

## Lessons from The *Mensalão*: Brazil's Largest-Ever Corruption Trial

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Right now, Brazil is in the middle of its largest corruption trial in its history. The proceeding is being called the “*Mensalão*,” meaning “the big monthly payment.” Thirty-eight individuals, including current and former government officials, have been accused of paying or accepting monthly bribes, money laundering, conspiracy, fraudulent management of finance institutions, and other related crimes to secure support in Congress for the legislative priorities of Brazil’s former President, Luiz Inácio Lula da Silva. Al Jazeera [recently reported](#): “The case is of such great importance that Brazil’s powerful Public Defender (the Ministério Público) has established [a website](#) to explain the trial to children.” Learn more background [here](#).

In legal terms, the *mensalão* deals with purely domestic bribery issues. There is no indication that foreign bribery played a role in the scheme. But the case is still relevant to FCPA compliance practitioners. Here are some reasons why:

**Another Sign that Brazil is Confronting Corruption.** The *mensalão* marks the first time that such a large number of high-level individuals, both from politics and business, are going to trial for corruption. Nearly all Brazilians are talking about the case. The news is covering it every night. There are heightened expectations. The atmosphere is so charged, there is even concern among legal circles that the hysteria will lead to a miscarriage of justice – the Supreme Court is under pressure to act.

These developments build on other signs of growing intolerance for corruption in Brazil, such as current President Dilma Rousseff’s decision to rid her administration of numerous corrupt Ministers, discussed [here](#). In these ways, Brazil is starting to grapple with a problem that has been there for a long time. At the same time, there is still significant skepticism among the public. According to [one recent poll](#), 73% of Brazilians think that the accused in the *mensalão* should go to jail but only 11% think that they will. It will be interesting to see how the trial turns out.

**Political Contributions Riskier for Multinationals.** Brazilian electoral rules permit some political contributions, so legal contributions by a company in Brazil would not be *per se* violations of the FCPA given the statute’s local law defense. But such contributions are always risky because they could form, or be perceived to form, part of a *quid pro quo*. Further, the *mensalao* case heightens the risk that such contributions will be misperceived by the public. Thus, even a legal donation to a politician might be ill advised in the current environment. As a result, many multinationals that are concerned about compliance issues are choosing to reduce or eliminate their political contributions. Whether such donations pick up in the upcoming election season will be an important measure of the impact of this case.

**No Corporate Liability for Corruption.** The *mensalão* reminds us that Brazilian law does not yet make corporate entities liable for corrupt acts, although the country has committed to establish such liability for purposes of compliance with the OECD Anti-Bribery Convention. Several companies, like the well-known Banco Rural, are allegedly involved in the scheme. But none will be charged. All defendants are individuals.

**Anti-Corruption Legislation Under Consideration.** As discussed in previous FCPAméricas [posts](#), the Brazilian Congress is currently considering legislation to strengthen the country's anti-corruption regime. But the provisions of the proposed law - including the establishment of corporate criminal liability - could be watered down in negotiations. The *mensalão* may influence these negotiations, as it highlights risks and methods for improperly influencing the legislative process. It gives observers real reason to question how the bill writing process might be playing out, how drafts might be changing, and what might be the influences at play.

**Anti-Corruption and Anti-Money Laundering.** The *mensalão* shows the clear connection between corruption and money laundering, and the need to tackle both in tandem. For example, it is alleged that President Lula's Chief of Staff laundered funds first before disbursing them to legislators to secure votes. Through the [United Nations Convention Against Corruption](#) (Article 23), the international community took a significant step in elevating money laundering to a prohibited practice on par with that of bribery itself. The *mensalão* shows why.

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