

PART I - CORRUPTION ENFORCEMENT IN BRAZIL: WHAT DOES IT LOOK LIKE?

February 23, 2015 | [SEC, The GEE Blog](#)



**George E. Horn,
Jr.**
Partner

Anti-corruption enforcement in Brazil has experienced an uptick over the past year. Enforcement of the Clean Companies Act (CCA) is having an impact in both the Brazilian business and political spheres. The future of Brazilian's anti-corruption enforcement, together with anticipated new legislation and regulations in this area dictates that companies doing business in Brazil take heed and consider enhanced compliance efforts to ensure business activity stays within the bounds of the CCA and any expanded enforcement efforts.

While Brazil is the world's fourth largest democracy, it has been saddled in recent years by multiple corruption scandals. Transition of the political landscape in Brazil to one of democracy in 1985 increased hope for greater transparency. Each of the six (6) presidential administrations since, however, has been burdened by accusations of corruption. Those alleged to have been involved in corrupt activities have largely not been held to account for their behavior in a democratic Brazil until recently. "Corruption is partly to blame for Brazil's World Cup stadiums ending up over budget and becoming some of the world's most expensive soccer venues, [\[a\] government spokesman said.](#)"

The Clean Companies Act (CCA) was passed on Aug. 2, 2013, and took effect on Jan. 29, 2014. The CCA establishes both civil and administrative liability for acts of corruption by individuals and corporations. Critically, the CCA is a strict liability law. This new legislation placed Brazil in line with a more global anti-corruption trend. It filled a substantial gap in Brazilian law with regard to corrupt acts. Previously, there was no specific law imposing liability on corporations for the corrupt actions of their employees or agents. Only individuals risked punishment. The CCA responded to the Brazilian public's desire for increased government transparency and accountability. As we await the opportunity to observe corporate enforcement efforts under the CCA, there has been a decided surge in the pursuit of corruption cases against individuals.

These cases have demonstrated a clear intent on behalf of Brazilian law enforcement to hold individuals accountable for international bribery. Brazil is currently embroiled in its largest ever corruption scandal spreading from national oil producer Petroleo Brasileiro SA (Petrobras) to many of the country's largest builders. The scandal has, ironically, coincided with increased anti-corruption efforts within the country over the past several years. The federal investigation, known as "Carwash," involves an alleged kickback scheme and has led to the arrest of more than 30 people. It has also resulted in [Petrobras temporarily banning 23 construction firms](#) from bidding on new contracts.

According to the Wall Street Journal, at least 3 former Petrobras executives

RELATED PRACTICE AREAS

Financial and Regulatory Litigation
Government Litigation
Securities and Capital Markets
White Collar and Investigations

RELATED TOPICS

Petroleo

have been arrested in the scandal to date. In late 2014, Brazilian authorities arrested Paulo Roberto Costa, former refining chief at Petrobras, on allegations involving bribery and money laundering related to the company's purchase of a Texas oil refinery for U.S. \$1.7 billion. [Mr. Costa confessed to accepting U.S. \\$636,000 in bribes](#) related to that transaction. In September 2014, Brazilian authorities initiated a criminal investigation against eight (8) Embraer employees for bribing officials in the Dominican Republic. The case revolves around the alleged payment of U.S. \$3.5 million in bribes to a retired Air Force colonel who then used his influence on local legislatures. [The Wall Street Journal indicated](#) that Brazil's action with regard to Embraer "marks one of the first known efforts by Brazil to prosecute its citizens for allegedly paying bribes abroad, a milestone achieved with help from the U.S. Department of Justice and the U.S. Securities and Exchange Commission."

[Read Part II - Corruption Enforcement in Brazil: What Does it Look Like?](#)