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FEATURED Q&A

What Will Result From a Pause in FCPA Enforcement?



U.S. President Donald Trump in February halted enforcement of the Foreign Corrupt Practices Act, which bars U.S. businesses from bribing foreign government officials. // File Photo: Andrey Popov via Adobe Stock.

Q U.S. President Donald Trump on Feb. 10 halted enforcement of the Foreign Corrupt Practices Act, which prohibits U.S. businesses from bribing foreign government officials to advance their interests. “Overexpansive and unpredictable” enforcement of the law “for routine business practices in other nations not only wastes limited prosecutorial resources that could be dedicated to preserving American freedoms, but actively harms American economic competitiveness and, therefore, national security,” the White House said in a statement. What does Trump’s order mean for U.S. businesses, including in the financial services sector, that operate in Latin America? What does it entail for practices to fight financial crimes, such as money laundering? What will be the ultimate effects of the order for U.S. businesses, as well as for Latin American countries?

A Rafael Szmid, counsel in the Regulatory & Investigations Practice Group at Reed Smith: “Trump’s executive order pausing enforcement of the Foreign Corrupt Practices Act presents significant risks for U.S. businesses operating in Latin America. First, some Latin American countries have intensified their anti-corruption efforts, and U.S. businesses may face increased scrutiny if they resort to bribery. Second, despite the pause in FCPA enforcement, U.S. companies remain subject to other laws, including securities laws and anti-money-laundering regulations. The Foreign Extortion Prevention Act, another tool against foreign corruption that criminalizes the receipt of bribes by foreign officials, remains enforceable. U.S. prosecutors could still pursue companies under theories of aiding and abetting or conspira-

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BlackRock Group Buys Ports on Panama Canal

A consortium led by New York-based investment company BlackRock has agreed to buy two ports on the Panama Canal from Hong Kong-based owner CK Hutchison.

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El Salvador, Paraguay Sign Deal on Crypto Regulation

El Salvador and Paraguay have signed an agreement on the regulation of cryptocurrencies. The countries will also work more closely to fight money laundering.

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FINANCIAL SERVICES

Scotiabank Boosts CEO’s Salary by 27 Percent

Toronto-based Bank of Nova Scotia, or Scotiabank, last year raised Chief Executive Officer Scott Thomson’s salary by 27 percent, to 9.76 million Canadian dollars (\$6.8 million).

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Thomson // File Photo: Bank of Nova Scotia.

FINANCIAL SERVICES NEWS

BlackRock Group Purchases Ports on Panama Canal

A consortium led by New York-based investment company BlackRock will buy two major ports on the Panama Canal from their Hong Kong-based owner CK Hutchison. The companies reached the \$22.8 billion agreement after U.S. President Donald Trump expressed concern over alleged Chinese influence in the area, the Financial Times reported. On March 4, CK Hutchison said in a statement that it will sell the business to a consortium of companies including BlackRock, BlackRock-owned Global Infrastructure Partners and Switzerland-based Terminal Investment Limited. Under the agreement, the consortium will acquire a 90 percent stake in the company that owns the ports in Panama and an 80 percent stake in its ports subsidiaries, which operate 43 ports located in 23 countries. "This agreement is a powerful illustration of BlackRock and GIP's combined platform and our ability to deliver differentiated investments for clients," BlackRock CEO Larry Fink said in the statement. Following Trump's electoral win last year and his repeated claims that "China is running the Panama Canal," CK Hutchison considered the sale, the Financial Times reported. "When President Trump won and he started making noise about annexing Canada and Greenland and Panama, the pressure was put on the Panamanians," an unnamed source familiar with the deal told the Financial Times. CK Hutchison "realized that it was a political headache and they wanted to do something," the source added.

Brazil Regulations Hindering Equity Capital: Report

New regulations in Brazil are taking a toll on equity capital levels of banks in the South American country, Bloomberg News reported

March 10. The regulations come at a time that Brazilian banks are already facing higher interest rates and potentially higher levels of delinquencies in loan repayments, the news service reported. The Brazilian regulatory measures, which seek to apply global standards to banks in the South American country, are encouraging banks to quickly use their record tax asset levels, which collectively amount to approximately 370 billion reais (\$64 billion), Bloomberg News reported. The tax assets result from tax overpayments. "Those regulatory changes will demand considerable efforts from banks in a difficult year, with inflationary pressures mounting and rising interest rates bringing volatility, worries and higher delinquency rates," Guilherme Machado, an analyst at S&P Global Ratings, told Bloomberg News in an interview. "Lenders will perhaps distribute fewer dividends, or expand their loan books more slowly," he added. Banks in Brazil have long overpaid their taxes because expenses related to provisions for bad loans have traditionally not been considered for tax purposes even if they did lower profits, Bloomberg News reported. Under new Basel III global regulations, tax assets must be deducted from the equity of banks, the news service reported. Rather than applying the changes at once, Brazilian regulators have allowed banks 10 years in order to use their tax credits. Regulators in Brazil have also barred banks from creating new tax assets by establishing that expenses related for loan provisions must be figured into tax calculations whenever they affect banks' profits, Bloomberg News reported. Brazil's Banco Bradesco has the country's highest level of tax assets, at 110.9 billion reais, while Itaú Unibanco has 72 billion reais of tax assets, the news service reported. The accumulated tax assets of the five largest banks in Brazil grew 12 percent over the past 12 months, according to data that Bloomberg News compiled. In January, Brazil's central bank hiked its benchmark Selic interest rate by 100 basis points, and it is expected to increase the key rate by the same amount on March 19, Reuters reported. The rate currently stands at 13.25 percent, and another full-point rate hike would bring the Selic to its highest level in more than eight years. "Persistently high interest rates are hurting Brazilian banks'

NEWS BRIEFS

Walmex Planning to Launch Debit Card for Remittance Transfers

Walmart's Mexico and Central America unit (Walmex) will soon launch a debit card service that enables cross-border remittance transfers, Marcelino Herrera, head of financial services at Walmex, told Reuters on Feb. 27. Walmex's new platform aims to compete with those of other established players in the regional digital payments landscape including Nubank and MercadoLibre, Reuters reported. Herrera did not disclose a specific launch date for Walmex's payment services in Mexico and Central America, and he said that the company is not currently considering applying for a banking license, the wire service reported.

Brazil's Caixa Seguridade Files for Share Offering

Brazil's Caixa Seguridade announced March 9 that it has filed for a follow-on share offering, Reuters reported. The state-run company said the offering will involve a secondary sale of stock that the firm's controlling entity, Caixa Econômica Federal, currently owns. The offering is scheduled to be priced on March 19.

Scotiabank Boosts CEO's Salary by 27 Percent

Toronto-based Bank of Nova Scotia last year raised Chief Executive Officer Scott Thomson's salary by approximately 27 percent to 9.76 million Canadian dollars (\$6.8 million), Reuters reported March 10, citing a proxy circular that the bank released. "Under Thomson's leadership, Scotiabank has successfully laid the groundwork necessary to execute our vision to deliver profitable and sustainable growth," Scotiabank said in the circular. The increase was in line with other major Canadian banks, such as Royal Bank of Canada, Reuters reported.

asset quality metrics because elevated rates increase the debt burden on individual and commercial borrowers through higher financing costs,” Cynthia Cohen Freue, managing director and sector lead for Latin America financial services at S&P Global Ratings, told the Financial Services Advisor in a [Q&A](#) published Nov. 6.

DIGITAL CURRENCIES NEWS

El Salvador, Paraguay Sign Agreement for Crypto Regulation

The governments of El Salvador and Paraguay have signed an agreement on the regulation of cryptocurrencies, Coin Desk reported March 10. The agreement, which was signed by El Salvador’s National Commission on Digital Assets (CNAD) and Paraguay’s Secretariat for the Prevention of Money Laundering or Property (SEPERLAD), aims to facilitate cooperation on cryptocurrencies between the two entities, the Paraguayan secretariat said. The two agencies will also work together to strengthen practices against money laundering and will police unlicensed cryptocurrency operations in Paraguay, SEPERLAD said. “El Salvador continues to share its trajectory and success in the field of digital assets, strengthening international alliances to build a more connected and transparent future,” CNAD’s president, Juan Carlos Reyes said in a post on social media site X. “This agreement not only fosters innovation, but also ensures financial integrity in a borderless economy,” he added. CNAD has among the world’s most advanced cryptocurrency regulatory frameworks, Coin Desk reported. The agency is also the only point of entry for digital assets in El Salvador and requires registration of all crypto assets that operate in the Central American country, Reyes previously told Coin Desk. El Salvador also previously signed a cryptocurrency regulatory agreement with Argentina’s National Securities Commission (CNV) in December. El Salvador’s National Bitcoin Office announced on March 5 that it bought one additional Bitcoin, taking

FEATURED Q&A / Continued from page 1

cy to pay bribes under FEPA. Third, the statute of limitations for FCPA violations means that businesses still may be prosecuted once enforcement resumes or under a future administration. This creates a lingering risk for companies that may have engaged in corrupt practices during the pause. Fourth, there is not a complete pause in FCPA enforcement. For instance, prosecutors have informed a federal court in New Jersey that they will proceed to trial next month against two former technology company executives accused of bribery under the FCPA. Additionally, it remains uncertain how the Securities and Exchange Commission will enforce the FCPA both during and after the pause, which primarily targeted Department of Justice enforcement actions. This indicates that some level of enforcement activity continues, adding to the uncertainty for U.S. businesses. However, to seek to advance the goals of the executive order, the U.S. government may shift its enforcement focus toward foreign companies under U.S. jurisdiction that engage in corruption, rather than targeting U.S. businesses.”

A **Alexandra Solórzano, chief executive owl at Owl Consultancy Group:** “President Donald Trump’s executive order halting enforcement of the FCPA for 180 days has significant implications for U.S. businesses operating in Latin America, as well as for global anti-corruption efforts. U.S. businesses operating in Latin America are likely experiencing increased flexibility in business practices and maximizing potential strategic advantages while taking advantage of loosened compliance burdens. However, these ‘perks’ come with a price for the United States as a whole. The temporary pause sends a signal of likely weakened priorities in the fight against financial crimes, which means that more illicit actors might try to exploit the U.S. financial system during this period. There is a high likelihood that this temporary pause is an experiment from the

Trump administration to see if the economic gains outweigh the reputational risk. Chinese economic influence has been spreading rapidly across Latin America over the last few years, and this suspension might be a way for American businesses to have a ‘fair’ shot in the Latin American market. After this 180-day period, we will likely see how FCPA enforcement and prosecution will be implemented and what the priorities are. The focus will likely be on the foreign players instead of the domestic players. Thus, companies may want to be extra cautious on whom they select as business partners. It is unclear if the Trump administration is planning on giving carte blanche to any American company operating in Latin America, or if it’s going to come back with full force, broadening the reach of enforcement. Time will tell. In short, while right now it might seem as if the fight against corruption and illicit financing is not a priority, this could be a strategy for the United States to gain a stronger footing in Latin American markets and use enforcement against other players that are posing a threat to U.S. businesses.”

A **Javier Coronado and Richard N. Wiedis, partners at Diaz Reus:** “The recent pause in FCPA enforcement, coupled with the U.S. government’s reported focus on immigration matters, may lead U.S. companies to perceive a reduced risk of legal exposure and, as a result, relax their compliance efforts. However, we recommend that U.S. companies operating in Latin America continue adhering to the FCPA for several reasons. First, the FCPA remains in effect, and its statute of limitations spans five years from the last action, with potential extensions. This means that violations committed now could still be subject to future enforcement. Additionally, this administration may continue enforcing the FCPA in connection with its anticipated focus on the operations of cartels and transnational criminal organizations. Second, U.S. companies may

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its reserve of the cryptocurrency to 6,102 coins, Reuters reported. The Bitcoin purchase followed the International Monetary Fund's approval of a \$1.4 billion loan program for El Salvador. In order to finalize the agreement, El Salvador made public acceptance of Bitcoin voluntary, rolling back its designation of the digital currency as a legal tender in 2021.

POLITICAL NEWS

Mexico's Sheinbaum Celebrates Tariff Delay With Rally

Mexican President Claudia Sheinbaum on March 9 celebrated U.S. President Donald Trump's second pause on implementation of new tariffs with a massive rally that brought tens of thousands of supporters to Mexico City's main square, The Wall Street Journal reported. Sheinbaum had originally planned to use the rally in the Zócalo to announce retaliatory measures after Trump on March 4 imposed 25 percent tariffs on nearly all imports from Mexico and Canada. Instead, she turned the gathering into a celebration after Trump announced March 6 that he was holding off on tariffs that are covered under the USMCA trade deal until April 2. Trump has threatened broad tariffs for months on imports from Mexico and Canada, saying the neighboring countries must do more to stop unauthorized immigration and the trafficking of drugs, including fentanyl. Tens of thousands of people filled the Zócalo on March 9, with many waving Mexican flags and shouting "Mexico is to be respected," the Associated Press reported. "Fortunately, dialogue and respect have prevailed," Sheinbaum told the crowd, the wire service reported. People came to the rally from as far away as northwestern Sinaloa state and southern Chiapas state, The Wall Street Journal reported. Many supporters at the gathering were state and local government employees whom ruling party activists had brought to the capital by bus, the newspaper reported. Miguel Medina, a leader of a union of environmental

ADVISOR Q&A

How Likely Is U.S. Military Action in Mexico?

Q Mexican President Claudia Sheinbaum said on Feb. 20 that her party is proposing a constitutional amendment to deter acts from abroad including coups, as well as foreign interference in elections and prosecutions. Her announcement followed the U.S. State Department's designation of organized crime groups, including six Mexican cartels, as terrorist groups. How likely is a U.S. military intervention on Mexican soil? What would the Mexican constitutional amendment practically mean, including for the country's military and the power it wields? In what direction is security cooperation between the United States and Mexico headed?

A Roberta Lajous, former Mexican ambassador to Cuba, Bolivia and Spain: "Security cooperation between Mexico and the U.S. reached an unprecedented high with the Feb. 27 expulsion of 29 Mexican drug lords, including the notorious Rafael Caro Quintero. This significant departure from the previous administration's 'hugs, not bullets' policy represents a substantial shift, fulfilling longstanding U.S. demands. President Claudia Sheinbaum deserves recognition for her decisive action in extraditing these criminals. However, her government needs to take further steps to reclaim significant

portions of Mexican territory controlled by organized crime. This requires collaboration from the United States, ideally through a trilateral security cooperation treaty that also involves Canada. North American economic integration necessitates clear rules and concerted action on shared challenges. While proximity to the world's largest market offers great advantages for Canada and Mexico, this benefit is threatened by the flow of illicit drugs to satisfy growing demand. A successful strategy to fight drugs, and therefore organized crime, requires attention to both supply and demand. U.S. Secretary of Defense Pete Hegseth has signaled that all options are on the table to halt the flow of fentanyl across the border. President Sheinbaum's proposed constitutional amendments serve as a crucial message that Mexico rejects unilateral U.S. military actions within its territory. Such actions would severely damage trust between the two governments. New administrations in all three North American countries could mark a pivotal moment for a fresh start in regional cooperation if the imposition of tariffs does not get in the way."

EDITOR'S NOTE: More commentary on this topic appears in the March 11 issue of the daily Latin America Advisor.

workers, told The Wall Street Journal that his union had brought approximately 3,500 members from six states. "We serve the country and our president," Medina told the newspaper. "We do it out of conviction and love for our nation," he added. Despite the delay on the U.S. tariffs, Mexico faces a slowing economy as well as difficulty in addressing its budget gap and declining business confidence, according to econ-

omists, The Wall Street Journal reported. Due to noncompliance with the USMCA, at least 10 percent of Mexico's exports still face tariffs despite Trump's postponement, the newspaper reported, citing Mexican government estimates. Some analysts have said as much as 40 percent of Mexico's exports could face tariffs. Tariffs that were imposed starting on March 4 remain in effect for Mexican exports including

NEWS BRIEFS

Hondurans Choose Candidates for Presidential Election

Honduran electoral authorities on March 10 announced the results of the previous day's primary elections, in which the country's three leading parties selected candidates for November's general election. President Xiomara Castro's leftist LIBRE party voters chose Defense Minister Rixi Moncada as its candidate; Castro's former vice president, Salvador Nasralla, won the centrist Liberal party's nomination, and former Tegucigalpa Mayor Nasry Asfura won the right-wing National party's primary, the Associated Press reported.

Judge Orders Guatemalan Journalist Zamora Back to Prison

Guatemalan journalist José Rubén Zamora on March 10 was ordered to return to prison after a judge invalidated his house arrest order, the Associated Press reported. Zamora, founder of *El Periódico* newspaper, has been in various forms of detention since July 2022 on money laundering charges; he was last granted house arrest in October. Multiple independent human rights groups have characterized legal proceedings against Zamora, who denies wrongdoing, as unlawful retribution for his newspaper's coverage of former and current Guatemalan political figures, the AP reported.

At Least 16 Killed as Heavy Rains Hit Argentine City of Bahía Blanca

Heavy rains and flooding have killed at least 16 people in the Argentine coastal city of Bahía Blanca, the Associated Press reported March 9. Around 12 inches of rain fell on the city in southern Buenos Aires province on March 8-9, according to the AP. Local authorities say dozens of people remain missing, the wire service reported.

electronics with a low proportion of domestic or regional content, as most components from the electronics that Mexico exports come from Asia, *The Wall Street Journal* reported. On March 9, Trump called the one-month reprieve granted to Mexico and Canada a "little bit of a break," CNN reported. However, on March 11, Trump said he was increasing tariffs on imports of Canadian steel and aluminum to 50 percent from 25 percent in retaliation over Ontario's move to impose a 25 percent surcharge on electricity that it sells to the United States, CNBC reported.

POLITICAL NEWS

Suriname's Ramdin Elected Secretary-General of OAS

Surinamese Foreign Minister Albert Ramdin was elected as the next secretary-general of the Organization of American States (OAS) on March 10, becoming the first representative of the Caricom group of nations to lead the Western Hemispheric multilateral institution. Ramdin will begin a five-year term on May 25—the exact date of Suriname's next general election—the OAS announced following the vote. Ramdin will take over from the current OAS secretary-general, Uruguay's Luis Almagro, who served two terms beginning in 2015. The vote to approve Ramdin was unanimous; the only other major candidate, Paraguayan Foreign Minister Rubén Ramírez Lezcano, withdrew his candidacy for the secretary-generalship last week. Ramírez Lezcano failed to garner support from member states partially due to his perceived close alignment with the administration of U.S. President Donald Trump, newspaper *Valor Económico* reported. Ramdin has been Suriname's foreign minister since 2020; he previously served as assistant OAS secretary-general from 2005 to 2015, Reuters reported. Ramdin is an ally of Surinamese President Chan Santokhi, whose government has advocated for further international action to stop gang violence in Haiti, as well as limiting

U.S. sanctions against Venezuela, according to the wire service. Suriname's government supports Guyana's claim in their ongoing territorial dispute with Venezuela regarding the Essequibo region, Reuters reported. Venezuela, Cuba and Nicaragua did not participate in the election for OAS secretary-general.

Venezuela Reportedly Will Reject U.S. Deportation Flights

Venezuela has warned the administration of U.S. President Donald Trump that it will no longer accept flights of deported migrants, *The Wall Street Journal* reported March 7, citing unnamed sources familiar with the matter. The administration of Venezuelan President Nicolás Maduro made the decision to stop accepting migrants after Trump on March 4 moved to cancel oil major Chevron's authorization to operate three oil production ventures in Venezuela. The Trump administration gave Chevron until April 3 to leave the country, moving up a prior deadline of August for the company to wind down its more than 200,000-barrel-per-day oil production capacity in Venezuela. In early February, Trump said that he and Maduro had reached a deal in which Venezuela would accept tens of thousands of repatriated migrants from the United States. Deportation flights between the United States and Venezuela have been paused since at least Feb. 20; around 360 people were sent to Venezuela from the United States under the deal between Trump and Maduro, *The Wall Street Journal* reported. Trump's goal of deporting unauthorized migrants from the United States to third-party transit destinations in Latin America has drawn international scrutiny. Panama on March 8 released dozens of foreign nationals who had been deported from the United States from a detention center near the Darién Gap, giving them 30 days to leave Panama, the Associated Press reported. The following day, Ecuadorean President Daniel Noboa said his government will not receive deported migrants from the United States unless they are citizens of Ecuador, Reuters reported.

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still face scrutiny under additional U.S. legal frameworks, such as federal or state laws targeting money laundering or fraud. For instance, the U.S. government is known for using economic and immigration sanctions in connection with allegations of international corruption. Third, countries in Latin America, such as Colombia and Brazil, have similar anti-corruption laws, and noncompliance could expose U.S. companies to legal risks in these jurisdictions. Finally, companies must consider the reputational and other risks associated with noncompliance with the FCPA. Shareholders, media and other stakeholders will likely continue to monitor anti-corruption efforts closely. Given these ongoing risks, maintaining robust FCPA compliance programs remains essential for safeguarding U.S. companies operating in the region.”

A **Ronald A. Oleynik, partner at Holland & Knight:** “President Trump’s ‘halt’ of FCPA enforcement is a stark reversal of the U.S. government’s 48-year crusade against government bribery and corruption. We should not be surprised by Trump’s disruptive up-is-down, black-is-white negotiating positions, but this one is surprising as it does not appear to be a starting position for any negotiation. When the U.S. first implemented the FCPA, Trump’s current rationale

for the ‘halt’—that U.S. business was disadvantaged by the law and fighting with one hand tied behind its back—was likely true. However, the U.S. government kept at its crusade, and the world began to change. The United Nations followed the U.S. example, and then some European countries passed anti-corruption legislation with the European Union itself requiring member countries to implement these regulations. The U.K. Bribery Act 2010 is now the updated gold standard. While international enforcement has been, and remains, uneven across the globe, the United States has continued to lead the way on this effort to create a more even business playing field. In the short term, the FCPA enforcement ‘halt’ may have negligible impact on U.S. businesses operating overseas, as the proliferation of other countries’ anti-corruption laws will restrain a reversal in good corporate citizenship. And, as the FCPA statute remains in force with a five-year statute of limitations (expanded to seven under certain conspiracy scenarios), a removal of the ‘halt’ in enforcement by the next presidential administration will have turned out to be a trap for any company that thought it now had free reign.”

The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta.

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