

LATIN AMERICA CORRUPTION SURVEY

JUNE 2012



Executive Summary

With the media reporting on corruption scandals in the Americas on almost a daily basis, the region has a reputation for being a high-risk compliance environment. But focusing on the negative often overshadows the positive developments underway in the region, such as the enactment of new anti-corruption legislation and increased use of anti-corruption compliance programs by regional and multinational companies. As a result, it is sometimes difficult to gain an accurate picture of the complex nature of corruption risk in the region.

With that challenge in mind, U.S. law firms Miller & Chevalier Chartered (Miller & Chevalier) and Matteson Ellis Law joined with 12 Latin American law firms in a survey of companies spanning 14 countries in the Americas to gain an understanding of the extent of corruption in countries throughout the region, the effects of corruption on companies operating in those countries, perceptions of the effectiveness of regional anti-corruption laws, and tools that companies are using to address corruption risks.

While some of the survey results showed remarkable consistency with a similar study Miller & Chevalier conducted in 2008, there were also notable differences suggesting a growing relevance of anti-corruption laws in the region, such as more attention to compliance and more widespread familiarity with the substance and reach of the U.S. Foreign Corrupt Practices Act (FCPA).

Highlights of Miller & Chevalier and Matteson Ellis Law's 2012 Latin America Corruption Survey include:



- Half of all respondents believe that their company has lost business to competitors making illicit payments in the region. Further, 44% say corruption is a significant obstacle to doing business.
- Just 28% of respondents believe anti-corruption laws are effective in the country where they work, which is an improvement over the 2008 survey (18%). Chile (76%) and the United States (70%) are seen as having the most effective laws.
- The anti-corruption environment throughout the region is showing some signs of improvement from a corporate compliance perspective. 85% of respondents say their company's management has taken steps to protect the organization from corruption risk, up from 77% in 2008. 51% say their company has lost business to competitors that have made illicit payments, down from 59% in 2008. 75% are aware of an offender being prosecuted for making or receiving illicit payments, up from 69% in 2008. These slight changes, in the aggregate, suggest overall improvement and trends to watch.

- More companies operating in the region are prioritizing compliance. Among companies publicly listed in the United States and operating in Latin America, 92% of have developed an anti-corruption policy, 90% have implemented anti-corruption training and 90% have established procedures for gifts, travel, and entertainment for officials. 64% employ full-time compliance personnel.
- The most frequently implemented anti-corruption measures for multinational, regional, and local companies include general anti-corruption policies (81%); procedures for gifts, travel, and entertainment for officials (70%); procedures for charitable and community donations (63%); and anti-corruption training (61%).
- Effective government investigation and prosecution, coupled with enhanced accountability and transparency in the public sector, are seen as keys to reducing overall corruption.
- 64% of respondents say they are somewhat or very familiar with the FCPA, similar to the 2008 survey (66%). However, in an improvement over 2008, of the respondents whose companies are clearly subject to the FCPA – because the company is publicly listed in the United States or an affiliate of a U.S. multinational company – just three percent think their company is not subject to the FCPA and 19% “don’t know.” In 2008, 30% of the respondents whose companies were clearly subject to the FCPA did not recognize that their companies were covered by the law.

2012 Latin America Corruption Survey Results

Respondents were asked to complete a short questionnaire designed to measure their thoughts and perspectives on the state of corruption throughout Latin America and the United States in 2012. The following charts represent the collective input of 439 respondents to the survey. A full overview of the survey methodology can be found at the end of this report.

1. In the country in which you work, are you aware of any company, individual, or government official being prosecuted for making or receiving an improper payment, gift, or other benefit related to obtaining business?

Responses	%	Percentage of total respondents
Yes	75.12%	
No	22.88%	

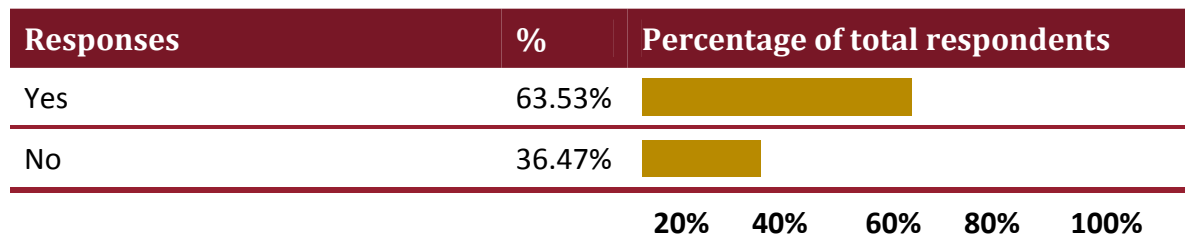
20% 40% 60% 80% 100%

- By country, respondents who said they were aware of a company, individual, or government official being prosecuted for making or receiving an improper payment, gift, or other benefit:

Argentina 88%	Guatemala 73%
Bolivia 81%	Mexico 68%
Brazil 88%	Paraguay 68%
Chile 66%	Peru 75%
Colombia 90%	United States 79%
Costa Rica 100%	Uruguay 72%
Ecuador 50%	Venezuela 52%

- In 2008, 69% of respondents said they were aware of a prosecution for making or receiving illicit payments to obtain business.
 - In 2008, 46% of Mexican respondents, 52% of Argentine respondents, 71% of Colombian respondents, 74% of U.S. respondents, 79% of Brazilian respondents, 82% of Peruvian respondents, and 86% of Chilean respondents were aware of someone being prosecuted for making illicit payments related to obtaining business.

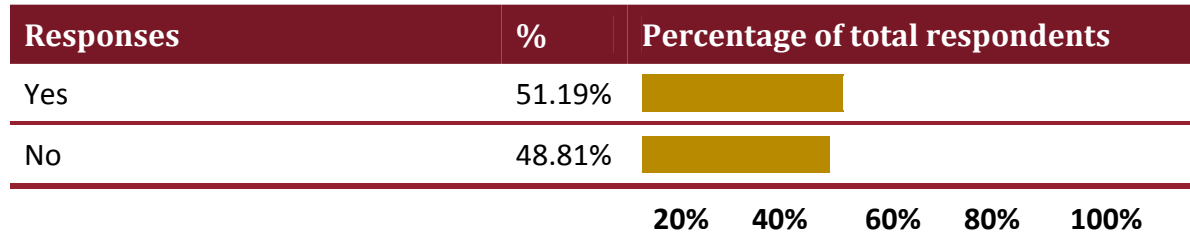
2. Do you believe that an offender is likely to be prosecuted in the country where you work?



- Although three quarters of respondents to Question One stated that they are aware of instances where offenders have been prosecuted, more than one third of respondents to Question Two do not believe offenders are likely to be prosecuted. This may reflect significant attention on the part of the press to high-profile cases of corruption, but could also indicate how rare such cases may be in the experience of the respondents.
- Respondents from local/regional companies are less likely to believe an offender will be prosecuted (55%) than respondents from multinational companies (69%).
- By region, respondents who believe an offender is likely to be prosecuted in their country:

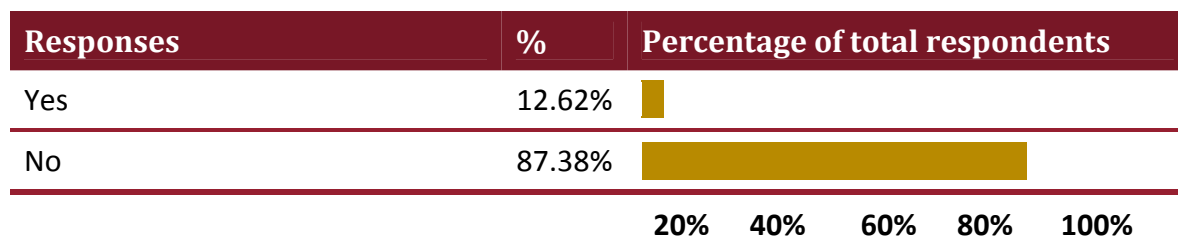
Argentina 54%	Guatemala 36%
Bolivia 69%	Mexico 40%
Brazil 75%	Paraguay 37%
Chile 89%	Peru 88%
Colombia 81%	United States 82%
Costa Rica 95%	Uruguay 72%
Ecuador 50%	Venezuela 39%
- Of those respondents unaware of any company, individual, or government official being prosecuted for making or receiving illicit payments related to obtaining business, 42% do not believe an offender is likely to be prosecuted. Among those who are aware of enforcement actions, the deterrent effect of the law is, predictably, higher. 71% of respondents who are aware of a company, individual or government official being prosecuted for making or receiving illicit payments related to obtaining business (in Question One) believe an offender is likely to be prosecuted.
- In 2008, 66% of respondents thought an offender was likely to be prosecuted, a number that is basically unchanged in 2012.

3. Do you believe that your company has lost business to competitors that have made illicit payments?



- Respondents from local/regional companies (59%) are more likely than those respondents from multinational companies (46%) to believe their company has lost business to competitors making illicit payments.
 - In 2008, 59% of respondents believed they had lost business to competitors making illicit payments.

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

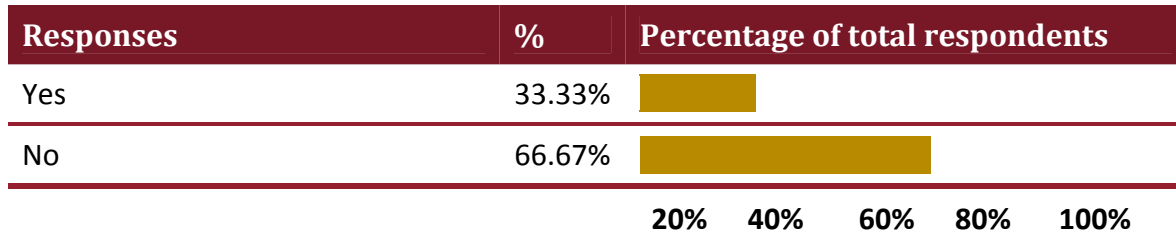


- By country, those who reported concerns to authorities:

Argentina 8%	Guatemala 8%
Bolivia 8%	Mexico 7%
Brazil 7%	Paraguay 13%
Chile 25%	Peru 0%
Colombia 38%	United States 18%
Costa Rica 25%	Uruguay 20%
Ecuador 20%	Venezuela 11%
- Although more than half of respondents say their company lost business to competitors making illicit payments, and almost two thirds believe an offender is likely to be prosecuted, only 13% reported concerns to authorities. The percentages were only slightly higher in countries generally perceived to have effective enforcement, such as the United States.

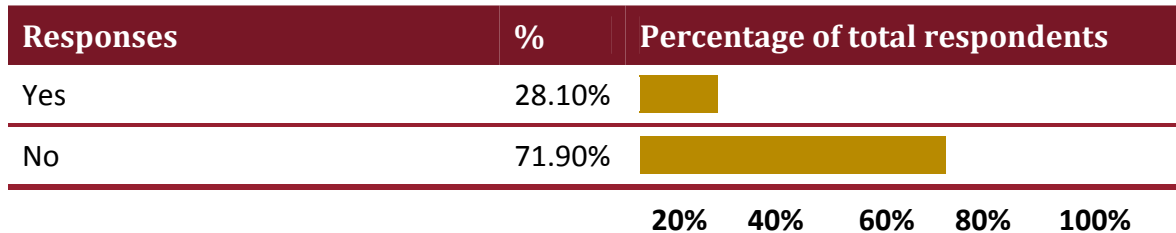
- This lack of reporting seems to continue a trend. In 2008, just 9% of respondents who lost business to competitors engaging in illegal activities reported those concerns to officials.

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



- For the small percentage of respondents in Question Four who reported concerns to authorities (13%), the apparent response of the government was underwhelming with only 33% of reports leading to investigation. This lack of government response may, in part, explain the reluctance of respondents to report concerns.

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



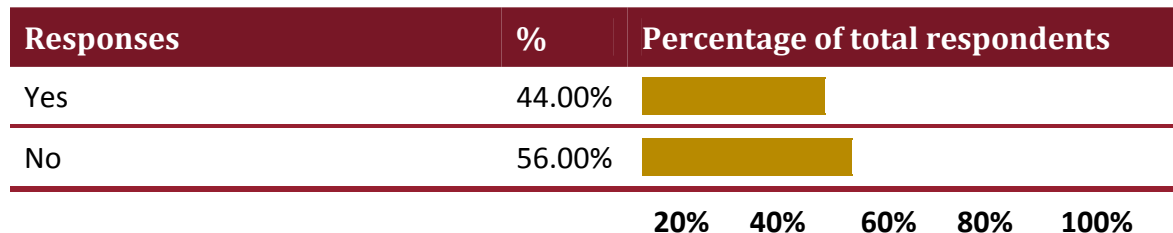
- Nearly three-quarters of respondents say anti-corruption laws are ineffective in the country where they work. Coupled with responses to Question Two – where a third of respondents say they do not believe an offender is likely to be prosecuted – these perceptions may explain why only 13% of respondents who lost business to corrupt competitors reported concerns to authorities (Question Four).

- Respondents who think anti-corruption laws are effective in their country:

Argentina 12%	Guatemala 2%
Bolivia 27%	Mexico 16%
Brazil 17%	Paraguay 0%
Chile 76%	Peru 57%
Colombia 29%	United States 70%
Costa Rica 50%	Uruguay 52%
Ecuador 6%	Venezuela 7%

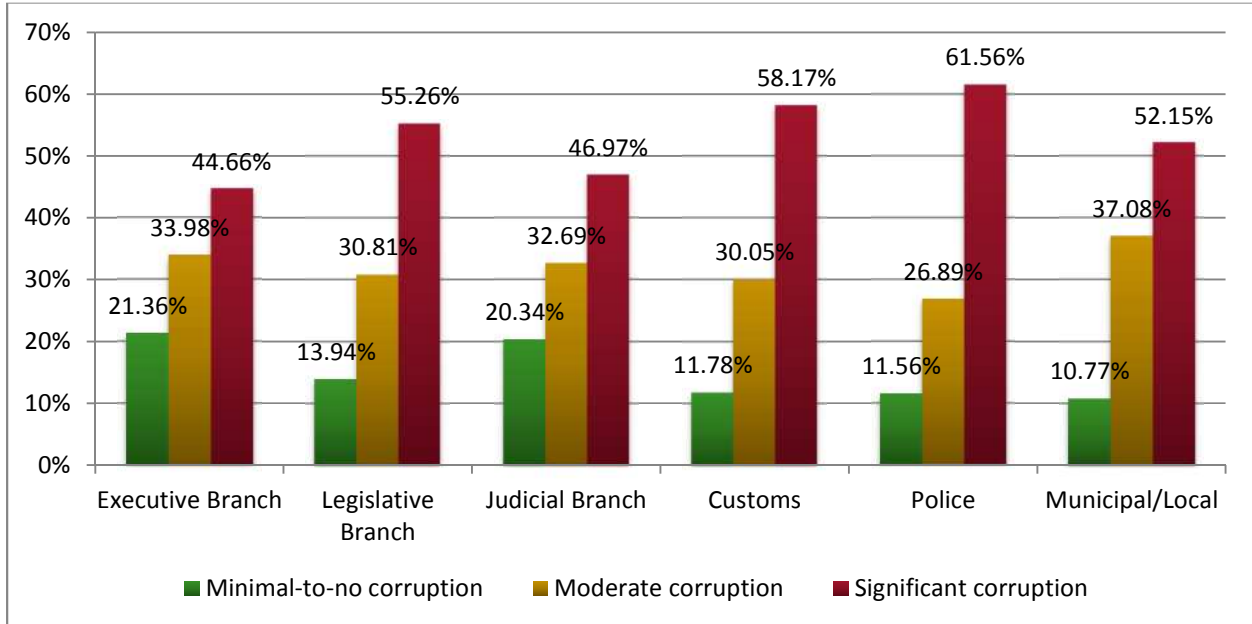
- Consistent with [Transparency International's Corruption Perception Index \(CPI\)](#), Chile and the United States get the highest marks for effective anti-corruption laws. The United States is widely recognized as an aggressive enforcer of its anti-corruption laws; Chile has a less recognized enforcement track record, but consistently ranks as the least corrupt Latin American country in Transparency International's CPI.
- Although only 28% of respondents believe their country's anti-corruption laws are effective, the result is an improvement over the 2008 results, in which 18% of respondents said anti-corruption laws were effective in the country where they work.

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

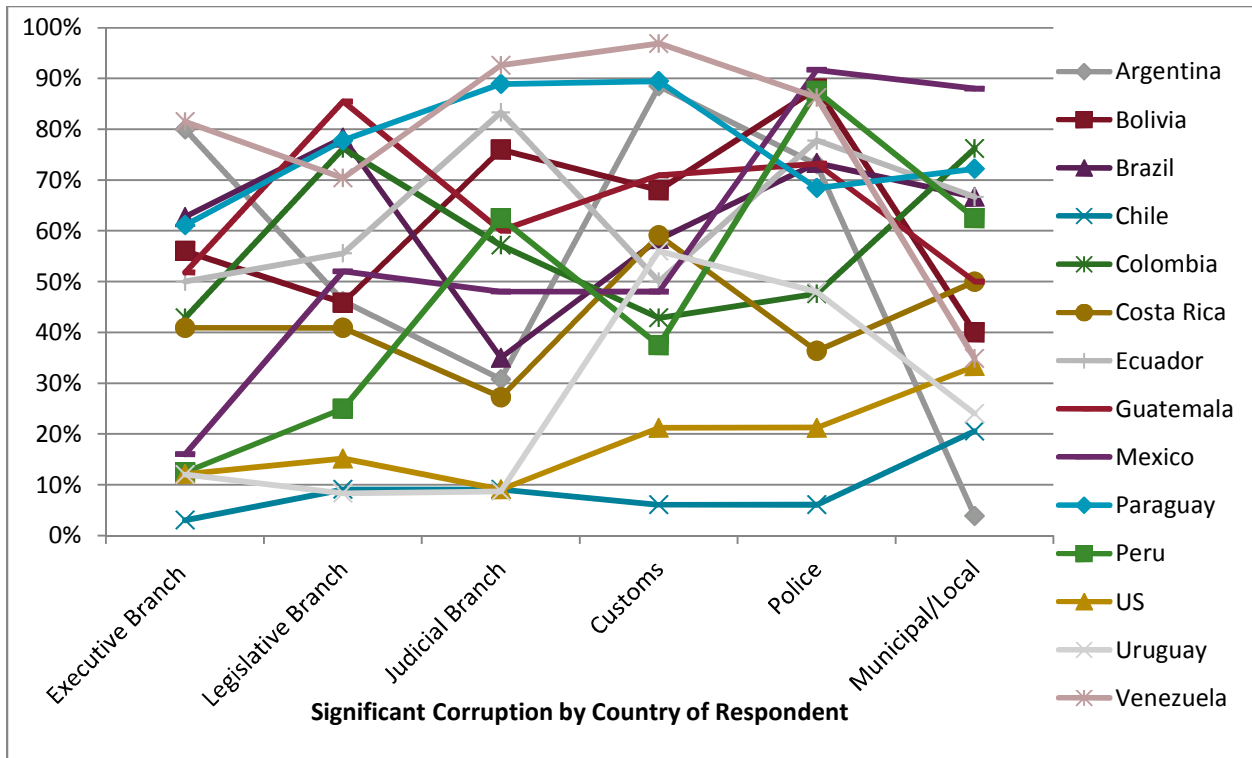


- Respondents at local/regional companies view corruption as a more significant obstacle than those respondents from multinational companies (52% compared to 39%).
 - Multinational companies are more likely to have implemented compliance programs, which may explain why they view corruption as less of an obstacle than local/regional companies.
- Of respondents who believe corruption is a significant obstacle to doing business, 77% believe they have lost business to competitors that have made illicit payments (compared to 51% of all respondents). 86% believe anti-corruption laws are not effective in their country (compared to 72% overall).
- In 2008, 48% of respondents said corruption was a significant obstacle to doing business.

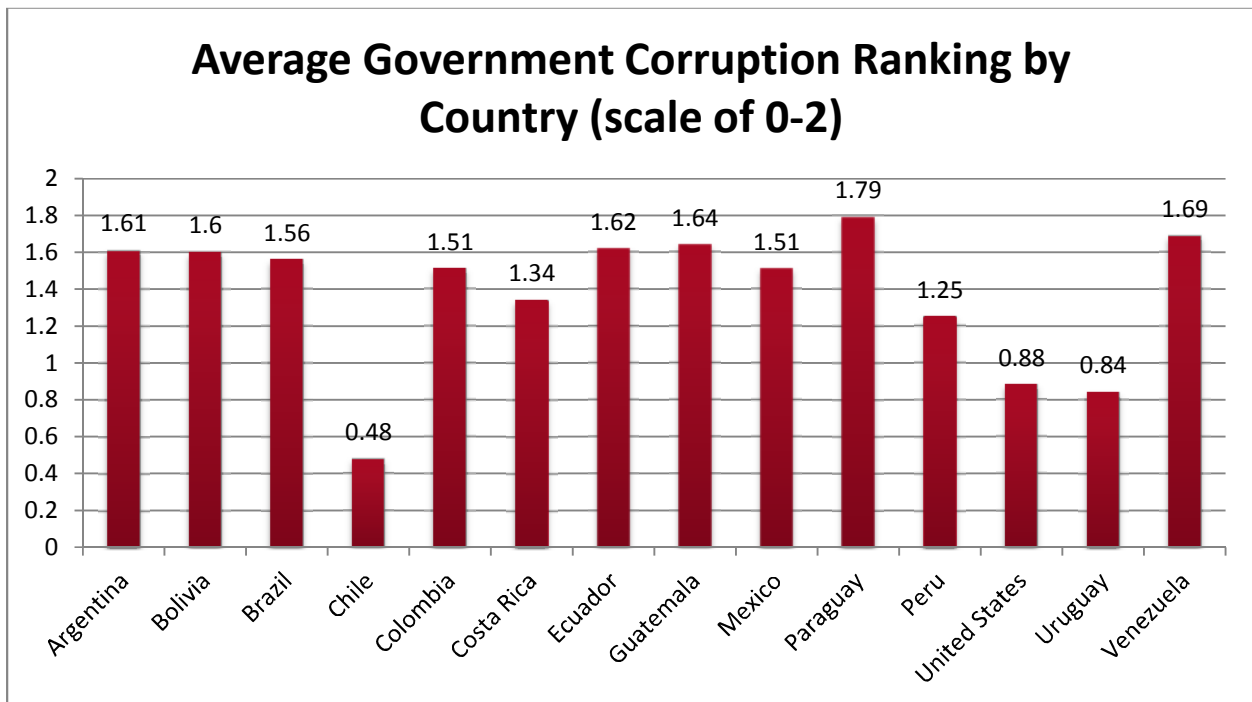
8. To the extent public corruption exists in the country where you work, rank the level of corruption in the following areas of government:



- Venezuelan (81%) and Argentine (80%) respondents rank executive branch corruption highest. Chilean (3%) respondents rank executive branch corruption lowest.
- Guatemalan (85%) respondents rank legislative branch corruption highest. Uruguayan (8%) and Chilean (3%) respondents rank legislative branch corruption lowest.
- Venezuelan (93%) respondents rank judicial branch corruption highest. Uruguayan (9%) and U.S. (9%) respondents rank judicial branch corruption lowest.
- Venezuelan (97%) respondents rank customs corruption highest. Chilean (6%) respondents rank customs corruption lowest.
- Mexican (92%) respondents rank police corruption highest. Chilean (6%) respondents rank police corruption lowest.
- Mexican (88%) respondents rank municipal/local corruption highest. Argentine (4%) respondents rank municipal/local corruption lowest.

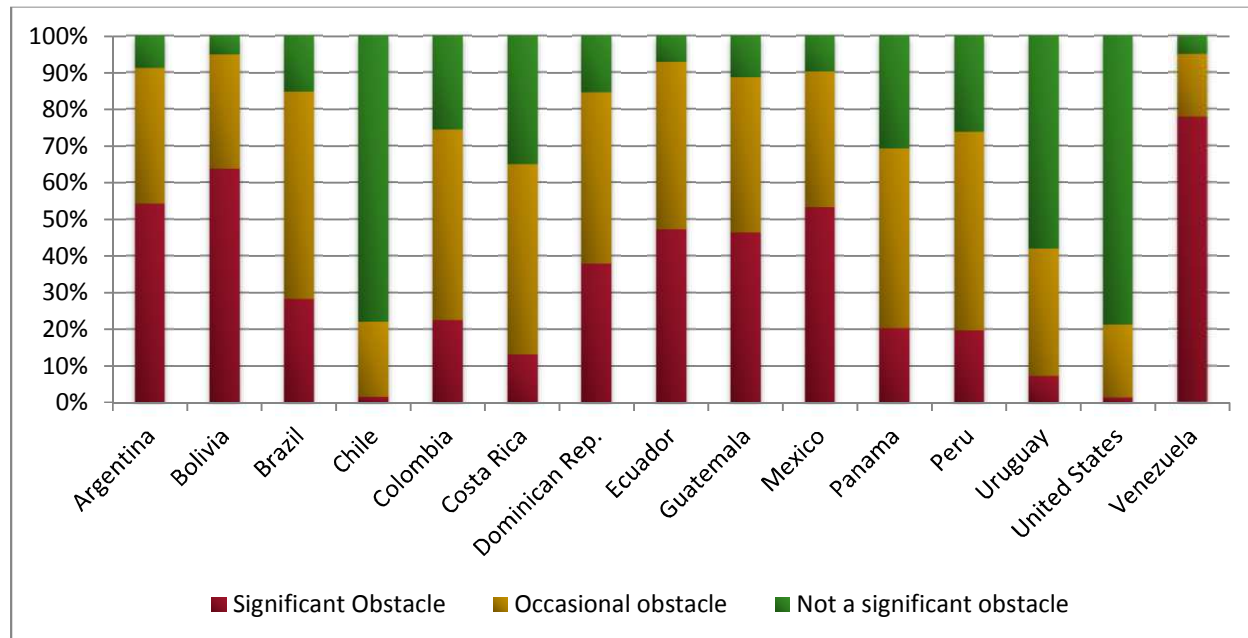


Note: For further analysis, a six-chart breakdown by area of government is available in the methodology section of the report.



- Each response was weighted on a scale of zero-to-two, with two being significant corruption. When averaged together by country, the responses show three distinct corruption tiers:
 - Chile, Uruguay and the United States are seen as having the lowest overall government corruption.
 - Peru and Costa Rica straddle the corruption tiers with more corruption perceived at the local/police/customs level but fairly trustworthy national-level executive, legislative, and judicial branches.
 - At the other end of the spectrum, Colombia, Mexico, Brazil, Bolivia, Argentina, Ecuador, Guatemala, and Venezuela are seen as having significant government corruption, with Paraguay topping the list. In Question Six, none of the respondents indicated that anti-corruption laws are effective in Paraguay.

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



- Consistent with responses to the other questions and Transparency International’s CPI, respondents ranked the United States and Chile as the least corrupt countries and Venezuela, Argentina, Mexico, and Bolivia as countries with significant corruption challenges.

10. Rank the activities you think may prove effective in reducing overall corruption in the countries where you work. (1= more effective, 4=less effective)

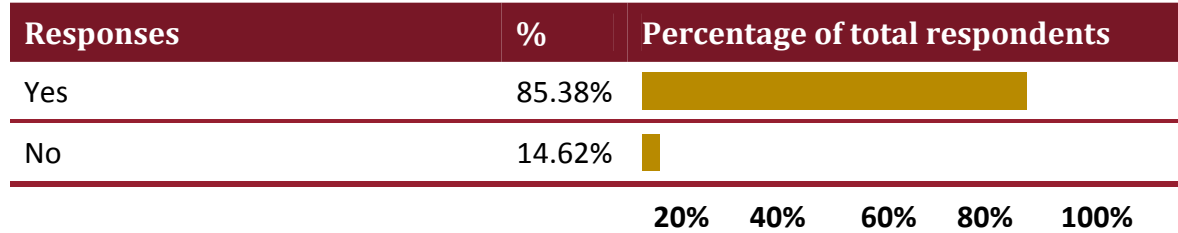
Responses	Rank 1	Rank 2	Rank 3	Rank 4	Weighted Rank
Effective Government Investigation and Prosecution	171	152	68	39	1 (1315)
Enhanced Accountability and Transparency in Public Sector	164	145	72	49	2 (1284)
Corporate Responsibility and Accountability	51	94	178	107	3 (949)
Public Discussion, Participation, and Social Policing	44	39	112	235	4 (752)

- Overall, respondents say enforcement and public accountability are the most effective tools for addressing corruption. Internal corporate responsibility and social policing are viewed as secondary and less effective tactics.
 - These results suggest that respondents think that steps addressing the “demand side” of the corruption equation are more effective than efforts focused on the “supply/self-policing side.”
- Respondents consistently list the activities in the same order of effectiveness, regardless of type of company. Perceptions are steady across local/regional and multinational companies.
- Responses relate to Question Six where, when asked about the effectiveness of anti-corruption laws, Chile and the United States got top marks. The United States may enjoy its good reputation because of aggressive enforcement, and Chile for its perceived clean government, the two corruption-fighting activities that received the highest rankings in the responses to this question.

One respondent noted, *“Anti-corruption laws are only as effective as the effectiveness of the entities that enforce them. Detailed laws mean very little if the judges and the judicial systems do not apply them in a timely and robust way without consideration of who is sanctioned.”*

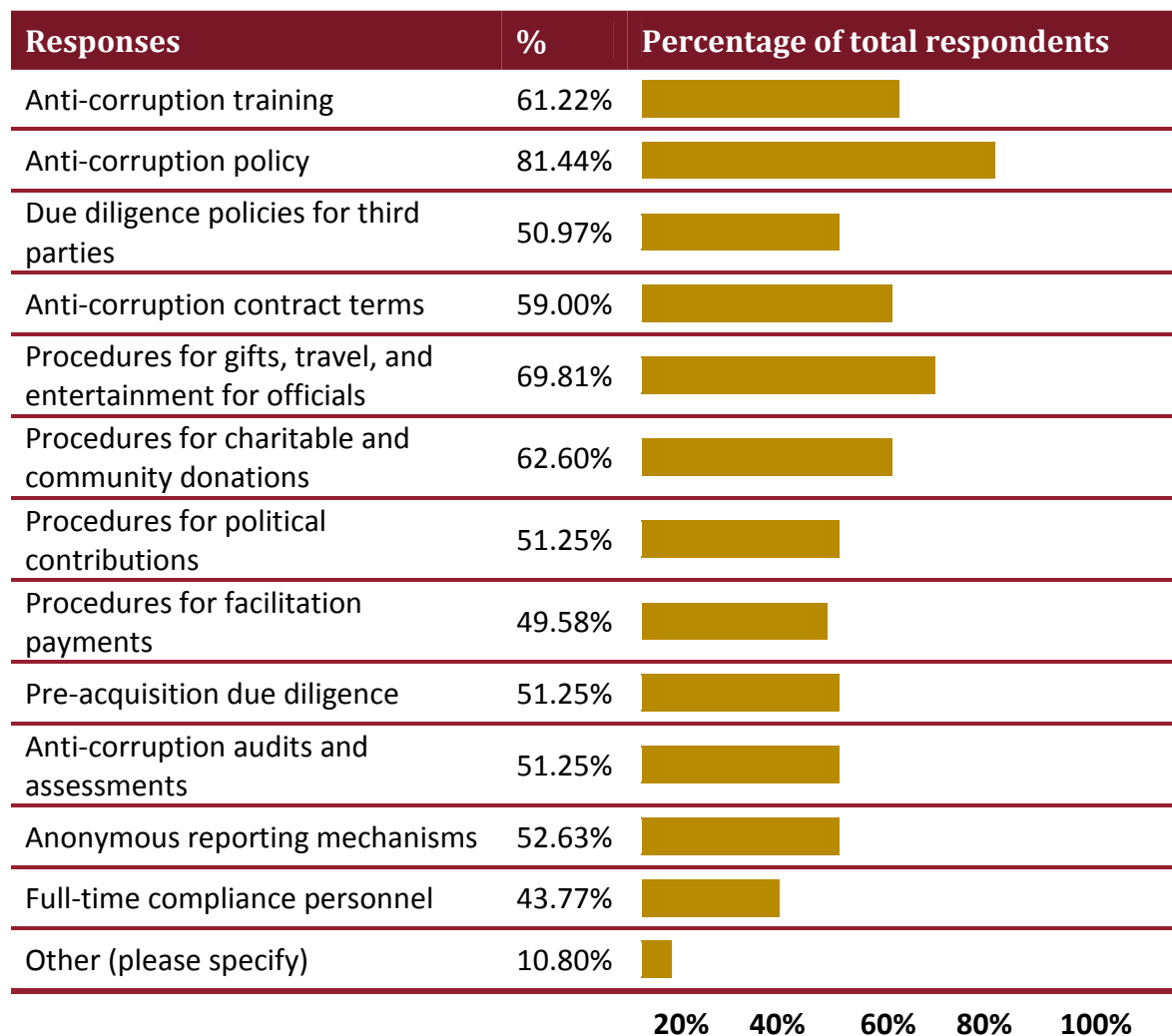
Another respondent said, *“In Mexico, the public sector needs to be more transparent and penalties for corruption at all levels need to be more strict and publicized.”*

11. Has your company's management taken steps to protect the company from corruption risk?



- Despite the fact that only 28% of respondents believe anti-corruption laws are effective, or perhaps because that statistic suggests the need for self-protection, 85% of respondents say company management has taken steps to protect the company from corruption risk, up from 77% in 2008.
- 75% of respondents from regional/local companies say their management has taken steps to protect the company from corruption risk. This compares to 93% of respondents from multinational companies.
- 95% of respondents from publicly traded companies say company management has taken steps to protect the company from corruption risk. 80% of respondents from private companies agree.

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



- Of respondents who work for companies publicly listed in the United States, 92% have developed an anti-corruption policy; 90% have implemented anti-corruption training; 90% have established procedures for gifts, travel, and entertainment for officials; and 72% say they have implemented due diligence policies for third parties. 64% employ full-time compliance personnel.
- Respondents from publicly traded companies – U.S. and otherwise – are almost twice as likely as their private company counterparts to cite significant corruption-protection measures undertaken by their management. For example:
 - Anti-corruption training (82% public; 46% private)
 - Due diligence policies for third parties (65% public; 39% private)

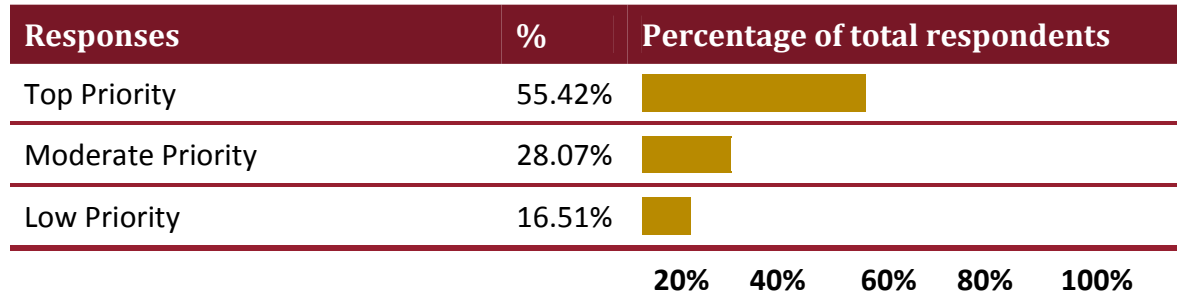
- Procedures for charitable and community donations (81% public; 53% private)
- Anonymous reporting mechanisms (73% public; 38% private)

- Local/regional companies lag far behind multinationals when it comes to implementing corruption protection measures. For example, just 35% of respondents from local/regional companies say their business has anti-corruption training, compared to 76% of multinationals; 32% of local/regional companies have policies on due diligence for third parties compared to 60% of multinationals; and 35% of local/regional companies have procedures for political contributions compared to 61% of multinationals. Only 20% of local/regional companies employ full-time compliance personnel compared to 56% of multinationals.

- Additional implemented anti-corruption measures cited by respondents include a ban on facilitation payments; an Ethics & Compliance Awareness Week; annual certification; creation of an Ethics Committee; the highlighting of prior enforcement actions; change of company culture toward moral values; and a focus on clients and markets that are less corrupt.




- Implementation of due diligence measures does not appear to have significantly increased over the past four years. However, it is clear that actions by third party intermediaries remain one of the greatest sources of corruption risk for companies subject to the FCPA operating in the region. Looking back at FCPA enforcement actions in 2011 that involved Latin America, almost all included risk created “indirectly” by third party intermediaries, such as customs agents, consultants, sales agents, and deal brokers.

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



- 39% of respondents from local/regional companies say corruption risk is a top priority compared to 67% of respondents from multinationals.
- 72% of respondents from public companies say corruption risk is a top priority compared to 46% of respondents from private companies.
- The results of 2008 are essentially the same as in 2012 with corruption risk a top priority for 55%, a moderate priority for 31%, and a low priority for 14% of respondents.
- One respondent from a multinational agricultural company noted, “We have an active ethics and internal controls annual survey that all employees have to respond to based on any conflict of interest or practices they must comply on or report about. Constant education and discussion about our values and practices-policies help indoctrinate new employees and maintain all of us within the law.”

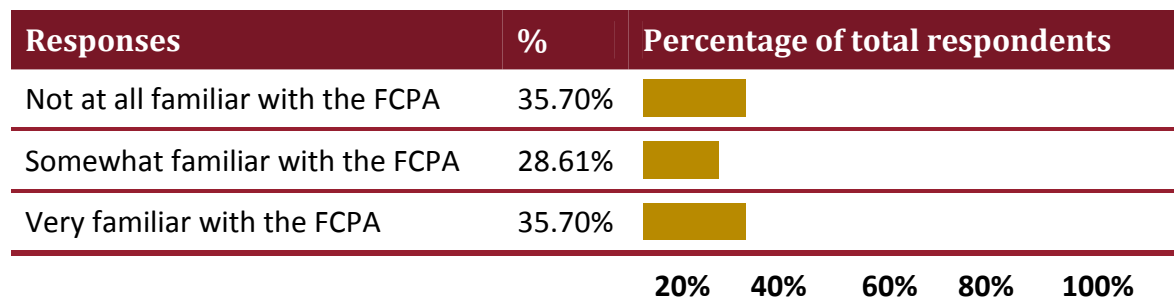
14. Has the importance of preventing corruption increased/decreased/remained the same for your company over the last five years?

Responses	%	Percentage of total respondents
Increased	62.80%	
Decreased	2.84%	
Remained the same	34.36%	

20% 40% 60% 80% 100%

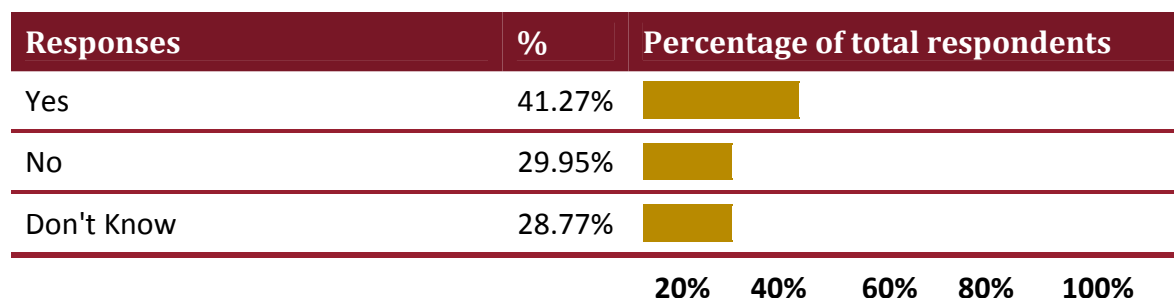
- Just 36% of Bolivian respondents say the importance has increased, and 64% say it has stayed the same.
- Just 33% of Ecuadorian respondents say the importance has increased, and 61% say it has stayed the same.
- 80% of Mexican respondents, 86% of Peruvians, and 79% of Paraguayans say the importance has increased.
- In 2008, 66% of respondents said the importance of preventing corruption had increased, and 31% said it remained the same over the previous five years.
- While the importance of addressing corruption has declined for multinational companies, the decline may reflect confidence in past efforts to address corruption issues through implementation of compliance programs. In contrast, while the importance of addressing corruption to local/regional companies lags behind multinationals, an upward trend is evident.
 - In 2008, 74% of respondents from multinational companies said the importance of preventing corruption had increased over the previous five years. In 2012, that number dropped to 69%.
 - Conversely, in 2008, 45% of respondents from local/regional companies said the importance of preventing corruption had increased over the previous five years. In 2012, that number rose to 54%.

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



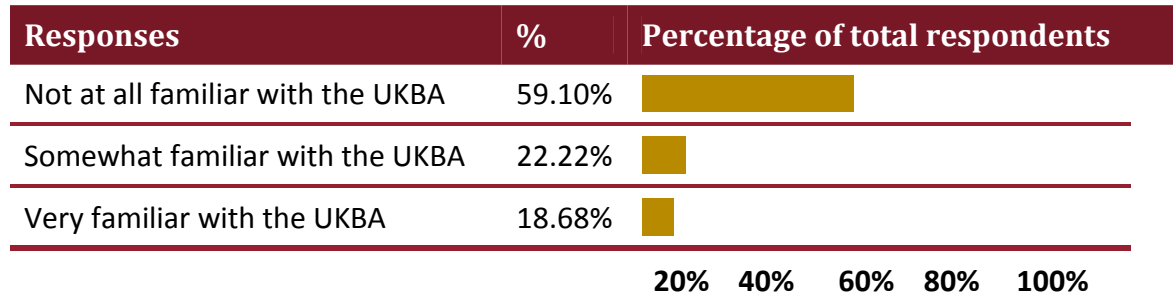
- 49% of respondents from multinational companies say they are very familiar with the FCPA, and only 24% are not at all familiar with the Act.
 - Not surprisingly, regional/local companies that are less likely to be subject to the FCPA are less familiar with the law. More than half (53%) are not at all familiar with it.
- 77% of Bolivians, 68% of Paraguayans, 60% of Venezuelans, and 53% of Guatemalans are not at all familiar with the FCPA.

16. Is your company subject to the FCPA?



- In an improvement over 2008, of the 182 respondents whose companies are clearly subject to the FCPA – because the company is publicly listed in the United States or an affiliate of a U.S. multinational company – just three percent think their company is not subject to the FCPA and 19% “don’t know.”
 - In 2008, 30% of the respondents whose companies were clearly subject to the FCPA did not recognize that their companies were covered by the law.

17. Have you heard of the UK Bribery Act (UKBA)?



- Not surprisingly, the FCPA is more familiar than the UKBA to respondents in the region. The UKBA was just enacted in 2010, and the region is home to significantly more U.S. than UK investment.
- 47% of respondents from multinational companies are not at all familiar with the UKBA. 78% of respondents from local/regional companies are not familiar with the law.
- 58% of respondents from public companies are somewhat or very familiar with the UKBA. About half as many respondents from private companies (30%) are somewhat or very familiar with the UKBA.
- 85% of Bolivian, 84% of Paraguayan, 83% of Ecuadorian, 80% of Guatemalan, 79% of Uruguayan, 76% of Colombian, and 72% of Costa Rican respondents are not at all familiar with the UKBA.
- 68% of U.S. respondents say they are very familiar with the UKBA, and 21% are somewhat familiar.
- One respondent noted, *“While we are very familiar with the laws and risks, there is less clarity about application and, as a result, we tend to decline / avoid activities that are perceived as entailing some risk rather than effectively evaluating the risk and putting mitigations in place.”*

Verbatims

Respondents were asked to share their thoughts on corruption in an open forum section of the survey designed to elicit comments. The following represent select verbatims received.

- *Corruption is sometimes justified as necessary in order to compete/survive once it is relatively widely spread. Once made part of the ordinary course of business, corruption requires a combination of factors to discourage it by creating the risks involved greater than the benefits received.*
- *Corruption is a “deadly cancer” in Latin America which evolves from a lack of moral standards both from the individual who receives the benefits from corruption as well as from the individual who offers the gratuity. Both should be prosecuted with no excuse.*
- *I work for a multinational bank headquartered in the UK. We also operate in the USA so U.S. regulations apply. All employees are required to take online trainings on anti-corruption and anti-money laundering on an annual basis. We work under a strict set guidelines that our competition is not necessarily obliged to comply with. This definitely puts us at a competitive disadvantage and creates an un-level playing field. For those of us who work for ethical companies that comply with the regulations it is part of life, but I am sure it makes us less agile in securing business opportunities versus the competition.*
- *I’ve worked in the financial service industry for multinationals in Argentina, Mexico, and Brazil. In my experience over the years I’ve come to the conclusion that corruption is institutionalized in these economies. It is so present at all levels of society and in every corner that it is part of one’s everyday life when living in these societies.*
- *FCPA and UKBA are totally ineffective. They only serve as a means to calm shareholders’ minds. They only increase the burden for honest businessmen and have no effect on political corruption.*
- *Mexico is many steps behind from having an appropriate legislation on anti-corruption. The new law recently approved on April 2012 is still years behind what FCPA and UKBA establish. Also, it is unfortunate to see how slowly the Mexican government acts on prosecuting this type of crime.*
- *Our company avoids contracts with government entities as a form of protection.*
- *We have found ourselves in situations where we report an act of corruption to the government, and then we find that the person to whom we made the report was involved in the alleged wrongdoing.*

Methodology and Demographics

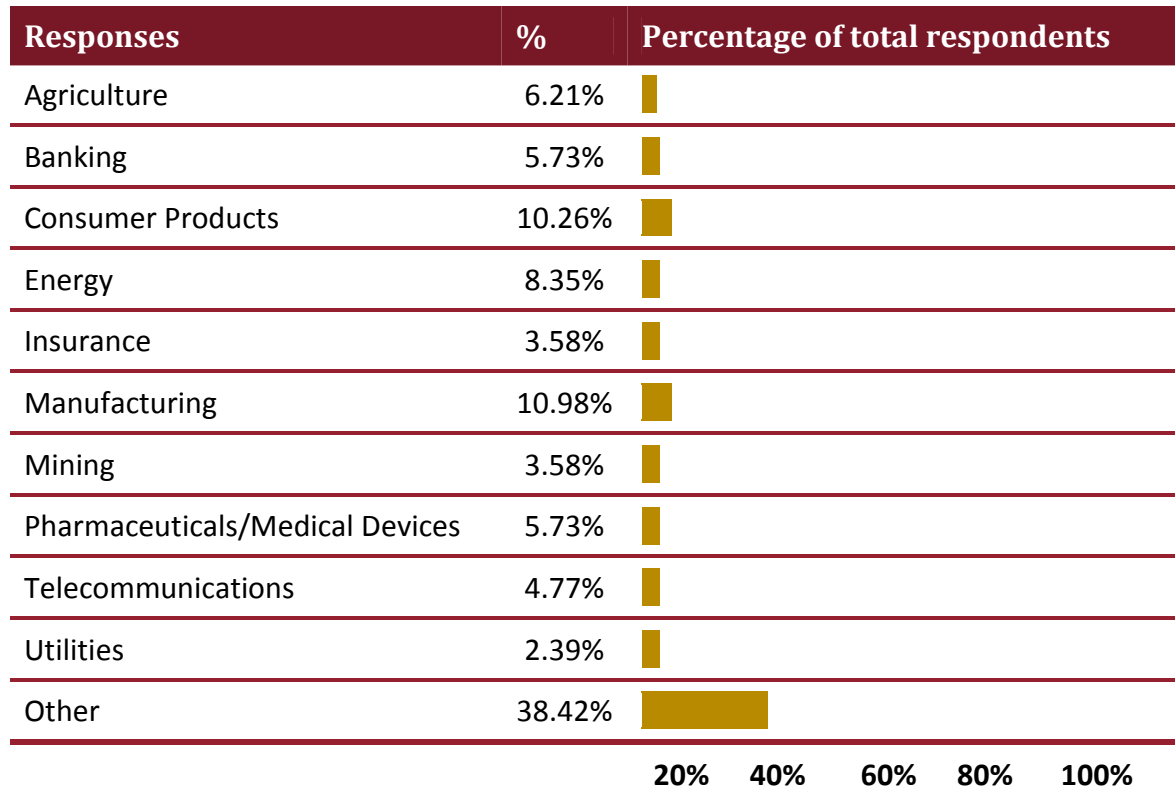
Over three weeks in April and May 2012, Miller & Chevalier and Matteson Ellis Law joined with 12 Latin American partner firms spanning 14 countries to distribute a survey via e-mail to corporate executives at a broad cross-section of U.S. and Latin America-based companies. The survey, available in English, Spanish, and Portuguese, was completed by 439 respondents.

Participating Latin American firms included Estudio Beccar Varela (Argentina); Ferrere Abogados (Bolivia, Paraguay, and Uruguay); KLA-Koury Lopes Advogados (Brazil); Carey Abogados (Chile); Posse, Herrera & Ruiz Abogados (Colombia); Pacheco Coto (Costa Rica); Paz Horowitz Robalino Garcés (Ecuador); Quiñones, Ibargüen, Lujan & Mata, S.C. (Guatemala); Rubio Villegas y Asociados (Mexico); Arosemena, Noriega & Contreras (Panama); Rodrigo, Elias y Medrano (Peru); and Hoet Pelaez Castillo & Duque (Venezuela).

29% of respondents identified themselves as a Director; 28% as an Officer or Manager; 22% as a lawyer; and six percent identified themselves as a compliance officer.

40% of respondents work at a local/regional company, and 60% at a multinational corporation. 36% of respondents work at a business that is publicly listed in the United States. Responses were received from executives throughout the Americas in a broad range of industries.

In what sector do you work?



In what country do you work?

Responses	%	Percentage of total respondents
Argentina	6.10%	
Bolivia	6.10%	
Brazil	14.08%	
Chile	8.22%	
Colombia	4.93%	
Costa Rica	5.16%	
Ecuador	4.23%	
Guatemala	13.15%	
Mexico	5.87%	
Paraguay	4.46%	
Peru	1.88%	
United States	7.98%	
Uruguay	5.87%	
Venezuela	6.81%	
Other	5.16%	

20% 40% 60% 80% 100%

Due to rounding, all percentages used in all questions may not add to 100%. Percentages added may exceed 100 % on Question 12 since a participant could select more than one answer.

Only respondents who answered “yes” to Question Three (*Do you believe that your company has lost business to competitors that have made illicit payments?*) were asked to answer Question Four (*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 Four were asked to answer Question Five (*After you reported your concerns to the authorities, did the government investigate the matter?*).

Only respondents who answered “yes” to Question 11 (*Has your company’s management taken steps to protect the company from corruption risk?*) were asked to answer Question 12 (*In what*

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

A few small edits were made to select verbatim responses to correct spelling and verb tenses. Responses were translated as needed to match the language of this report.

In September 2008, Miller & Chevalier partnered with six Latin American firms on the survey: 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).

Additional breakdown of Question Eight is available in the following six charts. Each chart shows the percentage of respondents by country who say the level of corruption in that area of government is significant.

