

United States-Mexico-Canada Agreement – A Tool to Fight Corruption

The United States, Canada, and Mexico are poised to usher in a new phase in the shared fight against corruption

For the first time in history, the United States has ratified a free trade agreement that includes provisions intended to eliminate corruption. The agreement, the United States-Mexico-Canada Agreement (USMCA), marks a new commitment to fighting corruption. The USMCA will replace the 26-year-old North American Free Trade Agreement (NAFTA), which includes no language targeting corruption. Now is a good time for companies to reevaluate their compliance programs because we anticipate that the USMCA will lead to additional laws in the signatory states, greater enforcement against corruption in these states, and increased international cooperation in enforcement actions.

The USMCA's comprehensive framework for preventing corruption dictates that the parties develop and enforce an array of anti-corruption laws. Specifically, it requires that the signatories make it illegal to bribe public officials or for public officials to solicit or accept bribes. The signatories must also make it illegal to aid, abet, or conspire to commit these offenses. Additionally, the USMCA directs that the signatories prohibit: the establishment of off-the-books accounts; the making of off-the-books or inadequately identified transactions; the recording of non-existent expenditures; the entry of liabilities with incorrect identification of their objects; the use of false documents; and the intentional destruction of bookkeeping documents. Finally, the USMCA encourages the promotion of anti-corruption organizations and campaigns, the training of public officials, and cross-border cooperation among enforcement authorities of the signatory states.

The inclusion of anti-corruption laws in the USMCA highlights the parties' joint commitment to combatting corruption and will likely lead to additional international cooperation in anti-corruption enforcement. This commitment is most relevant in Mexico, which scores a mere 29 out of a 100 points in Transparency International's Corruption Perception Index. We anticipate that the USMCA will compel Mexico to make a renewed effort to limit corruption and bribery.

Although the anti-corruption elements of the USMCA largely resemble those of the existing legislation in the signatory countries, the robust nature of these provisions reflects the signatories' commitment to addressing corruption in international business. Further, the USMCA's anti-corruption provisions provide valuable insight into the future of international business in North America. We anticipate that the future will be marked by heightened scrutiny in the signatory states, including reinvigorated anti-corruption efforts in Mexico. In advance of the USMCA taking effect, companies would be wise to proactively update their compliance programs in light of the recommendations contained in the USMCA as the international community prepares for new anti-corruption laws, increased enforcement, and increased cooperation among signatory states.



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