

Select 2020

High Seas Steering the Course II

Navigating bribery and
corruption risk in 2020

Crispin Rapinet and Liam Naidoo

4 March 2020

Steering the Course – a global campaign

In numbers

700

The number of compliance officers, heads of legal and equivalent we interviewed across the U.S., Europe and Asia

4

The number of key industry sectors we focused on: TMT, Life Sciences, Energy and Automotive/Transport

£250m

The minimum annual turnover of the companies we interviewed

2,000

The minimum number of employees in the companies we interviewed.

Part one: Pressure points

Against a backdrop of slow global growth, business leaders are struggling to balance the quest for corporate expansion with increased compliance pressure.



90%

of compliance leaders feel
pressured to proceed with
their growth strategy in
Asia, Africa and Latin
America despite ABC
concerns

“Companies keen to expand are looking to developing markets, which are traditionally less transparent and harder to operate in.”

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68%

of compliance leaders think
that regulatory pressure is
increasing

“ Compliance leaders are right to believe that regulatory pressure is increasing. Enforcement is becoming more joined up, as multilateral bodies like the UN, the IMF and the World Bank, and national agencies like the U.S. DoJ and the UK’s SFO collaborate more effectively, leading to an increase in coordinated prosecutions. ”

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52%

of compliance leaders say
that many people in their
business fail to follow AB&C
procedures

“Multinationals need to implement and enforce robust AB&C policies and procedures, staying mindful of the serious long-term risks that come with non-compliance as they enter high-risk markets in pursuit of growth.”

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Compliance team freeze?

41%

of compliance teams have seen AB&C budgets increase in the last three years (cf. **88%** in 2016)

40%

of compliance leaders expect their AB&C budget to increase over the next year (cf. **84%** in 2016)

42%

of compliance teams have increased in size over the last three years (cf. **89%** in 2016)

43%

of compliance leaders expect their teams to grow in size over the next year (cf. **86%** in 2016)

“Regulatory activity is relentless, and compliance teams cannot take on every challenge. Overstretched compliance teams must remind the board what they are focusing on, and be clear about where other parts of the business need to assume responsibility.”

Senior VP and GC for Ethics and Compliance, Smiths Group

Are some playing catch-up?

- ⌚ Most businesses are not increasing compliance resource. Those that are - are doing so substantially.
- ⌚ The companies that are investing are:
 - ✓ Increasing **budget** by an average of **19%** (vs. **13%** in 2016)
 - ✓ Increasing **team size** by an average of **21%** (vs. **12%** in 2016)

“

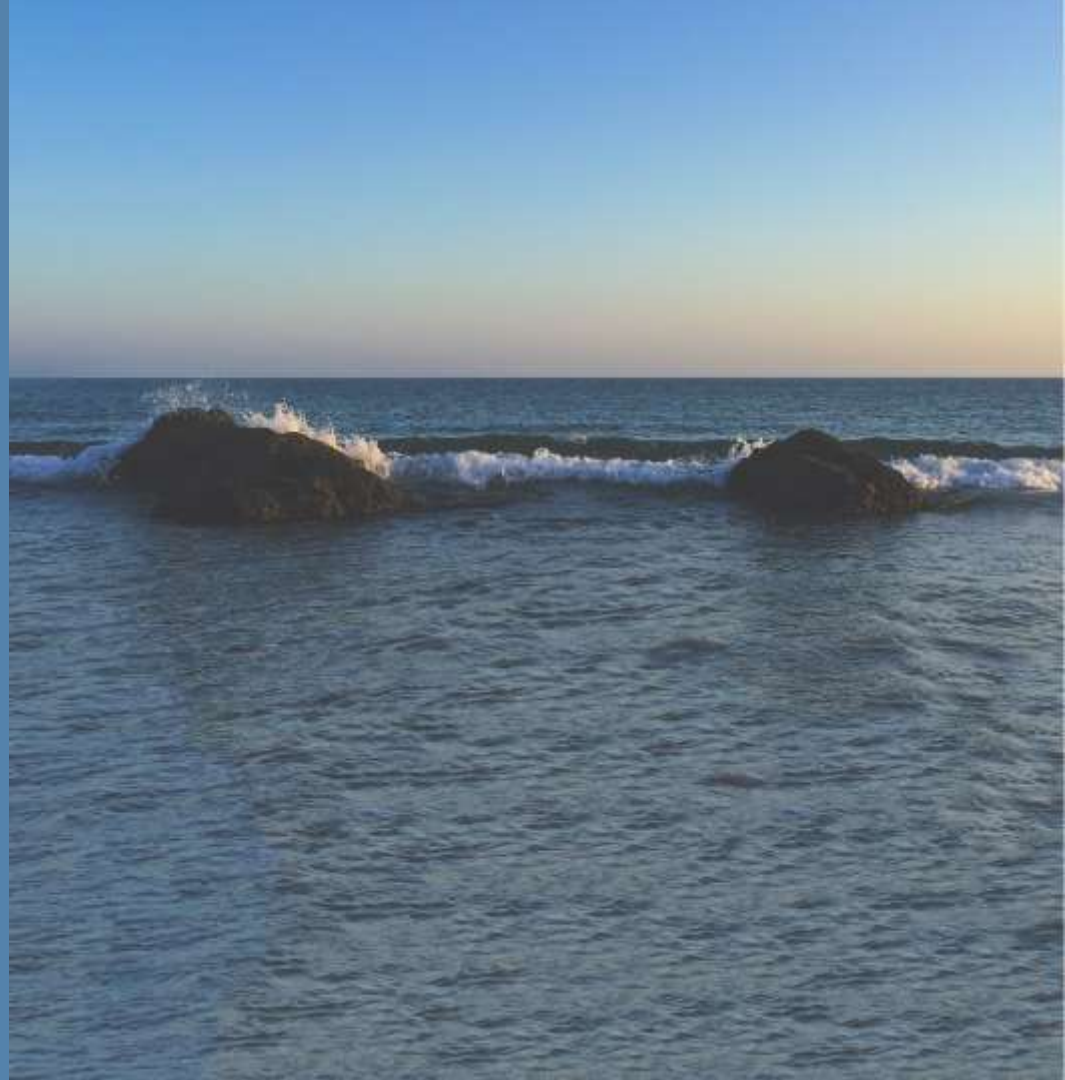
This indicates a widening gap between the companies that are focused on ramping up their compliance efforts and those with static teams and budgets, struggling to deal with increased regulatory pressures without a corresponding increase in resource.

”

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Part two: The two sides of tech

As technology provides a proliferation of new ways to work, communicate, and pay for goods and services, it brings both challenges and opportunities for AB&C compliance.



59%

of compliance leaders agree that new technologies like chat apps are making it more difficult than ever to monitor bribery and corruption.

“ Trying to stop the use of technology is like trying to stop a river. While some companies tell employees they should only communicate with each other and suppliers on company-authorized channels, it's inevitable that people will use other methods such as WhatsApp and Facebook. ”

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56%

of compliance leaders think
the proliferation of
cryptocurrencies is a
compliance concern

“ Governments and regulators are only just beginning to put frameworks in place to control the use of cryptocurrencies, and corporates are realizing they need to work quickly to understand fully the implications of these technologies and draw up policies and guidance to govern their use. ”

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56%

believe that that
dependence on technology
and decreasing reliance on
human analysis and
intelligence is a compliance
concern

“ Companies need to put in force clear policies and training programs governing the use of technology, and build a company culture that emphasizes values and is role-modeled by leaders. ”

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Part three: The sector viewpoint

We studied four high-risk sectors at the heart of global AB&C regulation and investigations: technology, media and telecommunications TMT; life sciences and pharmaceuticals; energy, minerals and natural resources; and transportation, including aviation and automotive.



TMT: more resources, but a risk-taking approach

Almost **40%** of TMT businesses have large AB&C teams (> 20 people working globally)

In **49%** of TMT companies the head of AB&C compliance reports directly to the CEO (cf. **38%** across all sectors)

61% of TMT compliance leaders say their AB&C demands are ever-increasing, but their organization is cutting overall budgets (the highest of all sectors)

59% say their companies have made risky investments in Asia, Latin America and Africa in order to meet growth targets

55% say their organization just pays lip service to AB&C concerns in these regions, taking them seriously only if there's a chance of getting caught

“

TMT companies acknowledge the importance of robust AB&C compliance teams and programs, but are struggling to balance this with a desire to grow quickly and make inroads in new markets.

”

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Life Sciences: test, evaluate, update and repeat

“Life sciences and pharmaceuticals companies have been dealing with intense regulatory pressure for decades, and as a result they tend to have a mature, comprehensive, and integrated approach to compliance. “

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22%

Of life sciences operate with large teams

23%

Of life sciences compliances leaders say they test their AB&C programs more than twice yearly (cf. **19%** across all sectors)

25%

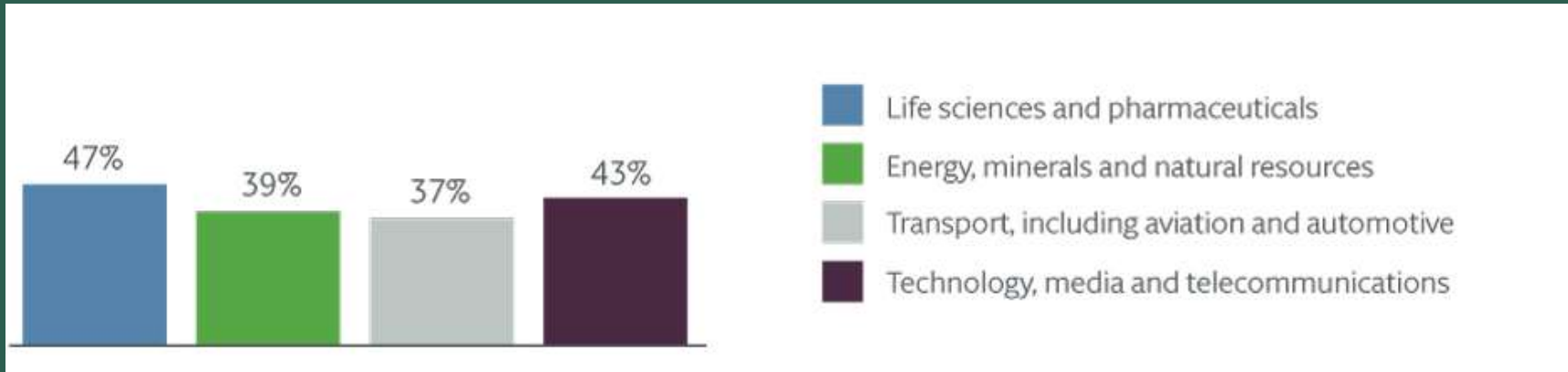
Say they update their AB&C procedures more than twice yearly (cf. **19%** across all sectors)

26%

Ask each member if staff to refresh training through e-learning (cf. **21%** across all sectors)

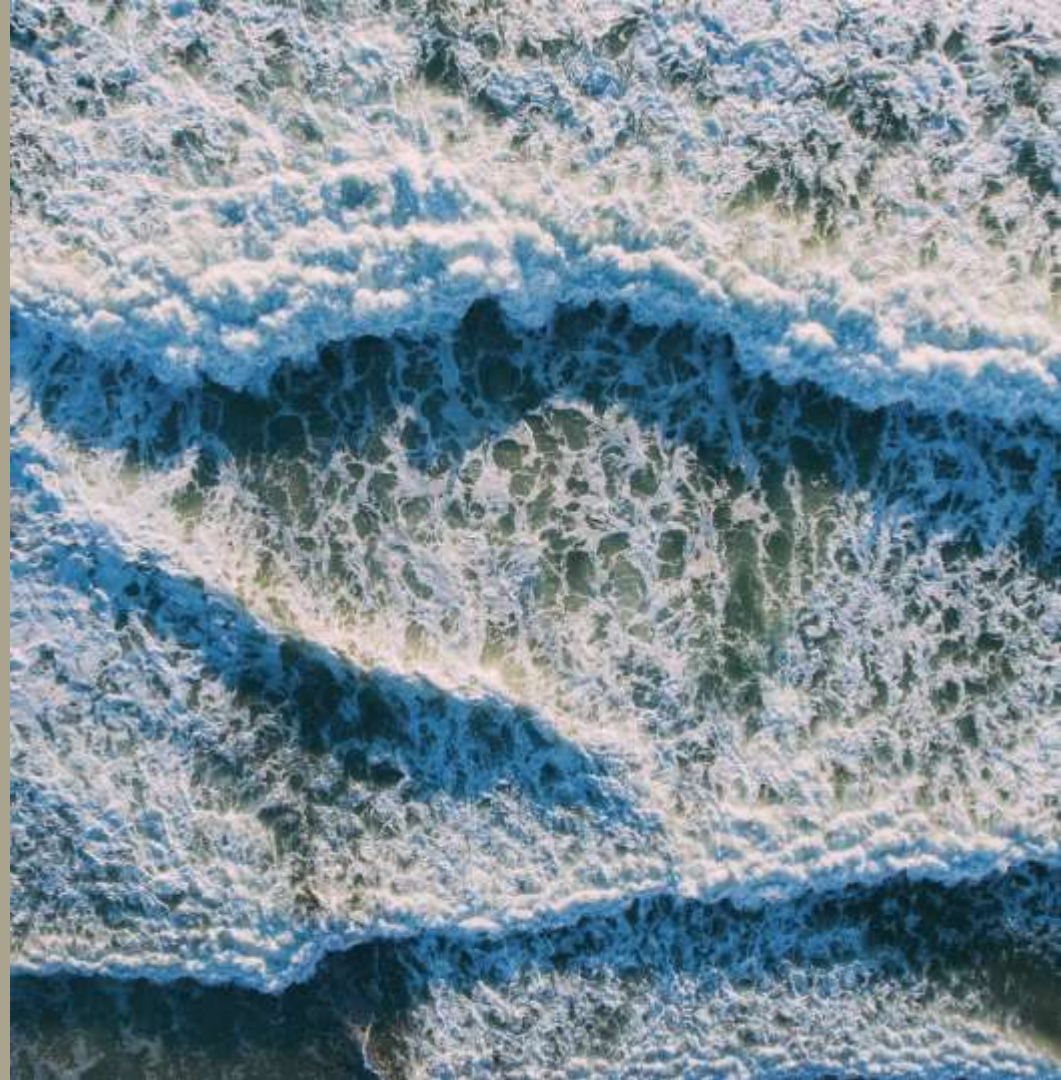
Transport and Energy: lagging behind

- ✓ Despite the relatively high levels of AB&C risk that transport and energy companies face, our study shows that these companies are not taking a proactive approach to compliance.
- ✓ Compared to the other sectors in our study, these sectors seem reluctant to invest in their AB&C teams, and have low rates of testing and evaluation.



Part four: Regional observations

Our research suggests that governments are attempting to improve their bribery and corruption reputations to make business conditions more favorable for multinationals.



60%

of compliance leaders said that if they found bribery and corruption issues in one jurisdiction, it was likely to be an issue across the whole region.

“When assessing risk in different jurisdictions, it makes sense to group together markets with similar legal systems and ways of doing business. However, care is needed when actually implementing policies: problems in one market are not necessarily region-wide.”

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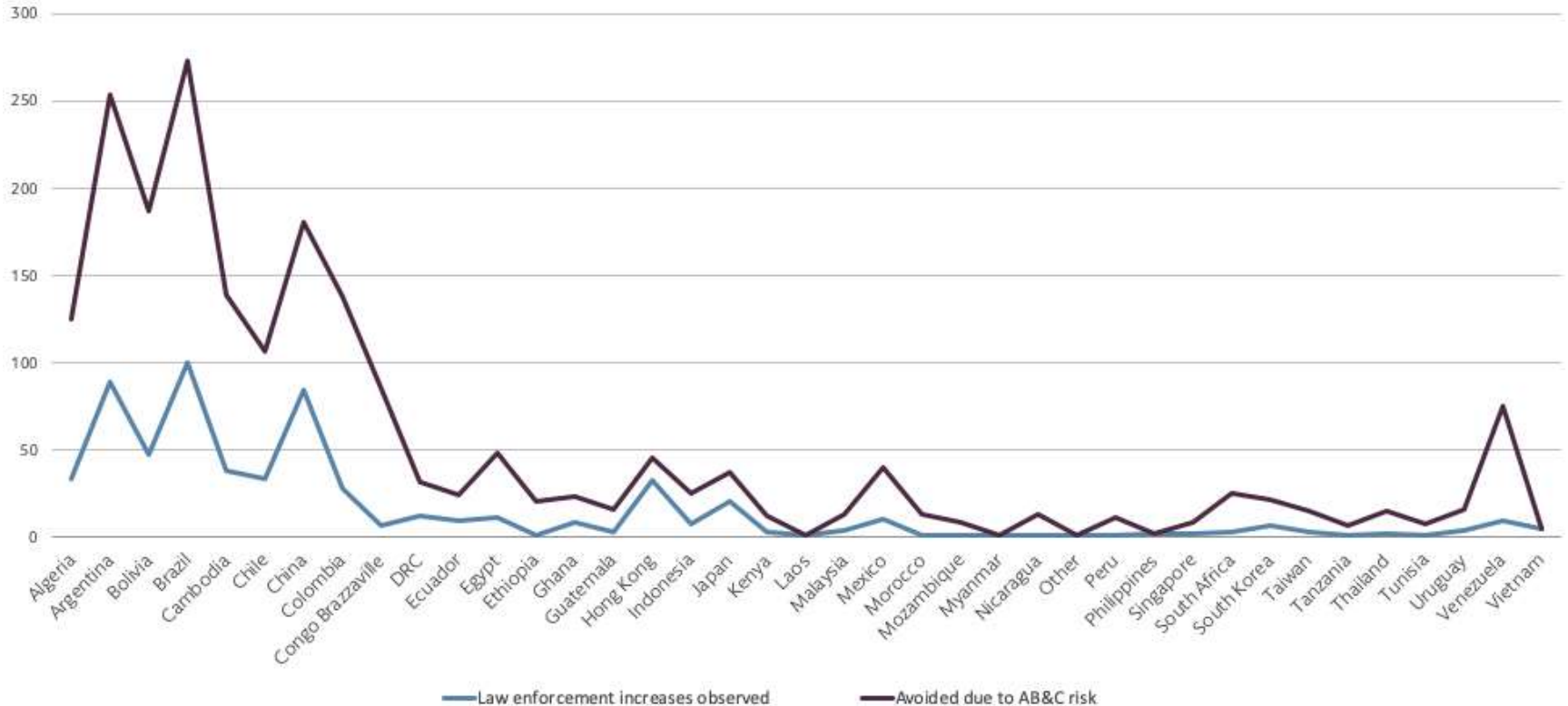
82%

of compliance leaders cited government corruption as the main reason for avoiding a market

“Almost half of companies rely on government contracts in Latin America (49%) and Africa (45%), while 58% of companies rely on government contracts to do business in Asia.”

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There is **strong correlation** between (1) the markets that have not been entered due to high AB&C risk and (2) those where compliance leaders have seen the biggest increase in local enforcement over the past 10 years.



Asia

Asian markets are hugely diverse in terms of their legal and regulatory processes, their stage of economic development, and their levels of bribery and corruption risk.

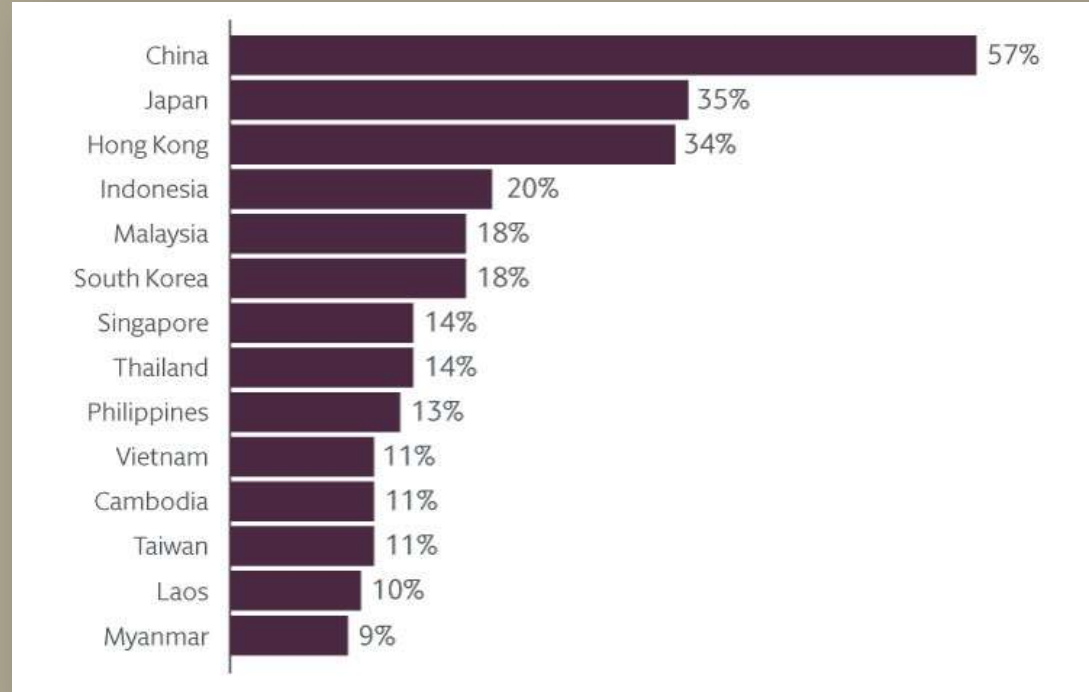


Figure 10: The markets in Asia that raise the most bribery and corruption concerns when it comes to doing business

Latin America

Massive corruption scandals and socio-political instability in several Latin American nations have led to a perception that these markets are high-risk.

But there's also a growing sense that younger generations want to change the culture, with an increase in whistleblowing, and mounting demands for politicians and corporations to be held to account for unethical behavior.

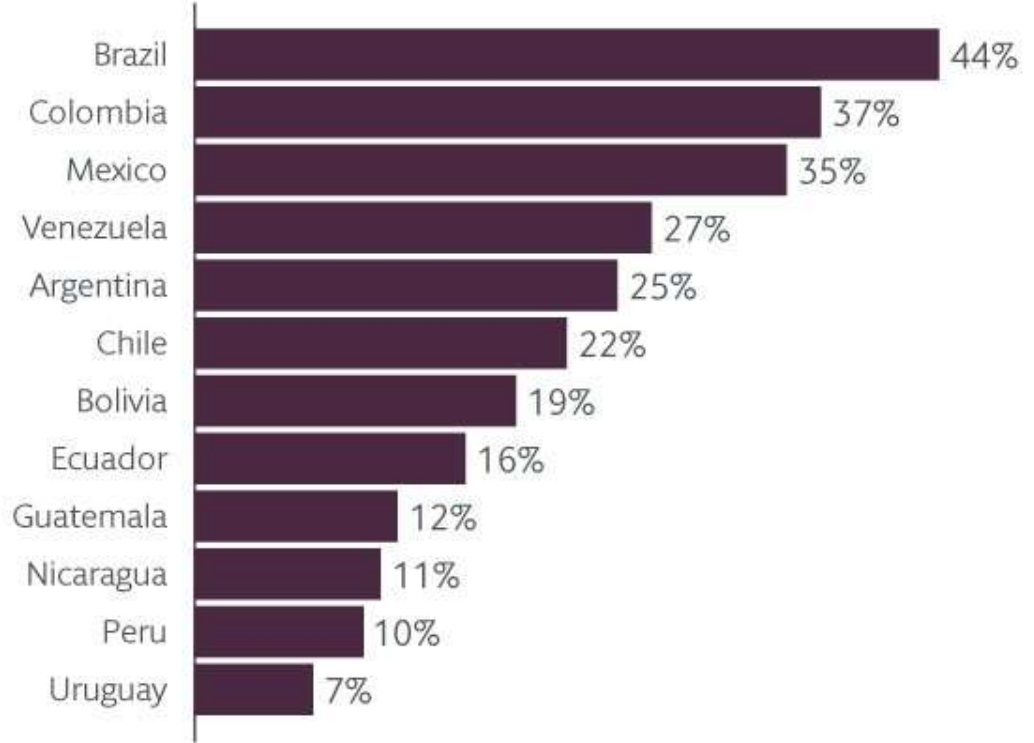


Figure 11: The markets in Latin America that raise the most bribery and corruption concerns when it comes to doing business

Africa

The three African markets that raise the most bribery and corruption concerns are the three biggest economies on the continent, measured by GDP: Nigeria, South Africa and Egypt.

South Africa has strong financial and legal systems and has seen a rise in powerful investigative journalism that is shedding light on corruption issues, but enforcement is weak.

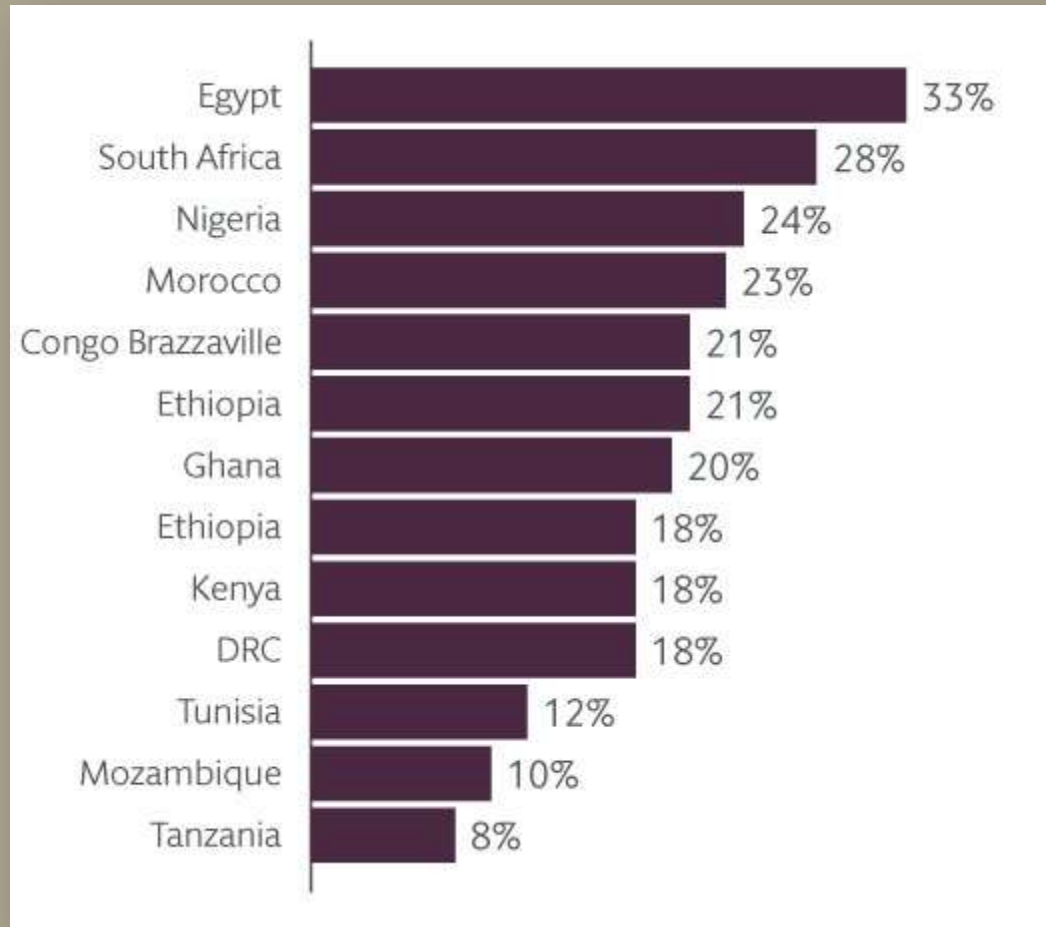


Figure 12: The markets in Africa that raise the most bribery and corruption concerns when it comes to doing business

Approaches to local implementation

- ✓ Companies are concerned about the compliance risks that markets in **Asia, Africa and Latin America** pose. But how are they mitigating those risks?
- ✓ Organizations must find ways of delivering their guidelines and complying with international regulations, ensuring they are followed by everyone who works for the company.

“ Policies can’t just be a box-ticking exercise. Ultimately it’s about proper implementation within the commercial context. If a policy is properly implemented and procedures are rigorous, there is less room for things to go wrong. ”

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30%

of businesses make guidelines available in local languages, compared with over half (57%) in 2016.

“Obliging third parties to comply with company-level policies can be challenging, but from a government or regulator’s point of view, this is not an excuse for non-compliance.”

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ABC Portal

Our dedicated ABC Portal holds all our latest thinking and resources on bribery and corruption developments from our Investigations, White Collar and Fraud practice across the global.

On the Portal you'll find our recently released *Steering the Course II* report, as well as our *Global Bribery and Corruption Outlook* and *False Claims Act Guide*.

Read more at hoganlovellsabc.com

Key contacts



Crispin Rapinet

Partner, London

crispin.rapinet@hoganlovells.com

+44 20 7296 5167



Liam Naidoo

Partner, London

liam.naidoo@hoganlovells.com

+44 20 7296 5887



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