

## Middle Eastern investors should be wary of FCPA, lawyer notes

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A conference on Middle-eastern investment in Latin America has noted that although the region welcomes foreign investment, corruption can expose overseas investors to the risks of US regulatory and criminal sanctions.

The Latin American Mid-East Investment Forum was held in Dubai on 4 February with the objective of discussing and exploring opportunities for partnerships and investment between Latin America and the Persian Gulf states.

Michael Diaz, managing partner at Diaz Reus & Targ, LLP, spoke on understanding and managing risks when investing in Latin America, Diaz pointed out that "70 per cent of all Arab investments in Brazil come from US and European-based asset managers or funds. Under the Foreign Corrupt Practices Act, the US has jurisdiction for enforcement actions if the funds come from a Middle Eastern company that is traded on a US stock exchange or any "act" by the Middle Eastern investor is performed within US jurisdiction."

He adds, "The simple "act" of transferring investment funds to Latin America would trigger the long arm of US law, and jurisdiction under the FCPA as well as, depending on the circumstances, the Patriot Act."

Another stumbling block, argues Diaz, is "the recent movement by some Latin American governments to not recognise international conventions, including the built-in dispute resolution mechanisms of investment treaties."

Diaz says he advises his Middle Eastern clients to "draft their agreements carefully, using language which absolves them of any association with corrupt practices by the local partner."

Although he says this may not avoid a criminal or regulatory investigation, Diaz explains carefully drafted agreements, as well as a strong corporate governance compliance programme, can make the difference between being the target of an investigation as opposed to a mere witness.

Diaz says, the event "was particularly timely as investors from the UAE, Saudi Arabia, Bahrain, Kuwait, Qatar and Oman are seeking less traditional markets for greater yield and diversification."

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