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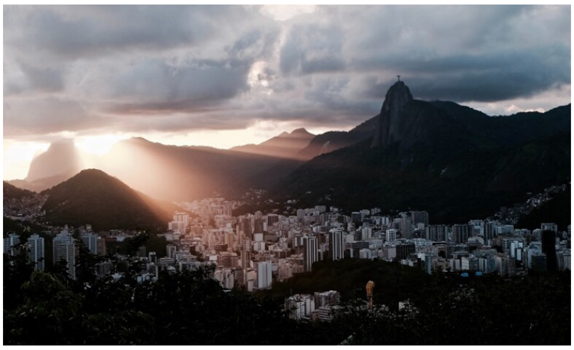
Middle East investments in Latin America: key legal considerations

Foreign investors navigating cross-border transactions between the Middle East and Latin America should be mindful of considerations such as ownership structure and shareholder approval in M&A



Investment flows from the Middle East into Latin America are on the rise. These regions share long-standing cultural ties, with a significant Arab diaspora in Latin America, and have become strategic trade partners. Drawing from their established relationship and growing synergies, both regions are actively pursuing new business engagements, presenting a promising outlook for cross-border transactions.

In 2022, Gulf Cooperation Council (GCC) countries exported $10.84 billion worth of goods to Latin America, including mineral fuels, fertilisers, aluminum, plastics, and electrical machinery. In return, they imported $21.25 billion worth of pearls, precious metals, and agricultural goods. Beyond trade, the United Arab Emirates (UAE), along with smaller contributions from Saudi Arabia and Qatar, invested $4 billion in the region from 2016 to 2021, primarily targeting Brazil, Mexico, and Argentina. These investments mainly spanned the agriculture, logistics, distribution, and transportation sectors.

Building on this history, investments across the Middle East and Latin America are anticipated to increase as both regions' development strategies converge. While Latin American countries are generally focusing on diversifying exports and attracting foreign investment, GCC states aim to enhance food security, reduce reliance on hydrocarbons, and diversify their economies. This alignment creates powerful synergies, driving mutually beneficial partnerships across the regions.

Brazil continues to attract the largest share of investment from Middle East in Latin America. In 2024, Saudi Arabia's Public Investment Fund (PIF) announced $15 billion in energy projects in Brazil, while the UAE's Mubadala committed $13.5 billion to biofuels projects over the next decade. At the G20 Summit in Rio de Janeiro, the UAE and Saudi Arabia signed memoranda of understanding with Brazil to promote investments, including the creation of a Saudi-Brazilian Coordination Council. Following these commitments, in 2025, Saudi Arabia's Ma'aden announced plans to open an office in São Paulo and invest $1.31 billion in Brazil's geological mapping.

Other initiatives across Latin America include investments in Argentina, Chile, and Peru. In Argentina, the Saudi Fund for Development (SFD) provided a $100 million loan for the water sector and announced $500 million in food and energy projects, marking its first presence in the country. In Peru, the UAE's DP World announced over $1 billion to expand port infrastructure. In Chile, the UAE signed a Comprehensive Economic Partnership Agreement to boost non-oil trade and facilitate cooperation and investment flows.

Key sectors attracting Middle Eastern investments in Latin America include agriculture, energy, natural resources, and infrastructure. Latin American agricultural companies offer promising prospects for contributing to Middle Eastern food security, especially with the region's growing halal food production. Additionally, countries like Argentina, Brazil, Chile, Colombia, and Mexico have large reserves of minerals essential for clean energy and digital technologies, such as lithium and copper. Moreover, the Inter-American Development Bank estimated an infrastructure gap of over $1.5 trillion in Latin America in 2021, presenting fertile ground for foreign investments.

In this context of growing opportunities in Latin America, investors should consider the following key areas of attention when investing in the region:

- **Foreign Direct Investments:** Latin America is generally receptive to foreign direct investments (FDI). Legal requirements vary depending on the investment's significance and target industry, including restrictions on foreign ownership, local partnership requirements, and specific approval processes. FDI may also be eligible for incentives such as tax breaks and subsidies, which are overall increasing in the region amid efforts to promote foreign investments. Understanding local FDI regulations and incentives is essential for assessing investment strategies and outcomes in Latin America.
- **Anti-corruption:** Investors should ensure that businesses in Latin America have adequate internal controls and policies to comply with local anti-corruption laws. This includes training employees on anti-corruption regulations, ensuring that target companies have internal systems for oversight and reporting, and verifying that these companies' suppliers and commercial partners adhere to appropriate anti-corruption practices. Familiarity with local anti-corruption legislation, such as Brazil's Clean Company Act, is crucial for mitigating risks and ensuring compliance.
- **Environmental:** Environmental rules in Latin America may be wide-ranging and vary significantly across countries. They often encompass, but are not limited to, requirements for environmental impact assessments, waste management, and emissions controls. Adhering to these regulations and adopting best sustainability practices is crucial to avoid legal penalties and mitigate negative impacts on the community.
- **Labour:** Labour laws in Latin America are generally comprehensive and protective of workers' rights. Key considerations include compliance with legal requirements related to employment contracts, minimum wages, working hours, and social security benefits. Investors must understand the nuances of labor relations in each country, including unionisation and collective bargaining agreements.
- **Regulatory:** Several industries in Latin America, particularly those considered strategic, such as energy and telecommunications, are subject to sector-specific regulations that can impact investment decisions. Investors must understand the regulatory landscape of their target sector and ensure compliance with all relevant laws and regulations.
- **Tax:** Latin American countries have diverse tax systems, and understanding the applicable tax frameworks for investments is essential for effective financial planning. Relevant aspects to consider include tax filings, payments, and potential tax incentives.

In addition to these key areas for diligence, foreign investors navigating cross-border M&A transactions involving Latin America should keep in mind the following key aspects where M&A practices in the region may diverge from international practice.

- **Ownership Structure:** Most companies in Latin America are family-owned, requiring investors to negotiate with individual controlling shareholders or controlling blocks rather than professional managers. This affects the dynamics of deal negotiations and calls for special attention to corporate governance mechanisms to protect interests when acquiring minority shares.
- **Shareholder Approval:** Most deal structures in Latin America require shareholder approval for implementation. Investors should be prepared for additional negotiations with relevant shareholders to secure the required consents.
- **Prices Allocation and Adjustment:** M&A transactions in Latin America frequently involve greater use of escrow or holdback amounts and purchase price adjustments, aiming to mitigate risks and address post-closing issues. Investors should be familiar with these mechanisms and incorporate them into their transaction structure.
- · Representations and Warranties: In Latin America, representations and warranties (R&W) provided by sellers are typically more detailed and survive closing. However, the use of R&W insurance is still relatively rare in the region. Investors should conduct thorough due diligence and negotiate R&W comprehensively to mitigate risks. Understanding the applicable legal framework for enforcing R&W and obtaining indemnifications in case

of breaches is also crucial for protecting investors' interests.

- **Enforcement:** Enforcing M&A agreements in Latin America can be challenging due to a scarcity of public precedents interpreting the qualifying terms of R&W and covenants. Additionally, the types of damages available under Latin American jurisdictions are more restricted compared to the US legal framework. These factors, along with other practical issues, often encourage foreign investors to prefer electing New York or Delaware law to govern cross-border transactions involving the region.

Navigating investments and cross-border transactions between the Middle East and Latin America requires a deep understanding of the above-mentioned issues, as well as other nuances of these markets' regulatory and business environments.

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