/Local Government are the most corrupt. (The following chart weights the cumulative responses on a scale of one to three with “one” being the least corrupt.)



Rating: Police			
Responses	Assigned Weight	%	Percentage of total respondents
1 - Minimal-to-no Corruption	1	6.77%	
2 - Moderate corruption	2	20.31%	
3 - Significant corruption	3	69.27%	
Weighted Score : 2.65			

- When asked about corruption in their country’s Police, 92% of Mexican, 76% of Brazilian, 71% of Argentine, 68% of Peruvian, 53% of Colombian, 47% of U.S., and 29% of Chilean respondents believe this branch exhibits *significant* corruption.

Rating: Municipal/local			
Responses	Assigned Weight	%	Percentage of total respondents
1 - Minimal-to-no Corruption	1	4.17%	
2 – Moderate corruption	2	34.90%	
3 – Significant corruption	3	56.25%	
Weighted Score : 2.55			

- When asked about corruption in their country’s Municipal/Local Government, 71% of Brazilian, 69% of Mexican, 68% of Peruvian, 49% of Argentine, 38% of Colombian, 32% of U.S., and 29% of Chilean respondents believe this branch exhibits *significant* corruption.

Rating: Legislative Branch							
Responses	Assigned Weight	%	Percentage of total respondents				
1 - Minimal-to-no Corruption	1	6.28%					
2 – Moderate corruption	2	31.41%					
3 – Significant corruption	3	56.02%					
Weighted Score : 2.53			20%	40%	60%	80%	100%

- When asked about corruption in their country’s Legislative Branch, 69% of Brazilian, 62% of Mexican, 59% of Peruvian, 55% of Colombian, 54% of Argentine, 26% of U.S., and 14% of Chilean respondents believe this branch exhibits *significant* corruption.

Rating: Executive Branch							
Responses	Assigned Weight	%	Percentage of total respondents				
1 - Minimal-to-no Corruption	1	7.29%					
2 – Moderate corruption	2	34.38%					
3 – Significant corruption	3	54.69%					
Weighted Score : 2.49			20%	40%	60%	80%	100%

- When asked about corruption in their country’s Executive Branch, 77% of Argentine, 64% of Brazilian, 43% of Chilean, 41% of Colombian, 41% of Peruvian, 38% of Mexican, and 21% of U.S. respondents believe this branch exhibits *significant* corruption.

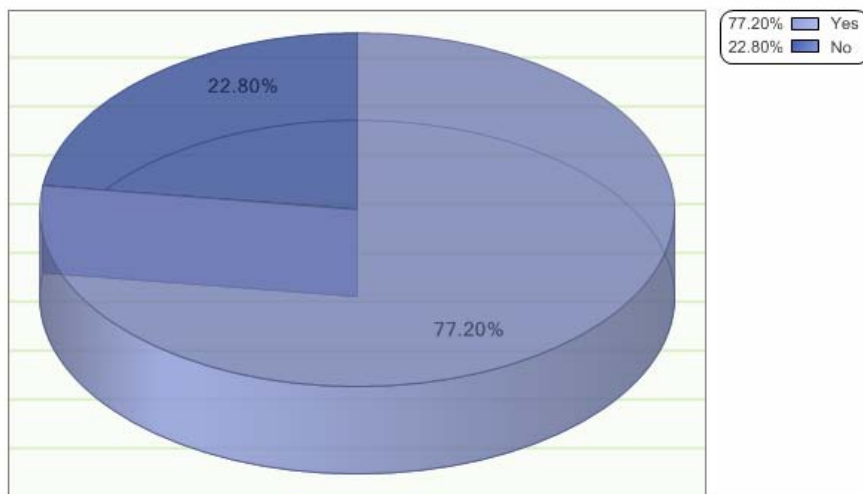
Rating: Customs				
Responses	Assigned Weight	%	Percentage of total respondents	
1 - Minimal-to-no Corruption	1	11.29%		
2 – Moderate corruption	2	29.57%		
3 – Significant corruption	3	51.08%		
Weighted Score : 2.43			20%	40% 60% 80% 100%

- When asked about corruption in their country’s Customs agencies, 77% of Mexican, 63% of Brazilian, 59% of Argentine, 45% of Peruvian, 34% of Colombian, 17% of U.S., and 14% of Chilean respondents believe this branch exhibits *significant* corruption.

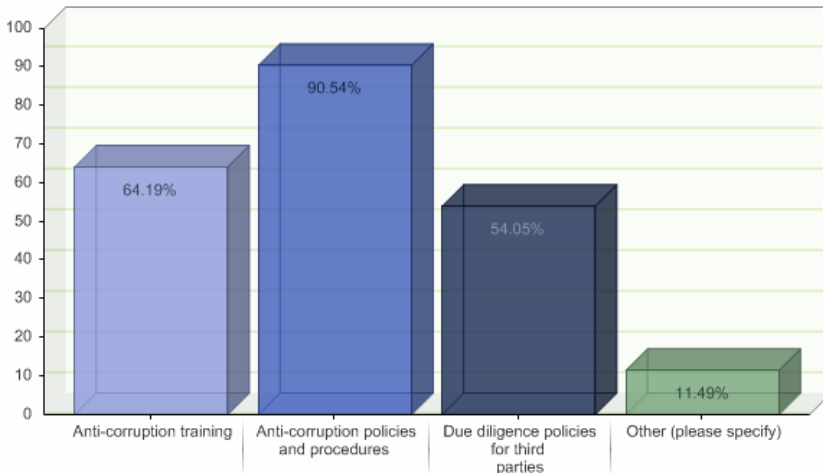
Rating: Judicial Branch				
Responses	Assigned Weight	%	Percentage of total respondents	
1 - Minimal-to-no Corruption	1	14.29%		
2 – Moderate corruption	2	37.04%		
3 – Significant corruption	3	42.33%		
Weighted Score : 2.30			20%	40% 60% 80% 100%

- When asked about corruption in their country’s Judicial Branch, 90% of Peruvian, 85% of Mexican, 44% of U.S., 38% of Colombian, 32% of Brazilian, 26% of Argentine, and 0% of Chilean respondents believe this branch exhibits *significant* corruption.

10. Has your company’s management taken steps to protect the company from corruption risk?



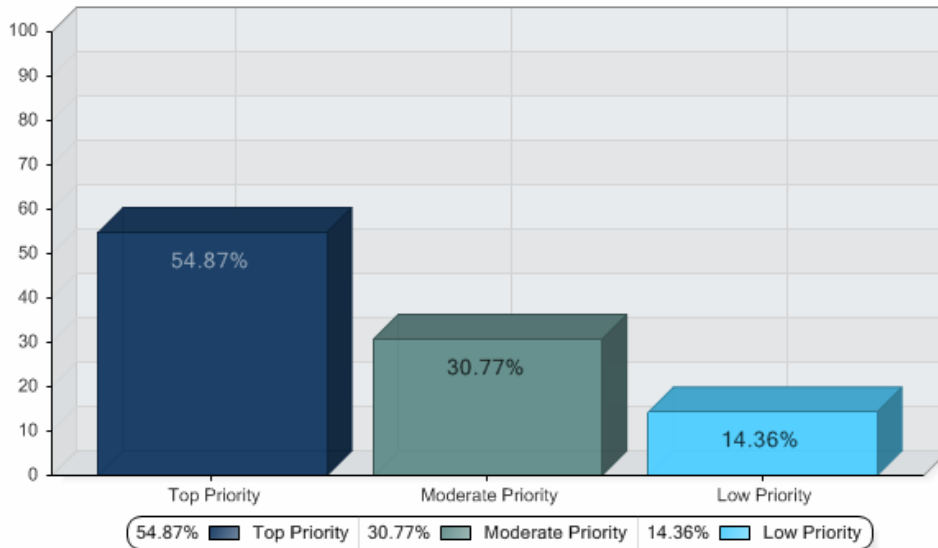
11. In what ways has your company's management taken steps to protect the company from corruption risk?



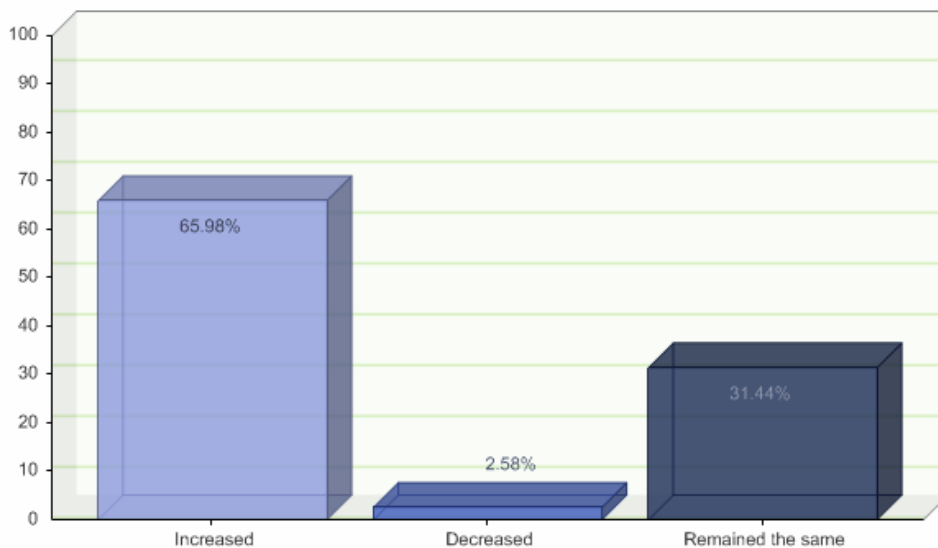
As to questions 10 and 11:

- **Despite low opinions of the effectiveness of anti-corruption laws (see above), or possibly because of it, many respondents (77%) say their companies have taken actions to protect against corruption risk.**
 - 55% of respondents from regional companies and 82% from multi-national companies say their company's management has taken steps to protect the company from corruption risk. This disparity could reflect the growing recognition by multi-national companies of the increased relevance of laws that prohibit foreign bribery (like the FCPA, see below) to their international business dealings. Heightened risk of liability under such laws has led to greater efforts to implement internal programs that protect against such risk.
- Of those respondents at companies that have taken action, most (91%) say their companies have instituted anti-corruption policies and procedures. However, the responses indicate these compliance efforts do not address some common risks. For example, although the OAS Convention and relevant laws criminalize payments to officials through third parties (such as agents, consultants, and brokers), only about half engage in due diligence, which can minimize risks and which has become a best practice.
 - Regional company respondents say their companies have taken the following steps to protect against corruption risk: anti-corruption training (16%), anti-corruption policies and procedures (41%), due diligence policies for third parties (29%).
 - Multi-national company respondents say their companies have taken the following steps to protect against corruption risk: anti-corruption training (62%), anti-corruption policies and procedures (78%), and due diligence policies for third parties (46%).
 - Respondents reported that their companies have adopted other anti-corruption strategies such as audits and assessments, corporate messaging, verification of suppliers, accounting controls, and establishment of an ethics code.

12. Where does dealing with corruption risk rank within the priorities of your company?



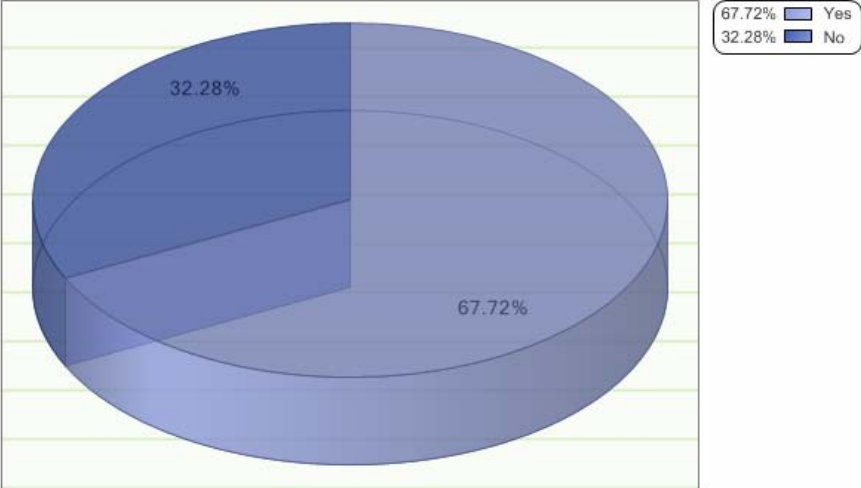
13. Has the importance of preventing corruption increased/decreased/remained the same for your company over the last five years?



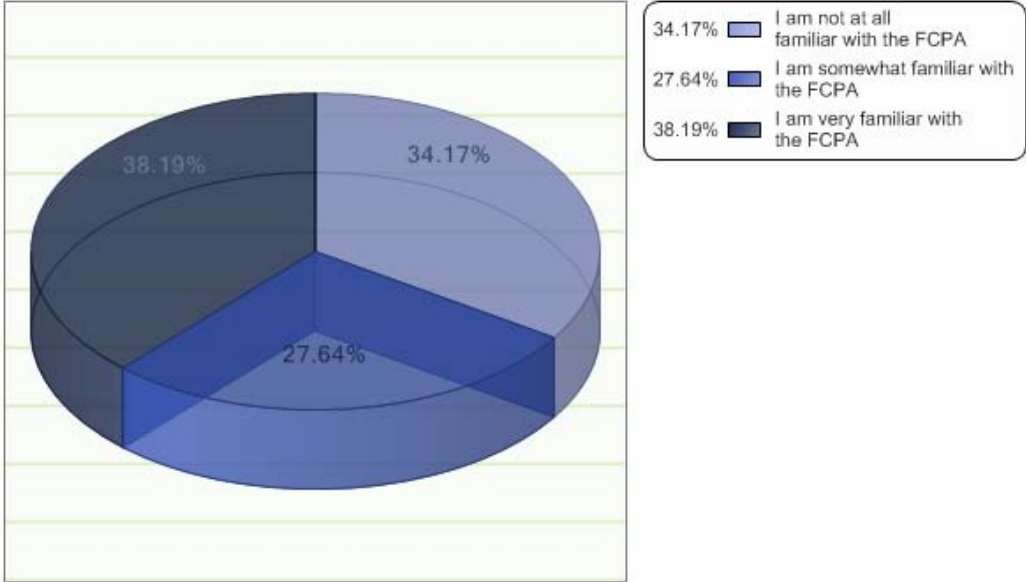
As to questions 12 and 13:

- 55% of respondents believe that dealing with corruption risk is a top priority of their company, and 66% say that the importance of preventing corruption has increased for their company over the last five years.
 - Despite the fact that most companies identify corruption as a top priority, 23% have not taken steps to protect themselves from corruption risk (see question 10).
 - 42% of respondents from regional companies and 61% from multinational companies say that dealing with corruption risk is a top priority.
 - 45% of respondents from regional companies and 74% from multinational companies say the importance of preventing corruption has increased over the last five years.

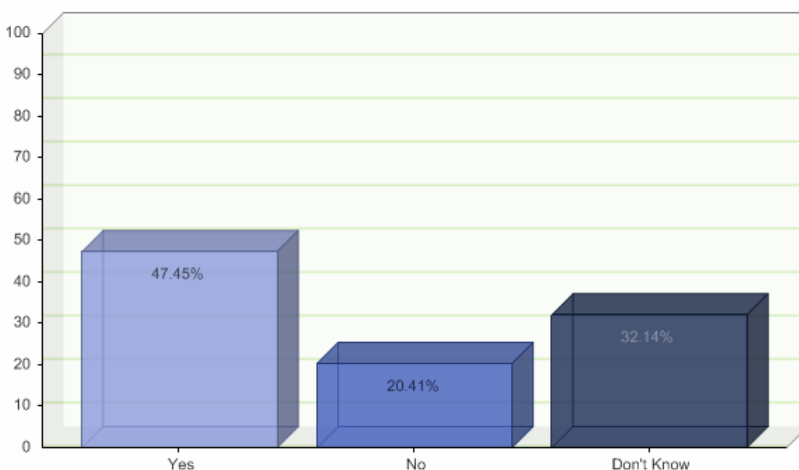
14. Do you believe employees of your company are generally concerned about anti-corruption laws that govern their actions abroad?



15. Have you heard of the U.S. Foreign Corrupt Practices Act (FCPA)?



16. Is your company subject to the FCPA?



As to questions 14, 15, and 16:

- One third of respondents (34%) are not at all familiar with the FCPA, despite the extraterritorial application of this U.S. law and the frequency with which U.S. officials have been prosecuting non-U.S. companies and individuals for violations. Just 38% of respondents say that they are very familiar with the FCPA.
 - Respondents from regional companies: 59% say that they are not familiar with the FCPA, 27% say that they are somewhat familiar with the FCPA, and 14% say that they are very familiar with the FCPA.
 - Respondents from multi-national companies: 23% say that they are not familiar with the FCPA, 26% say that they are somewhat familiar with the FCPA, and 51% say that they are very familiar with the FCPA.
- **Of the 53% of respondents whose companies are clearly subject to the FCPA – because they are based in the U.S., publicly listed in the U.S., or work for a U.S. multi-national company – 30% do not recognize that their companies are covered by the law.**
 - Of respondents who work for a company publicly listed in the U.S., 25% did not understand that their companies are subject to the FCPA. Companies publicly listed on U.S. exchanges are subject to both the anti-bribery and accounting provisions of the FCPA. Thus, a quarter of respondents appear to lack an understanding of the risks of their activities under U.S. law in this area.
- Various findings demonstrate the effectiveness of the U.S. Government's aggressive enforcement of the FCPA and multi-national companies' understanding that compliance programs and other measures best protect against FCPA violations.
 - Of those who are "very familiar with the FCPA:
 - 84% also think their companies are subject to the FCPA
 - 34% believe anti-corruption laws are effective in the country where they work, compared to 18% overall
 - 96% say their company's management has taken steps to protect the company from corruption risk, compared to 74% overall
 - 85% have introduced anti-corruption training, 93% have introduced anti-corruption policies and procedures, and 61% have introduced due diligence policies for third parties. This compares to 47%, 67%, and 40% of all respondents
 - 87% say the importance of preventing corruption has increased over the last 5 years compared to 63% of all respondents
 - Of respondents who understand that their companies are subject to the FCPA:
 - 91% say their company's management has taken steps to protect the company from corruption risk, compared to 74% of all respondents
 - 76% have introduced anti-corruption training, 88% have introduced anti-corruption policies and procedures, and 57% have introduced due diligence policies for third parties. This compares to 47%, 67%, and 40% of all respondents
 - 82% say the importance of preventing corruption has increased over the last 5 years compared to 63% of all respondents

Methodology

In September 2008, Miller & Chevalier and six Latin American partner firms – Demarest & Almeida (Brazil), Estudio Beccar Varela (Argentina), Rubio Villegas y Asociados, S.C. (Mexico), Brigard & Urrutia (Colombia), Rodrigo, Elías & Medrano Abogados (Peru), and Claro y Cia (Chile) – distributed a survey via e-mail to corporate executives at a broad cross-section of U.S. and Latin America-based companies. The survey, which was available in English, Spanish, and Portuguese, was completed by 201 respondents.

32% of respondents identified themselves as an officer or manager. 29% identified themselves as an attorney. 21% identified themselves as a compliance officer. 30% of respondents work at a regional company, and 70% at a multi-national corporation. 47% of respondents work at a business that is publicly listed in the United States. Responses were received from executives in Argentina, Brazil, Chile, Colombia, Mexico, Peru, and the United States.

Due to rounding, all percentages used in all questions may not add to 100 percent. Percentages added may exceed 100 on question 11 since a participant could select more than one answer.

Only respondents who answered “yes” to question 4 (*Do you believe that you have lost business to competitors that have made illicit payments?*) were asked to answer question 5 (*After you lost business to competitors that made illicit payments, did you report your concerns to the authorities?*). Only respondents who answered “yes” to question 5 were asked to answer question 6 (*After you reported your concerns to the authorities, did the government investigate the matter?*).

Only respondents who answered “yes” to question 10 (*Has your company’s management taken steps to protect the company from corruption risk?*) were asked to answer question 11 (*In what ways has your company’s management taken steps to protect the company from corruption risk?*).