GIR INSIGHT

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For further information please contact Natalie.Clarke@lbresearch.com

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Preface

Welcome to the *Americas Investigations Review 2020*, a *Global Investigations Review* special report. *Global Investigations Review* is the online home for all those who specialise in investigating and resolving suspected corporate wrongdoing, telling them all they need to know about everything that matters.

Throughout the year, the *GIR* editorial team delivers daily news, surveys and features; organises the liveliest events ('GIR Live'); and provides our readers with innovative tools and know-how products. In addition, assisted by external contributors, we curate a range of comprehensive regional reviews – online and in print – that go deeper into developments than our journalistic output is able.

The *Americas Investigations Review 2020*, which you are reading, is part of that series. It contains insight and thought leadership, from 34 pre-eminent practitioners from the region. Across 13 chapters, spanning around 160 pages, it provides an invaluable retrospective and primer. All contributors are vetted for their standing and knowledge before being invited to take part.

Together, these contributors capture and interpret the most substantial recent international investigations developments of the past year, with footnotes and relevant statistics. Other articles provide valuable background so that you can get up to speed quickly on the essentials of a particular topic. This edition covers Argentina, Brazil, Mexico and the United States, as well as multi-jurisdictional deals in Latin America; has overviews on data privacy, economic sanctions, extraterritoriality and privilege; covers how enforcements authorities interact and how to move forward after an investigation; and enforcer insight from the World Bank and the CGU.

If you have any suggestions for future editions, or want to take part in this annual project, we would love to hear from you.

Please write to insight@globalarbitrationreview.com.

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Brazil: Handling Internal Investigations

Ricardo Caiado
Campos Mello Advogados

The past five years were crucial for Brazil in the fight against corruption. Pressure from the people for more transparency, the enactment of the Clean Company Act (BCCA) and the Car Wash investigation led to an unprecedented enforcement.

The magnitude of the Car Wash investigation saw it become a watershed moment in the anti-corruption enforcement. It was a deep and thorough investigation that had an impact in the political, economic and legal scenarios in Brazil. The investigation targeted a bribery scheme and the financing of political campaigns involving the state-owned oil and gas company, its employees and their connection to politicians and private companies.

After Car Wash, Brazilian law enforcement authorities also started several investigations throughout Brazil to unveil corruption and money laundering schemes. As an example, in September 2016, the federal police and the federal prosecutors in the capital Brasília launched a very relevant investigation called Greenfield, with the focus of investigating potential schemes in the four largest pension funds of the country.

The prosecutors innovated largely by entering into agreements with the companies under investigation and conditioning the release of frozen assets to the conduction of internal investigations and the full disclosure of its findings to the authorities.[1] In other words, the authorities requested the investigated parties to conduct an internal investigation, and its final report was presented in the files and became part of the authorities' investigation.

It is accurate to state that the increment of the enforcement has also had an impact on corporate compliance and internal investigations. If internal investigations were previously considered superfluous or a luxury exclusive for subsidiaries of multinational companies concerned with enforcement in their home countries, nowadays they are a reality not only for multinationals but also for Brazilian private and public companies.

1 The agreements were more based on a trust commitment rather than on formal standards set forth in laws.

Following the international trend, Brazilian law enforcement authorities have started to share the duty to investigate with private parties. A notorious example is the investigation conducted in Petrobras to unveil all sorts of violations, which encompassed major document review, interviews and reporting to authorities both in Brazil and the United States.

Eletrobras, the giant state-controlled company from the energy sector, has also conducted a very thorough and long internal investigation and shared its findings with the authorities. Other companies, most of them with 100 per cent Brazilian capital, have also conducted internal investigations, for the first time in their history. The investigations were conducted to unveil facts and personnel involved in potential violations in connection with the bribery schemes under investigation by the administrative and criminal authorities.

In exchange for leniency, the holding company of a large Brazilian business group also agreed to conduct internal investigations in several of its companies and hand the results to the prosecutors, who provided instructions and overview the investigations, and may use the evidence to sue the wrongdoers. The leniency agreement provided the highest fine ever imposed to a company due to corruption practices in the world.

The tough and continuous enforcement led to the impeachment of the former president Dilma Rousseff and many other politicians and businessmen never before reached by the government are now either in prison or named as defendants in criminal proceedings.

In these circumstances, fully and dramatically changed by the outstanding enforcement, both corporations and the authorities have started to pay much more attention to compliance and internal investigations have become more relevant than ever before.

Introduction

Great expectation surrounded the BCCA enactment. Huge pressure from the public as well as a constant push from the Organisation for Economic Co-operation and Development (OECD) made the bill of law become a reality on 1 August 2013.[2]

In addition to the strict liability for corporations due to the practice of wrongdoings in corporate activities, two innovations brought by the BCCA are noteworthy:

- the possibility of companies involved in corruption violations to enter into a leniency agreement with government agencies; and
- the fact that the existence of an integrity programme in place started to be considered a mitigating factor upon the appliance of the sanctions set forth in the law.

The parameters for the evaluation of an effective integrity programme were only established in March 2015, when the Decree No. 8420 was issued, and later in October 2015, when the General Comptroller's Office (CGU) issued the Integrity Program Guidelines for Legal Entities (the Guidelines).

2 The effective date of the BCCA was 29 January 2014.

The Guidelines provide directions on reporting channels, disciplinary and remediation actions. There are some broad and general directions on internal investigations, in the topic that addresses remediation actions, which are focused on the immediate interruption of the wrongdoing, potential solutions and reparation of the effects caused. Ultimately, companies are free to choose how to conduct an internal investigation in Brazil.

Although there are multiple and widespread authorities throughout the country (regulatory, administrative, criminal, civil), none of them have ever issued a detailed guideline on internal investigations, although it has become more usual for the authorities to give instructions or oversee an internal investigation in progress.

Despite the lack of regulation, and, therefore, specific rules on how to conduct an internal investigation in Brazil, there are some best practices that follow the international standards.

This article does not aim to cover all the steps that are usually taken in an internal investigation, but rather touches upon some relevant topics to be taken into consideration when conducting a corporate investigation in Brazil.

Whistleblowing

Whistleblowing has not historically been a common practice in Brazil, mostly due to cultural factors and due to the lack of legal provisions and protections on self-disclosure. However, the enactment of new legislation, alongside the tough and constant enforcement in the past few years towards both individuals and corporations, has played a very important role in changing the culture of non-reporting.

This change is enabling the creation of an environment of good practices and more efficient corporate governance. As in other countries, blowing the whistle in Brazil may happen in two ways: internal or external disclosure.

Internally, reporting means providing the company with information on any wrongdoing that regards corporate activities. After receiving the information, the company decides whether to conduct and internal investigation and disclose its findings to the authorities.

In an external report, the individual discloses a wrongdoing directly to the authorities, who then must take action provided that if they do not, they may be subject to criminal liability.

Internal disclosure

The BCCA lists reporting wrongdoings as one of the mitigating factors to be considered upon sanctioning a company that has committed a violation. In the same vein, the Guidelines issued by the CGU set forth that developing wrongdoing reporting or detection mechanisms (red flags, reporting channels and whistleblower protection mechanisms) is one of the pillars of an integrity programme.

There are no legal provisions on benefits for whistleblowers who make an internal report. Companies may have such a provision in their compliance programmes, although it is not common practice either. Robust compliance programmes usually spread the 'do the right thing' message and, therefore, internally reporting a wrongdoing should not aim at getting benefits, but rather doing the right thing and being part of a clean corporation.

Furthermore, the Guidelines state that reporting channels must provide whistleblowers with anonymity and non-retaliation guarantees.

External disclosure

Disclosure to the authorities may be performed by an employee of a corporation who reports a wrongdoing in which he or she has not participated. It is not usual in Brazil for an individual to report a wrongdoing directly to the authorities when he or she has not taken part in the illegal activity.

However, following the trend of the American legislation, such as the False Claims Act and the IRS Whistleblower Reward Program, Brazil has enacted the Federal Act 13,608/18, which provides the possibility of financial reward in exchange for information 'useful for the prevention, repression or clarification of crimes and administrative violations'. Such provision is still pending further regulation, but it may be a starting point to change the culture of non-report.

There is a different scenario when it comes to self-disclosure to authorities by the wrongdoers themselves. An individual who committed a crime and is already under investigation or is being prosecuted may report the wrongdoing to the authorities in exchange for being granted leniency, which may range from a penalty reduction to a judicial pardon.

Cooperation with the authorities is not new in Brazil but became a trend after increased enforcement of the law. The antitrust legislation, for instance, provides full immunity on both administrative and criminal levels for companies (administrative only) and individuals that self-report. This mechanism of rewarding the first offender to self-disclose turned out to be very effective and has become a common practice in the antitrust field, in which the Brazilian authorities – both the regulator and the criminal prosecutors – are, and have been, very active.

When it comes to corruption and other white-collar crimes, companies are entitled to sign leniency agreements and individuals are entitled to sign collaboration agreements with law enforcement authorities, as a general rule.

The Criminal Organizations Act enables individuals to cooperate with the authorities and be entitled to negotiate a kind of a plea agreement, also known as 'collaboration agreement'. The BCCA sets forth that companies are entitled to cooperate with authorities through leniency programmes. Such mechanisms allow individuals and companies involved in wrongdoings to receive benefits from the authorities in exchange for information of the misconduct.

In cases where federal prosecutors are entitled to act against both companies and individuals, the prosecutors allow individuals to adhere the leniency programme in exchange for immunity or softer penalties. This is the standard applied in the leniency agreements signed by the Car Wash task-force and other task-forces composed by Federal Prosecution.

This practice is not foreseen in the BCCA, but, theoretically, individuals may get the same benefits they could obtain in a collaboration agreement. The lack of legal provision on such practice demands caution and appropriate legal advice from individuals who chose this way instead of signing their own collaboration agreements.

One of the requirements for a company to sign a leniency agreement with the government in the context of the BCCA is the identification of others involved in the wrongdoing, whenever applicable. Companies in cooperation with government agencies, therefore, usually encourage individuals involved in wrongdoing to adhere the agreement as part of the cooperation.

Usually, there is no pressure for the company to sacrifice specific individuals to make a deal with the government, but some companies have approved incentive programmes to get individuals to join leniency agreement. Incentives include payment for legal defence and, sometimes, the payment of bonus and other compensations in exchange for cooperation. Such practice faces limitations of ethical nature and on the reliability of the information provided by the individuals. Brazilian law enforcement authorities are yet to assess the validity of incentives programs that involve payments to confessed wrongdoers.

Although it is a new trend and thus far very controvertible, collaborating with the authorities has been used by several companies and individuals targeted by the Brazilian authorities. Both Brazilian lawyers and law enforcement authorities are still getting used to it, but there is no doubt that cooperation is an effective instrument of investigation and facts elucidation.

Privilege

The confidentiality of the information is one of the key elements for the success and efficacy of every internal investigation. It is also crucial in many ways, including the protection of the company from potential claims triggered by individuals involved in the investigation and the negotiation of cooperation agreements with law enforcement authorities.

The engagement of a lawyer has historically been an effective way to create and maintain the confidentiality in an internal investigation. In Brazil, having lawyers in charge of the investigation is of the essence, considering the specificities of the local legal professional confidentiality treatment.

Definitions and limitations

The professional practice of law is well regulated in Brazil. Besides the Brazilian Federal Constitution,[3] Brazilian lawyers are both protected by and bound to several provisions set forth in the Brazilian Bar Association Statute (BBAS)[4] and the Brazilian Bar Association Ethics Code (BBAEC).[5] The provisions cover both litigation and advisory legal professional practices, making it clear that there is no distinction between them in Brazil.

As opposed to the United States, legal professional protection in Brazil is not treated as a privilege arising from the attorney–client relationship. Neither is there a clear distinction between the attorney–client communication and the work-product doctrine in the country. All aspects of client's legal protection in Brazil are regulated in a rights and duties system.

3 Section 133: 'the lawyer is indispensable to the administration of justice, being inviolable by his acts and manifestations in the practice of the profession, within the limits of the law'.

4 Federal Law No. 8906/1994.

5 Internal regulation issued by the Federal Council of the Brazilian Bar Association in compliance with an obligation set forth in the BBAS.

The BBAS sets forth 'the inviolability of the lawyer's office or place of work, as well as his [or her] work tools, written, electronic, telephone and telematics correspondence, as long as they relate to the practice of law' as every lawyer's right.[6] This may only be breached in cases in which there is indication that the lawyer took part in a crime[7] or keeps physical evidence of a crime in his or her office.[8] This means that Brazilians lawyers have a comprehensive right to the inviolability of their communication, work tools and work products, regardless of the direct involvement of a client and as long as they relate to the licit practice of law.

On the other hand, the BBAEC sets forth the duty for every Brazilian lawyer 'to keep the facts they become aware of during the practice of his profession confidential'.[9] The BBAEC also states that professional secrecy is of public interest, regardless of any request made by the client, and that communications of any kind between a lawyer and their client are presumed to be confidential.[10] Such duty may only be breached if there is threat to the lawyer's life or honour or the lawyer's defence.[11] The breach of the duty without cause may subject the lawyer to penalties from formal warnings to disbarment.

The client, therefore, is twice protected by both the Brazilian lawyers right to inviolability and their confidentiality duty. The protection is effective and it is not common in Brazil for lawyers and law firms to have the legal professional confidentiality breached out of the exceptions set forth in the applicable law.

Most of the cases publicly available involving restriction measures imposed on lawyers relate to at least the indication that the lawyer could have been involved in the wrongdoings under investigation. Furthermore, the Brazilian Bar Association is very active in the defence and preservation of the legal professional guarantees, especially the confidentiality.

In-house lawyers

The BBAS does not distinguish in-house lawyers from external counsel. As previously stated, the first section of the BBAS specifically sets forth the practice of 'legal management' as a lawyer's private activity. Unlike many European countries, therefore, in-house lawyers have the same rights and duties of external counsel, as long as their role exclusively relates to the practice of law. This means that in-house lawyers who perform executive management roles or other activities not related to the practice of law do not have the same legal treatment.

6 Section 7, II.

7 Section 7, paragraph 6 of the BBAS.

8 Section 243, paragraph 2 of the Brazilian Code of Criminal Proceedings.

9 Section 35.

10 Section 36 and paragraph 1.

11 Section 37.

In 2009, the Brazilian Supreme Court declared null and void a dawn raid conducted in a state-controlled bank. One of the grounds of the ruling was that the decision that had granted the measure did not specify the relevance to seize internal correspondence of the legal department for the investigation.[12]

As a result, Brazilian in-house counsel may conduct internal investigations and the legal professional protection in their communications, work tools and work products is preserved. Despite this fact, it is more common that compliance officers conduct internal investigations than in-house counsel, given that companies have been choosing to segregate the legal from the compliance departments.

More complex investigations, especially the ones involving the top management or suspicion of public corruption are usually outsourced to external law firms, to guarantee impartiality and independence. Another related issue is how to preserve the in-house counsel legal professional confidentiality when there is indication that they may be a custodian of relevant information for the investigation.

In such a scenario, the investigators must be even more careful with confidentiality and bear in mind that the inclusion of the in-house counsel in the list of custodians does not constitute a general waiver of the company's legal professional protection. Some specific documents assessed during the review may be of essence for the investigation and, on a case-by-case basis, demand specific waiver of privilege protection. This is a reasonable way to enable a thorough document review and preserve the legal professional confidentiality at the same time.

The treatment of the legal professional confidentiality in the context of cooperation with Brazilian law enforcement authorities

Another relevant and controversial aspect of legal professional confidentiality in Brazil relates to its treatment in the context of an entity's cooperation with law enforcement authorities. Brazilian enforcement on corruption practices and corporate wrongdoings has been increasing since 2013, when two relevant Federal Acts were added to the Brazilian anti-corruption legal framework.

As explained above, both the BCCA and the Criminal Organizations Act set forth the possibility of cooperation with Brazilian law enforcement authorities in exchange for legal benefits. The Criminal Organizations Act imposes the waiver of the constitutional guarantee of non-self-incrimination for individuals under a collaboration agreement. None of the acts, however, impose a duty of waiving a professional confidentiality right, of any kind, for companies and individuals under cooperation proceedings.

12 'The professional secrecy of the lawyer is preserved in respect to the essential role that he plays for the administration of justice (Sections 5, XIV and 133 of the Constitution) and the trust deposited by the clients, and the Judge or the Police Authority are prevented from ordering the seizure of documents covered by that confidentiality, meaning, all those that may in any way compromise the client or his defense, whether in the civil sphere or in the criminal sphere, all in tribute to the principle that guarantees the right to a broad defense' RMS 27.419/SP, Reporting Justice Napoleão Nunes Maia Filho, Fifth Chamber, 04/14/2009.

The BCCA only states that 'the leniency agreement shall stipulate the necessary conditions to ensure the effectiveness of the collaboration and the useful outcome of the proceeding.'[13] It is, therefore, possible for a company to make a self-disclosure and cooperate with Brazilian law enforcement authorities after the conclusion of an internal investigation without automatically waiving the legal professional confidentiality, either of an internal in-house counsel or of an external lawyer retained to conduct the internal investigation.

Labour aspects that may impact internal investigations in Brazil

After learning about a wrongdoing and making the decision to start an investigation, a subject that deserves specific attention by corporations is the Brazilian labour legislation.

As in many other Latin American countries, the Brazilian labour legislation is complex and inclined to protect employees. It is no overstatement that there is a culture of judicial claims by employees against employers in the country, even in cases of weak or lack of proper grounds. As a result, Brazil is one of the countries with the highest number of judicial labour claims in the world.

In an attempt to change this scenario, Congress passed the Labour Reform in July 2017, providing several important changes in the relationship between employer and employee. Nevertheless, the Labour Reform did not bring much change in terms of the conduction of internal investigations.

Therefore, the risk of the company's labour exposure remains an important factor to be considered upon conducting corporate investigations in Brazil. Every step of the investigation, from the definition of the scope to the enforcement of disciplinary measures, should be planned and performed taking the labour aspect into consideration and in a way as to mitigate such exposure.

Below are four basic steps companies should take to prevent labour liability during and after the internal investigation.

- Consult a labour lawyer to provide guidance in the internal investigation. A specialised professional with knowledge on the company's internal rules and local labour legislation is crucial to support investigators on the possibilities and the extent of investigative measures.
- Preserve and secure the confidentiality of the investigation as well as the privacy and the intimacy of employees involved. Many labour claims in Brazil involve damages due to allegations of illicit exposure of the employees within the workplace, especially in cases of termination for cause.
- Keep accurate records of all investigative measures conducted, such as relevant corporate emails identified and minutes of interviews. The proper documentation of the investigation enables a better defence of the company in potential labour claims filed due to or as a consequence of the investigation. Furthermore, the documents may be used as evidence in terminations with or without cause.

13 Section 16, paragraph 4.

- Ensure the enforcement of disciplinary measures in compliance with confidentiality and proportionality. Inconsistency in disciplinary measures may give grounds for employees to file labour claims seeking indemnification or the return to work. Termination for cause is the harshest disciplinary measure and must be applied only in extreme situations as quickly as possible and based on sufficient evidence. Examples of extreme situations are corruption, fraud, unfair competition and breach of corporate secrecy. Brazilian labour courts have been ruling that companies have the burden of proof in terminations for cause.

As a final note, companies in Brazil may impose remunerated leave – also called suspension – on employees while conducting the internal investigation or in cases of risk of evidence destruction, witness coercion and other situations that may harm a corporate investigation. This is a common and efficient practice in Brazil, especially in relation to employees in management positions.

Despite the lack of specific legal provisions, labour counsel recommend that this suspension should not exceed 30 days to avoid allegations of indirect rescission of the employment contract by the employer. It is also recommended that the leave is formally recorded with signatures of the employee on both their departure and their return.

Data collection

One of the most common, efficient and important investigative measures in Brazil – and generally everywhere else – is the data monitoring and gathering from corporate devices made available for employees, as innumerable amounts of relevant information may be stored in such devices.

Companies have the right to access most of the information stored on servers and corporate electronic devices used by their employees, but this activity cannot be done indiscriminately.

Brazilian labour courts have been ruling that corporate devices – such as emails, computers and cellphones – are company property not subject to employees' privacy and intimacy rights. Companies may hold civil liability for wrongdoings committed by employees through such devices. Therefore, employers are allowed to monitor and gather relevant information from such devices for corporate investigation purposes.

Employees should be clearly informed that corporate devices must be used exclusively for professional purposes and are subject to monitoring. Such communication is usually performed through the company's code of conduct, corporate device policies and specific clauses in the employment contract.

A great deal of controversy surrounds the monitoring of personal data. As a general rule, and in a conservative approach, companies are not allowed to monitor personal emails and communications, even when they are not in compliance with corporate device polices. All personal data casually gathered on corporate devices with no relation with the investigated facts must be excluded from the investigation and have its confidentiality preserved to avoid undue exposure of the employee's privacy and intimacy.

When it comes to data collection, companies must take all of the necessary precautions to preserve the integrity of the data and of potential evidence gathered when conducting an internal investigation.

Digital data is volatile (ie, it can be easily created, modified, damaged or even deleted). There is no legal provision on the need for prior notification of the employee whose corporate devices will be collected due to an internal investigation. Therefore, there is no need to issue a hold notice, although several companies prefer to do so. Lawyers usually prefer to make the assessment and the recommendation on the hold notice on a case-by-case basis.

Nevertheless, considering that corporate electronic devices may contain information in connection with the employee's privacy, it is advisable to, whenever possible, obtain the prior and formal consent of the employee before proceeding with the data collection. This measure is also important to avoid allegations of harassment, conflicts of interest and violation of the privacy laws.

The collection of electronic data must respect specific technical procedures to preserve the custody chain of the files. It is recommended to delegate this activity to an independent forensic company specialised in collection and data processing in compliance with forensics standards, as well as to have the collection procedures monitored and recorded by a public notary.

After the collection, all files extracted from the devices may be analysed, including the employee's corporate email account. Despite the fact that corporate investigations cannot reach the employee's private email accounts, the data analysis may also encompass private emails if they were sent to or received by the employee using his or her corporate email account.

Personal electronic devices (computers, smartphones, tablets, etc) cannot be collected by the company, unless the employee consents.

Interviews

Interviews are a key stage in any internal investigation and it is no different in Brazil, as it is a very important source of information gathering.

The first step is to plan the communication of the interview to the employee. The interviewee must be previously notified to attend a meeting with the investigation team. If they are an employee, the notification is usually sent by their immediate supervisor, by the human resources department or by the legal department of the company.

When involving former employees or third parties (business partners, suppliers, competitors, etc) the notification process may become much more challenging. There is no official notification or provision for official notice to be sent to the potential interviewees. Employees, former employees and third parties cannot be compelled to attend an interview. They may also attend the interview and refuse to answer the questions or request their attorney to be present at the meeting.

Another major difference in Brazil compared to other countries is that employees do not have the duty to cooperate or to tell the investigators the truth. There is no perjury and the Brazilian Federal Constitution assures the right not to self-incriminate, even in a judicial claim.

However, the recent experience, especially after the Car Wash investigation, has shown that interviewees usually attend the interviews without an attorney and answer the questions in an effort to show cooperation.

The interviews are often conducted in the employee's native language, because Brazilian employees feel much more comfortable participating in an interview that is conducted in Portuguese.

The *Upjohn* and similar warnings are not required under Brazilian legislation; however, their content may be presented to the interviewee as an introduction, given that it is usually the first communication between the investigation team and the interviewee, and to settle the grounds of the questions. Such warnings are recommended especially investigations that involve multi-jurisdictional issues and countries where warnings are mandatory.

The interview may be recorded if necessary, but this is neither usual nor a recognised best practice. It is also controversial in Brazil whether recording the interview requires the interviewee's authorisation. Common practice in Brazil has been to take notes during the interview and to prepare a brief summary of the main topics addressed in the interview or the minutes of the meeting afterwards.

The main purpose of the interview is to collect more information about certain issues, to clarify information collected during the document review and to confirm or review documents and information with individuals involved in the matter. Accusations, bluffing and other harsh techniques towards the interviewee must be avoided during the interview, regardless of the existing information and documents of a wrongdoing, as to prevent future labour and civil claims on the grounds of harassment.

Next developments

As explained in the introduction, Brazilian authorities have not yet issued rules or guidelines on internal investigations and companies are free to choose how to conduct them in Brazil. The lack of official parameters raises concerns as internal investigations become a reality in many companies doing business in Brazil.

One of the main concerns relates to the individual rights of those subject to internal investigations. Basic guarantees recognised in government investigations, such as access to the records of the investigation and formal representation by a lawyer, are not a reality in investigations conducted by corporations. In terms of rights, therefore, it is probably better for an individual to be investigated by law enforcement authorities rather than corporations in Brazil.

Several best practices described throughout this article address ways of balancing the relevant role internal investigations represent within corporations and a fair treatment of individuals subject to the investigations. There are, however, many more challenges ahead and questions yet to be answered.

- What is the best way to conduct internal investigations on facts with repercussions in different jurisdictions?
- How to get law enforcement authorities from different jurisdictions on the same page in a multinational cooperation agreement?

- What are the parameters and limits of corporate incentive programmes for individuals to adhere to collaboration agreements with law enforcement authorities?
- Long-term and key employees involved in structured wrongdoing can remain in the company during and after taking part of collaboration agreements with law enforcement authorities.
- How companies should treat individuals in such position.

The next developments of internal investigations in Brazil are both challenging and exciting. The government and the companies should joint efforts to regulate internal investigations as to grant their effectiveness in a fair and transparent environment.

Ricardo Caiado
Campos Mello Advogados

Ricardo is the partner head of the white-collar crimes, compliance, investigation and cybersecurity practices at Campos Mello Advogados.

He has extensive experience in corporate criminal litigation, especially in cases related to crimes against the Tax Order, the Environment, the National Finance System, the Public Administration and the fair competition.

Ricardo has also acted in several projects that required legal advice on the Brazilian criminal legislation by means of the elaboration of memoranda, legal opinions and revision of corporate policies to prevent crimes in the context of corporate activity.

In compliance, he works drafting memoranda and legal opinions on compliance risks, conducting corporate investigations in the context of leniency agreement programmes signed between companies and law enforcement authorities, drafting, reviewing and updating corporate policies and procedures and conducting compliance audits in M&A projects.

Founded 38 years ago by professionals with large experience in legal practice, Campos Mello is a full-service business law firm and advises Brazilian and multinational companies doing business in Brazil, Latin America, Asia, the United States, Europe and Oceania.

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Avenida President Juscelino Kubitschek 360 -10º andar
Vila Nova Conceição
04543-000 São Paulo
Brazil
Tel: +55 11 3077 3500

www.camposmello.adv.br/

Ricardo Caiado
ricardo.caiado@cmalaw.com

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