

# Private Investment Funds in Latin America

MONEY LAUNDERING & CORRUPTION RISKS

Lakshmi Kumar



# Private Investment Funds in Latin America: Money Laundering and Corruption Risks

Lakshmi Kumar

---

*December 2022*



---

GLOBAL FINANCIAL INTEGRITY

Copyright ©2022 by Global Financial Integrity®. Some rights reserved.

The report is published under a Creative Commons Attribution License (CC BY).  
For more information on this license, visit: [creativecommons.org](https://creativecommons.org)

Global Financial Integrity® and the Global Financial Integrity Logo are registered trademarks of Global Financial Integrity.

Cover collage by Visual Teaching Technologies, 2022.

## *Acknowledgements*

This report is part of a larger, four-part initiative by Global Financial Integrity (GFI) to understand emerging financial crime threats that affect specific subregions of Latin America and the Caribbean. The initiative analyzes financial crime and financial crime risks related to extortion, fraud, pooled investment vehicles and cryptocurrencies. To better understand these dynamics, GFI spoke to over 100 subject matter experts. They included government officials, journalists, researchers, entrepreneurs, anti-money laundering (AML) specialists and financial institution staff. Their knowledge, insights, and lived experience shaped this report in many ways. GFI thanks them for their time and participation in this study, as well as for their ongoing work to ensure the safety of their communities and the integrity of our shared financial system. While their expertise helped to shape this report in many ways, the conclusions reached do not necessarily reflect the views of the individuals, organizations or government agencies that participated in expert interviews.

Many thanks as well to those who helped edit and prepare this report. Ava Occhialini, Madeline Paul, Michelle Furmansky provided valuable assistance with research and interviews. Dr. William Scott Grob and Ryan Gurule provided technical expertise in editing this report. Channing Mavrellis, Claudia Helms and Julia Yansura of GFI provided support, technical assistance and editing. Camille Babington of Visual Teaching Technologies designed this report.

# Table of Contents

Glossary of Terms, Abbreviations and Acronyms	v
Introduction	1
Landscape of Private Investment Funds in Latin America	3
Anti-Money Laundering Regulation of Private Investment Funds in Latin America	8
Case Studies of Money Laundering and Corruption Using Private Investments Funds	16
<i>Case 1: Investment Fund Tied to Brazilian Billionaire Joesley Batista Involved in Money Laundering, Fraud, and Corruption</i>	16
<i>Case 2: Canadian Investment Companies Help South American Drug Cartel Launder US\$30 Million</i>	19
<i>Case 3: Swiss Private Banking Executive Helped Launder US\$1.2 billion Embezzled from Venezuelan State Oil Company</i>	21
<i>Case 4: Swiss-Based Asset Management Firms Help Launder US\$200 Million Stolen from Venezuelan State Oil Company</i>	21
<i>Case 5: US Citizen Helps Launder Venezuelan State Oil Company Finances Through Fake Mutual Fund</i>	22
<i>Case 6: US Real Estate Investment Firm Helps Latin American Drug Cartel Launder Millions</i>	24
Conclusion and Recommendations	26

## Glossary of Terms, Abbreviations, and Acronyms

### Abbreviation Term

AML	Anti-money laundering
AUM	Assets under management
BNDES	<i>Banco Nacional de Desenvolvimento Econômico e Social</i> (Brazil)
Caixa	<i>Caixa Econômica Federal</i> (Brazil)
CFT	Counter financing of terrorism/combating the financing of terrorism
CNBV	<i>Comisión Nacional Bancaria y de Valores</i> (Mexico)
CNV	<i>Comisión Nacional de Valores</i> (Argentina)
CVM	<i>Comissão de Valores Mobiliários</i> (Brazil)
DEA	Drug Enforcement Administration (U.S.)
DOJ	Department of Justice (U.S.)
FATF	Financial Action Task Force
FBI	Federal Bureau of Investigation (U.S.)
FICP	<i>Fideicomiso de Inversión de Capital Privado</i> (Mexico)
ML	Money laundering
NRA	National risk assessment
PDVSA	<i>Petroleos de Venezuela</i> (Venezuela)
PE	Private equity
PIF	Private investment fund
SFC	<i>Superintendencia Financiera</i> (Colombia)
UAF	<i>Unidad de Analisis Financiero</i> (Chile)
UHNWIs	Ultra High Net Worth Individuals

### Data Source: Preqin

Preqin is an investment data company based in London that provides financial data and information on the alternative assets market. The data includes information on the fund, fund manager, investor, performance and deal information. The asset classes it covers are: private equity, venture capital, hedge funds, private debt, real estate, infrastructure, natural resources and secondaries.

## Introduction

Over the last three decades, the private investment fund sector has grown into a multi trillion-dollar global industry. In the Latin American and Caribbean (LAC) region the market has seen slow but steady growth. Yet, the money laundering risks of private investment funds have received little international scrutiny or study during the same period. So little in fact, that the United States, as world's most prominent destination for the private placement of funds, has yet to enact any anti-money laundering (AML) regulations for the sector.

However, following a leaked bulletin from the Federal Bureau of Investigation (FBI), the money laundering risks of these complex vehicles for the the United States as well as for other countries in the Latin America and the Caribbean region have come into greater prominence.<sup>1</sup> The bulletin, which was leaked in 2020, concluded with “high confidence” that criminals were utilizing the “private placement of funds, including investments offered by private equity (PE) firms and hedge funds, to circumvent the anti-money laundering (AML) programs of other financial institutions and launder money.”<sup>2</sup> The leaked bulletin cited the example of a Mexican drug cartel operating in California that paid individuals to open hedge fund accounts at private banking institutions. The cartel reportedly laundered US\$1 million through these accounts each week and then withdrew the money to purchase gold.<sup>3</sup> Similarly, in another example from the leak, a New York-based private equity firm received more than US\$100 million in wire transfers from an identified Russia-based company allegedly associated with Russian organized crime.<sup>4</sup>

The questions are twofold then, what makes private investment funds vulnerable to money laundering? and why is a study of the money laundering risks of private investment funds in the context of the LAC region important?

Private investments funds are vulnerable to money laundering because they contain a variety of structural risk factors that help camouflage illicit behaviour.<sup>5</sup> The risk factors include a customer base often composed of wealthy individuals, including politically exposed persons (PEPs); a close relationship between fund managers and their clients (investors); the use of shell companies and trusts to manage investments; outsourcing operations and risk management; weak transparency around source of wealth and source of funds; and investment structures which may include multiple accounts in different jurisdictions, including secrecy and tax havens, with funds moving through a concentration account.<sup>6</sup> The FBI bulletin specifically highlighted cases of fraud, transnational organized crime, and sanctions evasion that capitalized on these factors.<sup>7</sup> The bulletin also concluded that because these investment structures are so sophisticated, US-based private equity firms and

1 Lloyd, Timothy. “FBI Concerned over Laundering Risks in Private Equity, Hedge Funds - Leaked Document.” Reuters. Thomson Reuters, July 14, 2020. <https://www.reuters.com/article/bc-finreg-fbi-laundering-private-equity/fbi-concerned-over-laundering-risks-in-private-equity-hedge-funds-leaked-document-idUSKCN24F1TP>.

2 Private Equity and Hedge Funds: Methods of Choice for Money Laundering Threat Actors.” Protiviti. Protiviti. Accessed November 10, 2022. <https://www.protiviti.com/US-en/insights/pov-private-equity-and-hedge-funds>.

3 Lloyd, Timothy. “FBI Concerned over Laundering Risks in Private Equity, Hedge Funds - Leaked Document.”

4 Moskowitz, Eli. “BlueLeaks: FBI Aware Large Investment Funds Enable Money Laundering.” OCCRP. OCCRP, July 22, 2020. <https://www.occrp.org/en/daily/12814-blueleaks-fbi-aware-large-investment-funds-enable-money-laundering>.

5 This term includes private equity, venture capital, hedge funds, family offices.

6 Moskowitz, Eli. “BlueLeaks: FBI Aware Large Investment Funds Enable Money Laundering.”

7 Lloyd, Timothy. “FBI Concerned over Laundering Risks in Private Equity, Hedge Funds - Leaked Document.”

hedge funds may receive funds from entities registered in countries with weak AML enforcement that would enable criminal actors to mask the identity of the true beneficial owners and move funds into the United States.<sup>8</sup> Additionally, hedge funds, a particular class of private investment funds tend to have short lockups which makes it easier to move illicit funds in and then out as clean money.

This begs an answer to the second question of why an FBI alert on U.S. based private investment funds should necessitate a study on the sector in the LAC region. The LAC region's geographic, economic, historic, and cultural proximity to the United States has meant that the US and US policies have always had an outsized impact on the politics and economies of the countries in the region. The impact of this proximate relationship also extends to the area of illicit financial flows. The centrality of the US dollar to the global financial system, its reputation as the world's leading global financial centre coupled with the gaps in the country's anti-money laundering/countering the financing of terrorism (AML/CFT) framework has long made it an attractive destination for both legitimate and illegitimate financial interests. As US Treasury Secretary Janet Yellen admitted in a speech in December 2021, "in the popular imagination, the money laundering capitals of the world are small countries with histories of loose and secretive financial laws. But there's a good argument that, right now, the best place to hide and launder ill-gotten gains is actually the United States."<sup>9</sup> This statement only serves to substantiate the growing evidence that individuals looking to launder ill-gotten gains from corruption, narcotics trafficking, money laundering and sanctions evasion from the LAC region look to the United States for safekeeping. For instance, a 2021 report examining real estate money laundering risks in the United States found that 54.34 percent of real estate money laundering cases were tied to illicit funds from the LAC region and that the majority of political elites that were found to be hiding their illicit money in U.S. real estate were from the LAC region.<sup>10</sup> Other examples from Pandora Papers and case examples involving Venezuelan sanctions evasion schemes have equally demonstrated the critical role that U.S. plays in accepting illicit financial flows.<sup>11</sup>

Therefore, the risks from private investment funds as highlighted in the FBI leak are both a Latin American issue as much as they are a concern for US law enforcement. Analysing the regulatory environment and risks within Latin America provides a better pathway and strategy for both the US and Latin America to jointly address any potential financial crime risks from investment funds. The report specifically aims to understand the size, scale, and AML risks from private investment funds in the LAC region's five largest economies—Brazil, Chile, Argentina, Mexico, and Colombia—and to provide recommendations on how best to mitigate and address the money laundering risks to both the LAC region and the United States.

8 Beneficial Owner refers to the natural persons that ultimately owns and control a legal entity.

9 Janet Yellen, Remarks by Secretary of the Treasury Janet L. Yellen at the Summit for Democracy, December 9, 2021 <https://home.treasury.gov/news/press-releases/jy0524>.

10 Kumar, Lakshmi, and Kaisa de Bel. "Acres of Money Laundering: Why U.S. Real Estate Is a Kleptocrat's Dream ." Washington, D.C.: Global Financial Integrity, August 2021.

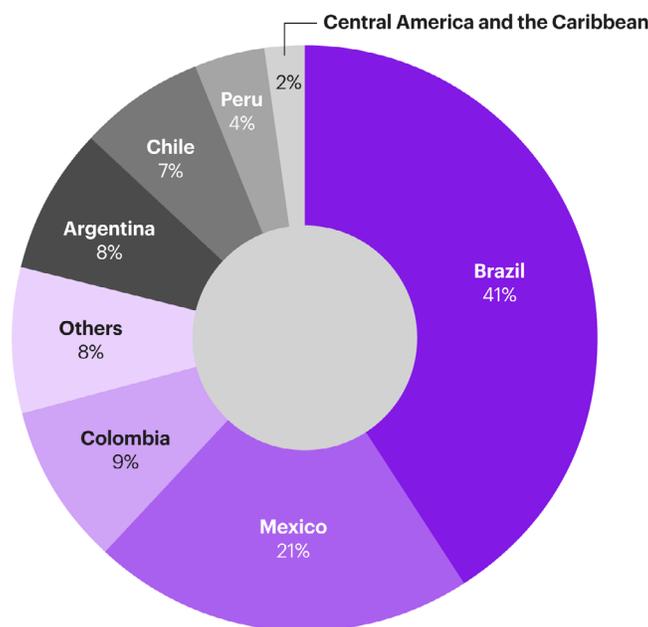
11 Medina, Brenda. "Highlights from Pandora Papers Reporting in Latin America." ICIJ. ICIJ, December 21, 2021. <https://www.icij.org/investigations/pandora-papers/highlights-from-pandora-papers-reporting-in-latin-america/>; Gallagher, Chris. "U.S. Charges Two Financiers with Money Laundering in PDVSA Bribery Scheme." Reuters. Thomson Reuters, July 12, 2022. <https://www.reuters.com/business/asset-managers-charged-alleged-12-bln-venezuelan-money-laundering-scheme-us-doj-2022-07-12/>; "DOJ Charges Russian and Venezuelan Nationals in Alleged Global Sanctions Evasion and Money Laundering Scheme." Sanctions notes. Herbert Smith Freehills, October 26, 2022. [https://hsfnotes.com/sanctions/2022/10/26/doj-charges-russian-and-venezuelan-nationals-in-alleged-global-sanctions-evasion-and-money-laundering-scheme/?utm\\_source=Mondaq&utm\\_medium=syndication&utm\\_campaign=LinkedIn-integration](https://hsfnotes.com/sanctions/2022/10/26/doj-charges-russian-and-venezuelan-nationals-in-alleged-global-sanctions-evasion-and-money-laundering-scheme/?utm_source=Mondaq&utm_medium=syndication&utm_campaign=LinkedIn-integration).

## Landscape of Private Investment Funds in Latin America

In 2021, Latin American alternative assets under management (AUM) stood at US\$85.6 billion.<sup>12</sup> That figure represents an average annual growth of 6.8 percent between 2015 and 2020.<sup>13</sup> By comparison, the U.S private investment fund market is worth nearly US\$11 trillion, which would make it the third largest economy in the world, and nearly twice the size of the combined GDPs of Latin America and the Caribbean.<sup>14</sup>

**FIGURE 1**

Breakdown of the Latin American and Caribbean Region Market Share of Investments from Private Investment Funds



Source: Zdravkovic, Dragan, Felipe Vila, and Ricardo Haneine. "Reigniting Growth in Private Equity and Venture Capital in Mexico." Kearney. Kearney, February 26, 2021. <https://www.kearney.com/private-equity/article/-/insights/reigniting-growth-in-private-equity-and-venture-capital-in-mexico>.

Brazil and Mexico make up the largest markets for private investment funds in Latin America and their combined AUM account for US\$57.3 billion.<sup>15</sup> The Brazilian economy, heavily influenced by energy and commodities, has seen its AUM between 2015 - 2020 grow at an annual rate of just 1.8

12 Preqin Pro: Private Capital & Hedge Fund Datasets & Tools." Preqin. Preqin. Accessed November 10, 2022. <https://www.preqin.com/our-products/preqin-pro>.

13 Ibid.

14 GDP (Current US\$) - Latin America & Caribbean." Data. The World Bank. Accessed November 10, 2022. <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=ZJ>.

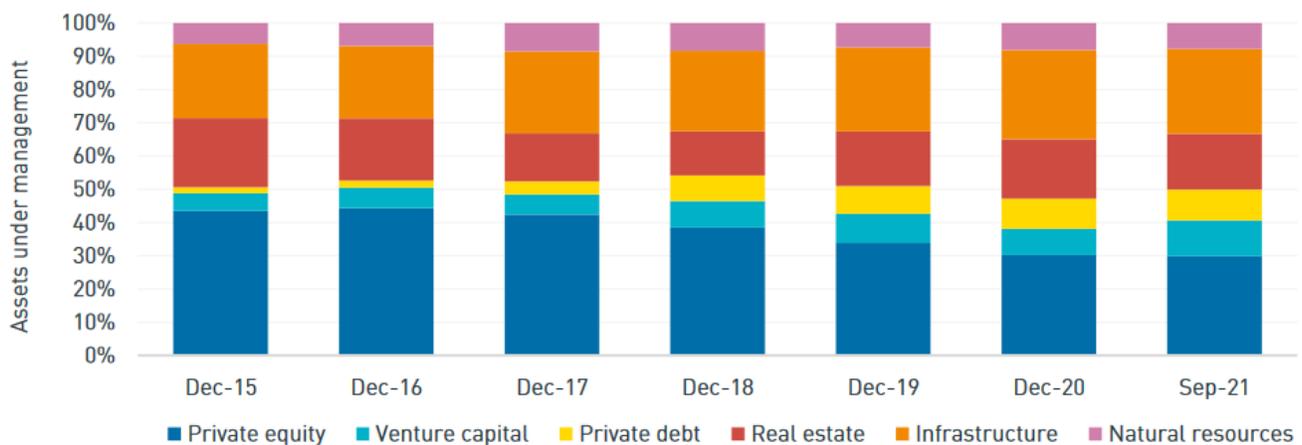
15 "Preqin Pro: Private Capital & Hedge Fund Datasets & Tools.;" Hanichak, Erica, Lakshmi Kumar, and Gary Kalman. "Private Investments, Public Harm: How the Opacity of the Massive U.S. Private Investment Industry Fuels Corruption and Threatens National Security." Global Financial Integrity, December 1, 2021. <https://gfinitegrity.org/report/private-investments-public-harm-how-the-opacity-of-the-massive-u-s-private-investment-industry-fuels-corruption-and-threatens-national-security/>.

percent.<sup>16</sup> By contrast, Mexico's AUM has grown during the same period at an annual rate of 37.7 percent, compared to 6.8 percent for the region as a whole.<sup>17</sup> However, this lags significantly behind global average growth rates of 15.7 percent and a 36.7 percent growth rate across emerging markets.<sup>18</sup> The image below shows the types of assets under management with private equity showing a gradual decrease year on year and private debt showing significant gains during the time period under examination. Private debt tends to offer more reliable returns and is lower risk.

The Inter-American Development Bank, citing a statistic from an association that monitors private capital investment in the region, found private debt investments totalled US\$5.2 billion (51 deals) in 2020. The bank citing the same group found that the private debt raised in 2020 amounting to US\$1.4 represented a 94.3 percent growth from 2019. Across the LAC region, the economic fallout from the pandemic has been felt. This in turn in some cases has caused traditional lenders of capital to act more conservatively. The increase in private debt therefore presents an opportunity to ease some of that burden and pressure.<sup>19</sup>

FIGURE 2

Distribution of Latin American Assets Under Management by Asset Class  
(2015 - 2021)



Source: Preqin Pro.

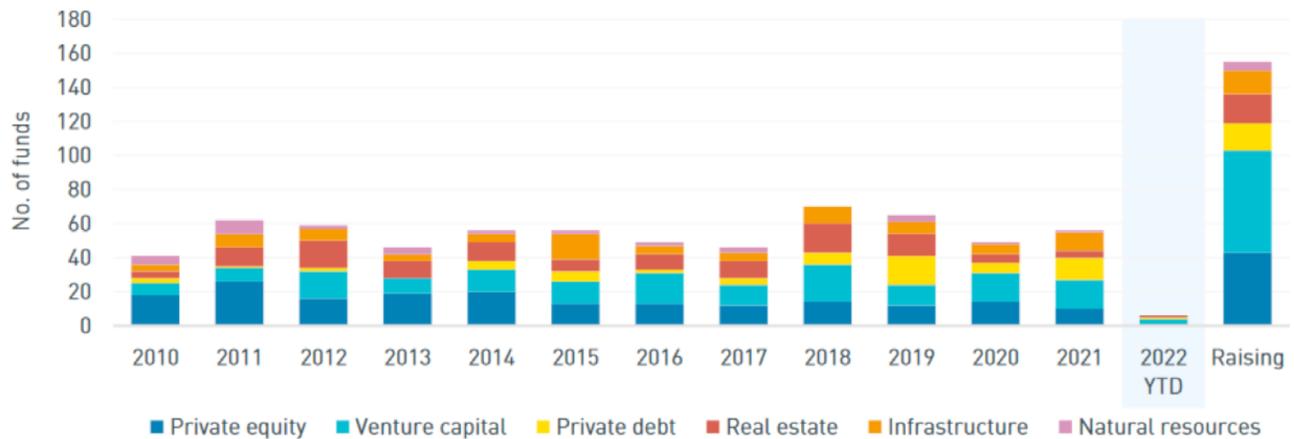
16 "Preqin Pro: Private Capital & Hedge Fund Datasets & Tools."

17 Ibid.

18 Ibid.

19 Parodi, Alberto, and Andrés Ackermann. "The Rise of Patient Capital – Capital Markets and Private Credit in Lac." Financial Institutions. IDB Invest, May 3, 2021. <https://idbinvest.org/en/blog/financial-institutions/rise-patient-capital-capital-markets-and-private-credit-lac>.

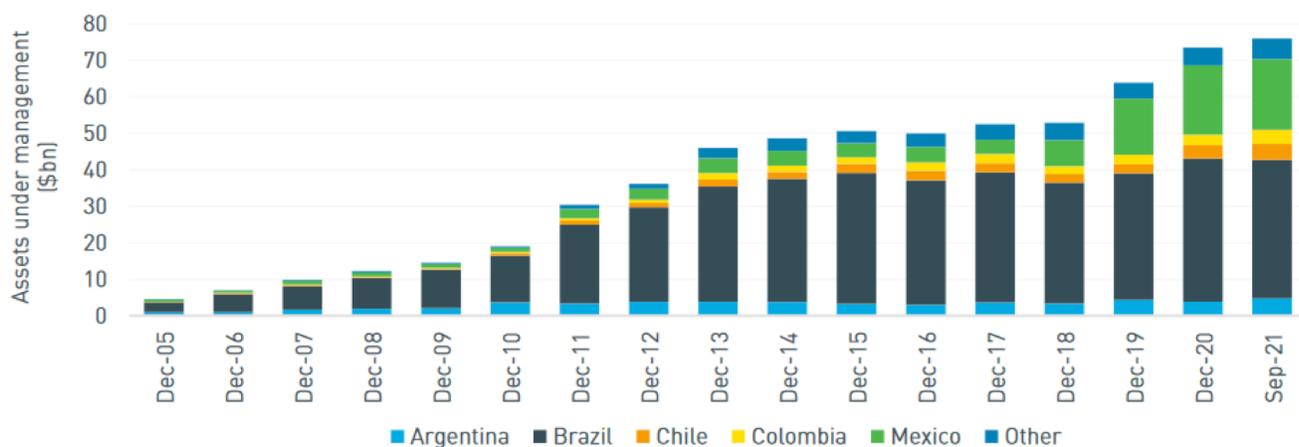
**FIGURE 3**  
Number of Latin American Funds by Asset Class



Source: Preqin Pro.

Overall, the market growth for investment funds in Latin America has been inhibited by headline grabbing risks around corruption, currency volatility, economic instability, threats to democracy, the war on drugs, a relatively small pool of available fund managers and the high concentration of large, family-owned businesses which restrict investment flow.<sup>20</sup> At present, the Latin American region represents less than one percent of global AUM.

**FIGURE 4**  
Latin America Assets Under Management (US\$Bn) by Country (2005 - 2020)

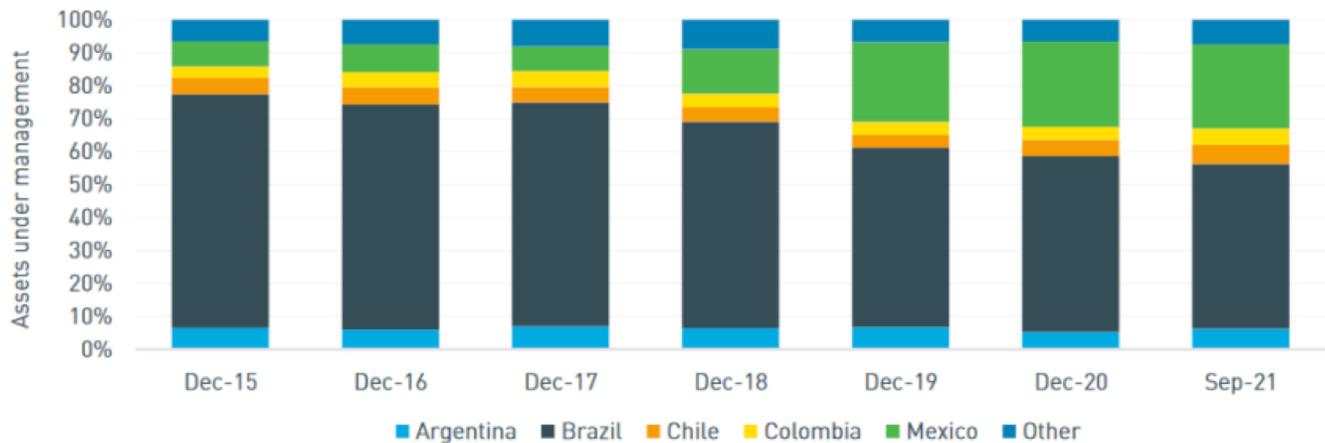


Source: Preqin Pro.

<sup>20</sup> “Private Equity in Mexico.” Research. GPCA, April 29, 2016. <https://www.globalprivatecapital.org/research/private-equity-in-mexico/>.

FIGURE 5

Distribution of Assets Under Management by Country (2015 - 2021)



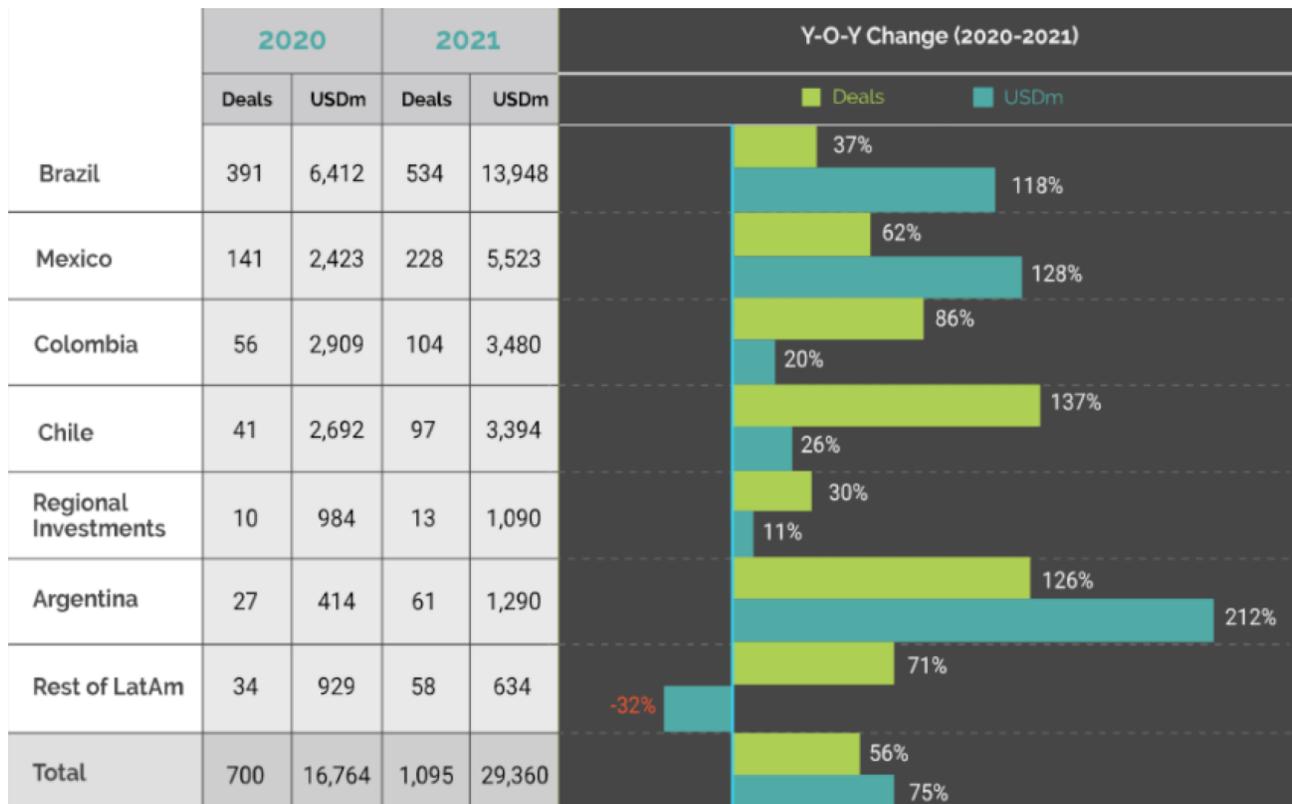
Source: Preqin Pro.

Analysing the five countries that are part of this report, the charts above (Figure 4 and Figure 5) reveal that year-on-year Brazil has the largest AUM. However, since 2010, Mexico has made significant strides and grown its market share substantially. Argentina, since 2010, has grown its holding but has yet to reach US\$10 billion-level in AUM. Chile and Colombia have also experienced marginal growth year on year. The complex nature of the private investment fund market coupled with the assumption that money launderers are only looking for quick schemes to clean their illicit money has meant that both globally and even across the largest Latin American economies, money laundering risks associated with private investment funds appear not to have merited the same scrutiny as other more high-profile risks stemming from the banking sector or money remittance services.

The table on the next page shows the number and value of deals across the five largest economies in the LAC region.

FIGURE 6

Private Capital Investment in Latin America by Country (2020 - 2021)

Source: LAVCA.<sup>21, 22</sup>

21 "2022 LAVCA Industry Data and Analysis" LAVCA: The Association for Private Capital Investment in Latin America. LAVCA: The Association for Private Capital Investment in Latin America, March 22, 2022. <https://lavca.org/industry-data/2022-lavca-industry-data-and-analysis/>.

22 Deals here refers to the investment that is acquired.

## Anti-Money Laundering Regulation of Private Investment Funds in Latin America

The regulatory framework around private investment funds is varied because of the large economic impacts these funds have. For instance, hedge funds, one type of private investment, fill a gap caused by reductions in traditional bank lending practices and are therefore beneficial sources of finance for small and medium enterprises. Similarly, private investment funds are key participants in capital markets, and their participation stimulates economic growth and has implications on the financial stability of a country. For these reasons and others, there are multiple facets through which an analysis of these funds can be made. However, the intention of this report is to examine the role these funds play in hiding the proceeds of criminal activity and the analysis aims to determine how effective the regulatory framework is in doing that. The table below breaks down the regulatory analysis.

*Table 1: AML Regulation of Private Investments Funds in Brazil, Mexico, Chile, Argentina, and Colombia*

	 BRAZIL	 MEXICO	 CHILE	 ARGENTINA	 COLOMBIA
<b>Financial Action Task Force (FATF) evaluation</b>	No discussion of private investment fund risks.  However, this evaluation dates back to 2010.  More recent evaluations like those from Colombia, Mexico, and Chile pay increased scrutiny to such risks.	No discussion of risks within the sector.	Over a period of five years (2015 – 2019) UAF only supervised 49 of the 162 investment fund managers and only 31 of 51 general fund managers. <sup>23</sup>  This suggests constraints in supervisory capacity.  No other risks were highlighted concerning private investment funds.	No discussion of risks within the sector.	FATF noted that investment funds in Colombia must identify their beneficial owners under Article 631-5.  However, the definition employed in Colombian law was not in line with FATF standards for beneficial ownership under Recommendation 10. <sup>24</sup>
<b>Data points</b>	N/A	Investment Advisors: 24  Investment Fund Distributors: 7  Investment Fund Operators: 34 <sup>25</sup>	Investment Fund Managers: 162  General Fund Managers: 51	N/A	Investment Fund Management Companies: 2  Investment Companies: 3 <sup>26</sup>

TABLE CONTINUED ON NEXT PAGE

23 Mutual Evaluation Report of the Republic of Chile.” Buenos Aires : GAFILAT, September 2021, 109. [https://www.uaf.cl/ArchivoEstatico/Mutual\\_Evaluation\\_Report\\_of\\_Chile.pdf](https://www.uaf.cl/ArchivoEstatico/Mutual_Evaluation_Report_of_Chile.pdf).

24 Colombia Financial Sector Assessment Program Report On The Observance Of Standards And Codes—FATF Recommendations For Anti-Money Laundering And Combating The Financing Of Terrorism, November 2018, IMF, p.173.

25 “Anti-Money Laundering and Counter-Terrorist Financing Measures: Mexico, Mutual Evaluation Report.” Buenos Aires: FATF, GAFILAT, 2018, 29 <https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Mexico-2018.pdf>.

26 Colombia Financial Sector Assessment Program Report on The Observance Of Standards And Codes—FATF Recommendations For Anti-Money Laundering And Combating The Financing Of Terrorism, p.27.

	 BRAZIL	 MEXICO	 CHILE	 ARGENTINA	 COLOMBIA
<b>National Risk Assessment</b>	<p>Brazil, in its 2021 NRA, classifies investment funds as posing a medium risk for ML. This classification however does not distinguish the risk between private and public investment funds.</p> <p>The main vulnerability identified was the challenges around identifying the beneficial owner, which was of particular concern with non-resident investors.</p> <p>Another vulnerability highlighted was that service providers in this space are still nascent and have not had their AML/CFT infrastructure tested, nor have they been subject to supervisory exams by the regulator.<sup>27</sup></p> <p>This suggests that the risk with private investment funds (PIFs) would be greater because there is less disclosure by comparison.</p>	Not mentioned as a vulnerability.	Technical issues with beneficial ownership identified as a risk but risks within investment funds not raised. <sup>28</sup>	The size of the market at present appears to be too small to constitute a risk.	<p>The Colombian NRA makes the argument that the nature of investment funds itself make them a low money laundering risk.</p> <p>The assessment draws the conclusion that money launderers are primarily interested in quick returns and the longer lock-in period would dissuade money launderers. This is an echo of positions adopted in the U.S.</p> <p>However, the FBI leak referenced in this report proves that is not always the case.<sup>29</sup></p>
<b>Regulator</b>	Comissão de Valores Mobiliários (CVM) is the authority responsible for supervising investment funds in accordance with Law 10313/2001. <sup>30</sup>	<i>Comisión Nacional Bancaria y de Valores</i> (CNBV) <sup>31</sup>	<i>Unidad de Analisis Financiero</i> (UAF) (Financial Analysis Unit)	<i>Comisión Nacional de Valores</i> (CNV) (National Securities Commission)	<i>Superintendencia Financiera de Colombia</i> (SFC), otherwise referred to as the office of the Financial Superintendent of Colombia

TABLE CONTINUED ON NEXT PAGE

27 “EXECUTIVE SUMMARY NATIONAL RISK ASSESSMENT: Brazil 2021.” Conselho de Controle de Atividades Financeiras & Banco Central do Brasil, 2021, 2. [https://www.gov.br/coaf/pt-br/centrais-de-conteudo/publicacoes/avaliacao-nacional-de-riscos/4-1\\_executive-summary-national-risk-assessment\\_ing.pdf](https://www.gov.br/coaf/pt-br/centrais-de-conteudo/publicacoes/avaliacao-nacional-de-riscos/4-1_executive-summary-national-risk-assessment_ing.pdf).

28 “Mutual Evaluation Report of the Republic of Chile.” Buenos Aires: GAFILAT, September 2021. [https://www.uaf.cl/ArchivoEstatico/Mutual\\_Evaluation\\_Report\\_of\\_Chile.pdf](https://www.uaf.cl/ArchivoEstatico/Mutual_Evaluation_Report_of_Chile.pdf)

29 Colombian National Risk Assessment, 2019, p.33.

30 “Home.” Comissão de Valores Mobiliários. Ministério da Economia do Governo do Brasil. Accessed November 10, 2022. <https://www.gov.br/cvm/en>; “Mutual Evaluation Report: Federative Republic of Brazil.” GAFISUD & FATF, June 25, 2010, 102 <https://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20Brazil%20full.pdf>; “Alternative Investment Funds Laws and Regulations Report 2022 Brazil.” International Comparative Legal Guides International Business Reports. Global Legal Group. Accessed November 10, 2022, p.102. <https://iclg.com/practice-areas/alternative-investment-funds-laws-and-regulations/brazil>.

31 Regulates investment advisors through article LMV/226 Bis under the DCGAI and Investment Funds through article LFI/91 under DCGFI regulations; “Anti-Money Laundering and Counter-Terrorist Financing Measures: Mexico, Mutual Evaluation Report.” Buenos Aires: FATF, GAFILAT, 2018, 162. <https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Mexico-2018.pdf>.

	 BRAZIL	 MEXICO	 CHILE	 ARGENTINA	 COLOMBIA
<b>AML regulation</b>	<p>Brazilian-formed private investment funds are required to be registered with the CVM.<sup>32, 33</sup></p> <p>Because Brazil is home to the largest share of the PIF market in Latin America, the sector is more regulated than other markets in the region.</p> <p>However, there appears to be no AML/CFT due diligence requirements for these funds. PIFs are required to disclose their beneficial owners right down to the level of the individual in line with revisions the country's beneficial ownership law in 2016.<sup>34</sup> However, there is little data on how well enforcement is being carried out.</p>	<p>Investment funds and Investment advisors are considered financial institutions and subject to AML regulations.</p> <p>As regards investment advisors, CNEV has "a narrower statutory role that does not involve prudential supervision but does include monitoring and ensuring compliance with AML/CFT requirements."<sup>35</sup></p>	<p>Under AML Law Act (Law No: 19,913) General Fund Managers are required to comply with AML/CFT requirements.<sup>36</sup></p> <p>However, private investment funds can also be managed by unlisted fund managers who are not subject to UAF's AML/CFT requirements.<sup>37</sup></p> <p>In 2017, UAF issued General Instruction No:57 that requires General Fund Managers to "identify, independently verify and record supporting evidence as to their clients' ultimate beneficial ownership."<sup>38</sup></p>	<p>Private equity (PE) funds lack a specific regulatory framework in Argentina.</p> <p>Therefore, the laws and regulations applicable to companies and mergers and acquisitions transactions apply to private investment funds.<sup>39</sup></p> <p>Most private investment funds investing in Argentina are created offshore.<sup>40</sup></p> <p>In Argentina, the promoter, principals, and manager of the fund typically do not require a licence unless the fund plans to make public offering.<sup>41</sup></p>	No AML regulation in place.

TABLE CONTINUED ON NEXT PAGE

32 INSTRUÇÃO CVM Nº 555, DE 17 DE DEZEMBRO DE 2014, <https://conteudo.cvm.gov.br/export/sites/cvm/legislacao/instrucoes/anexos/500/inst555.pdf>; Mileski, André, and Gustavo Paes. "Alternative Investment Funds Laws and Regulations Report 2022 Brazil." International Comparative Legal Guides International Business Reports. Global Legal Group. Accessed November 10, 2022. <https://iclg.com/practice-areas/alternative-investment-funds-laws-and-regulations/brazil>.

33 Fundos de Investimento em Participações (Private equity and venture capital), Fundos de Investimento Imobiliário (real estate) and Fundos de Investimento Multimercado (hedge funds). Mileski, André, and Gustavo Paes. "Alternative Investment Funds Laws and Regulations Report 2022 Brazil." International Comparative Legal Guides International Business Reports. Global Legal Group. Accessed November 10, 2022. <https://iclg.com/practice-areas/alternative-investment-funds-laws-and-regulations/brazil>.

34 Under Brazilian law, the ultimate beneficial owner is a "natural person who ultimately, directly or indirectly possesses, controls or significantly influences the entity" or someone "on whose behalf a transaction is conducted." The law defines "significant influence" as directly or indirectly holding more than 25 percent of the entity's capital or directly or indirectly holding control in board deliberations and holding the power to elect the majority of entity administrators. "Brazil's New Normative: Ultimate Beneficial Owner Reporting." Vistra. Vistra, June 27, 2018. <https://www.vistra.com/insights/brazils-new-normative-ultimate-beneficial-owner-reporting>.

35 "Anti-Money Laundering and Counter-Terrorist Financing Measures: Mexico, Mutual Evaluation Report." Buenos Aires: FATF, GAFI, 2018, 193. <https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Mexico-2018.pdf>

36 <https://www.bcn.cl/leychile/navegar?idNorma=219119>; Eyzaguirre, Cristián, Francisco Guzmán, and Andrés Latorre. "Alternative Investment Funds Laws and Regulations Report 2022 Chile." International Comparative Legal Guides International Business Reports. Global Legal Group, 2022. <https://iclg.com/practice-areas/alternative-investment-funds-laws-and-regulations/chile>.

37 "Biblioteca Del Congreso Nacional: Ley Chile." Ley Chile. Biblioteca del Congreso Nacional. Accessed November 29, 2022. <https://www.bcn.cl/leychile/navegar?idNorma=219119>; Eyzaguirre, Cristián, Francisco Guzmán, and Andrés Latorre. "Alternative Investment Funds Laws and Regulations Report 2022 Chile." International Comparative Legal Guides International Business Reports. Global Legal Group, 2022. <https://iclg.com/practice-areas/alternative-investment-funds-laws-and-regulations/chile>.

38 Ibid.

39 "Private Equity Investments in Argentina." Financier Worldwide. Financier Worldwide, September 2016. <https://www.financier-worldwide.com/private-equity-investments-in-argentina#.Y2LCUEzMK3A>.

40 Ibid.

41 Ibid.

	 BRAZIL	 MEXICO	 CHILE	 ARGENTINA	 COLOMBIA
<b>Fund structures used</b>	<p>In Brazil, PIFs are structured as “special unincorporated pools of assets.” Brazilian-formed PIFs are not set up as companies, partnerships, or trusts as is the general international practice.<sup>42</sup> Because of this, PIFs are not considered under Brazilian law as separate legal entities.<sup>43</sup> In essence, there is no “corporate veil” that must be pierced to identify the investors of a fund.<sup>44</sup> Because Brazilian law does not permit funds to be structured as legal entities, umbrella funds with sub-fund structures are organized as contractual agreements.<sup>45</sup> However, final investments are made through legal entities.</p> <p>It should be additionally noted that Brazil has more disclosure requirements including registration requirements for investments funds. There are requirements on beneficial ownership; however they do not drill down to the individual.</p>	<p>Private equity investment trusts (<i>Fideicomiso de Inversión de Capital Privado</i>) (FICAP) are typically used when forming a local Mexican fund.<sup>46</sup></p> <p>International investors invest primarily through offshore vehicles.<sup>47</sup></p>	<p>Funds in Chile do not have a separate legal personality.<sup>48</sup></p> <p>Funds are structured as a pool of assets. It is atypical to have sub-funds in Chile and there are restrictions to prevent a fund of fund structure.<sup>49</sup></p>	<p>Local PE funds are generally structured as foreign limited partnerships.</p> <p>These partnerships usually create offshore special purpose vehicles in certain jurisdictions that allow for efficient tax planning.<sup>50</sup></p>	<p>The structure of PIFs in Colombia is generally in line with international practices and adopts a general partner and limited partner structure.</p> <p>Additionally, in Colombia, the fund must also have a <i>sociedad administradora</i> (i.e., a locally registered and regulated administrative entity).</p> <p>The <i>sociedad administradora</i> functions as the fund's legal representative.<sup>51</sup></p>

42 “INSTRUÇÃO CVM Nº 555, DE 17 DE DEZEMBRO DE 2014 .”; Mileski, André, and Gustavo Paes. “Alternative Investment Funds Laws and Regulations Report 2022 Brazil.”

43 Ibid.

44 Ibid.

45 “INSTRUÇÃO CVM Nº 555, DE 17 DE DEZEMBRO DE 2014 .”; “Alternative Investment Funds Laws and Regulations Report 2022 Brazil.” International Comparative Legal Guides International Business Reports. Global Legal Group. Accessed November 10, 2022. <https://iclg.com/practice-areas/alternative-investment-funds-laws-and-regulations/brazil>.

46 Goebel, Hans P., Damien G. Scott, Philip T. von Mehren, and Héctor Arangua. “Mexico Private Equity Policy Overview.” LAVCA. LAVCA, February 8, 2016. <https://lavca.org/public-policy/mexico-private-equity-policy-overview/>.

47 Private equity investment into Mexico use Ontario and Quebec partnerships as well as Dutch B.V.s as the immediate owner of the equity of a Mexican portfolio company. Although Mexico does have a vehicle like a Delaware or Cayman Islands partnership, international funds still invest into Mexico through offshore vehicles. Goebel, Hans P., Damien G. Scott, Philip T. von Mehren, and Héctor Arangua. “Mexico Private Equity Policy Overview.”

48 Eyzaguirre, Cristián, Francisco Guzmán, and Andrés Latorre. “Alternative Investment Funds Laws and Regulations Report 2022 Chile.” International Comparative Legal Guides International Business Reports. Global Legal Group, 2022. <https://iclg.com/practice-areas/alternative-investment-funds-laws-and-regulations/chile>.

49 Ibid.

50 “Private Equity Investments in Argentina.” *Financier Worldwide*. Financier Worldwide, September 2016. <https://www.financier-worldwide.com/private-equity-investments-in-argentina#.Y2LCUEzMK3A>.

51 Morcillo, Luis Gabriel, Lyana Isabella Antonietta De Luca Ruiz, Philip T von Mehren , and Damien G Scott. “Colombia Private Equi-

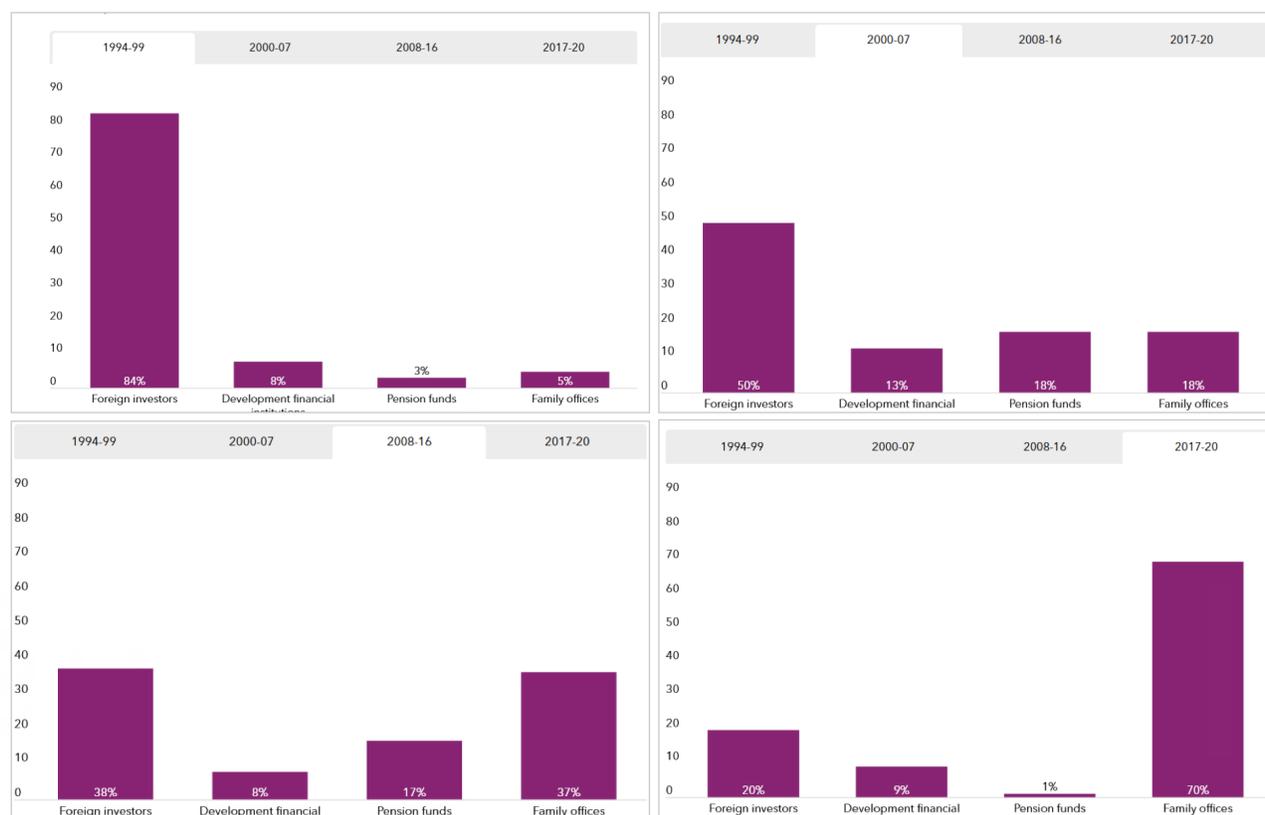
## SPOTLIGHT ON BRAZIL AND “FAMILY OFFICES”

Brazil remains the LAC region’s largest private investment market. Preqin data estimates reveal that around US\$38 billion, or 44 percent of total Latin America-based AUM, is concentrated in Brazil (Figure 7). From a money laundering standpoint, a particularly interesting trend that has emerged in the Brazilian private investment fund space is the share of family offices in overall investments.<sup>52</sup>

Between 1994 - 1999, family offices only accounted for five percent of PE investments in Brazil, while foreign investors were responsible for 84 percent of PE investments. Over two decades later, family offices in Brazil now account for 70 percent of PE investments.

FIGURE 7

Growth of Family Office Share in Brazilian PE Investments (1994 - 2020)



Source: *Spectra Investments*.<sup>53</sup>

ty Policy Overview.” LAVCA. LAVCA, February 8, 2016. <https://lavca.org/public-policy/colombia-policy-overview/>.

52 This is because family offices are primarily regarded as extensions of private individuals, designed to manage personal wealth instead of external investors. Botha, Francois. “Family Office Regulation and What the Pandora Papers Reveal about Rising Reputational Risks.” *Forbes Magazine*, October 18, 2021. <https://www.forbes.com/sites/francoisbotha/2021/10/15/family-office-regulation-and-what-the-pandora-papers-reveal-about-rising-reputational-risks/?sh=72083709374b>.

53 Baruch, Michael. “Family Offices Now Make up the Bulk of Brazilian Fund Investment.” *Private Equity International*, July 28, 2022. <https://www.privateequityinternational.com/family-offices-now-make-up-the-bulk-of-brazilian-fund-investment/>.

The unregulated nature of these funds makes them a particularly useful vehicle to mask proceeds of corruption or money laundering. For instance, in 2019, Jahangir Hajiyevev, chairman of Azerbaijan's largest bank, along with his wife, was reported to have used a family office to make investments to mask their lavish lifestyle in the UK. Even though Mr. Hajiyevev earned an annual salary of just US\$70,650, he bought a US\$14.3 million townhouse in London and a golf course valued at over US\$11 million near Ascot, the famous racecourse. Hajiyevev and his wife also purchased a Gulfstream jet for US\$42.5 million.<sup>54</sup> This was in addition to the 35 credit cards his wife used to shop for designer clothes, jewellery etc.<sup>55</sup> The couple were able to mask their spending through a wealth management firm, Trident Trust, and multi-family office Werner Capital, both of which helped the couple set up companies in the Chanel Islands and in Britain that hid ownerships of their various assets.<sup>56</sup>

In Brazil, expert analysis revealed that 50 of the more established family offices have between US\$300 million to US\$500 million in assets. Most Brazilian family offices are based in São Paulo, while the remainder are based in Rio de Janeiro, Belo Horizonte, and Curitiba.<sup>57</sup> Brazilian family offices previously only invested 5 – 10 percent of their portfolio overseas. More recently, the trend has shifted, and experts reveal that 50 – 60 percent of the family offices' portfolio is invested abroad.<sup>58</sup> What complicates the money laundering and financial traceability risk is that sophisticated family offices invest directly with managers outside of Brazil in order to access investment structures found in the Cayman Islands or Delaware, which would give them additional protection and investment opportunities while also reducing scrutiny.<sup>59</sup>

This raises concerns about the ability of Brazilian regulators to recognize the magnitude of the flow of investments and raises the threat of risky Brazilian funds entering the international financial system while being domiciled elsewhere. The absence of full AML/CFT due diligence requirements and beneficial ownership disclosure requirements in Brazil makes this a particularly challenging hurdle to traverse. At the same time, it should also be noted that Brazil has more extensive reporting requirements for family offices than there exist in the U.S. This includes registering with the CVM and submitting disclosures. However, these requirements fall short of full AML/CFT due diligence.

However, when the same family offices invest outside of Brazil where there are no requirements on registration or AML/CFT due diligence like in the U.S., the risks increase manifold. For instance, XP, a Brazilian investment management company, set up a desk in Miami to help wealthy Brazilian families with more US\$5.7 million in investable assets.<sup>60</sup> The firm provides brokerage and investment services to more than 120 family offices in Brazil, and at the time of reporting, 52 had already signed to access the Miami desk.<sup>61</sup> These developments are particularly interesting in the context of the larger business environment in Brazil that has seen three consecutive presidents rocked by cor-

54 Robinson, Edward, and Gavin Finch. "Dirty Money Spotlights Role of Family Offices as Enablers." [Bloomberg.com](https://www.bloomberg.com/news/features/2019-07-30/dirty-money-spotlights-role-of-family-offices-as-enablers). Bloomberg, July 30, 2019. <https://www.bloomberg.com/news/features/2019-07-30/dirty-money-spotlights-role-of-family-offices-as-enablers>.

55 Ibid.

56 Ibid.

57 Barreto, Sergio. "Alts Filling a Huge Gap for Brazilian Family Offices." Alternatives Watch. Alternatives Watch, November 13, 2020. <https://www.alternativeswatch.com/2020/10/26/alts-filling-a-huge-gap-for-brazilian-family-offices/>.

58 Ibid.

59 Ibid.

60 Ibid.

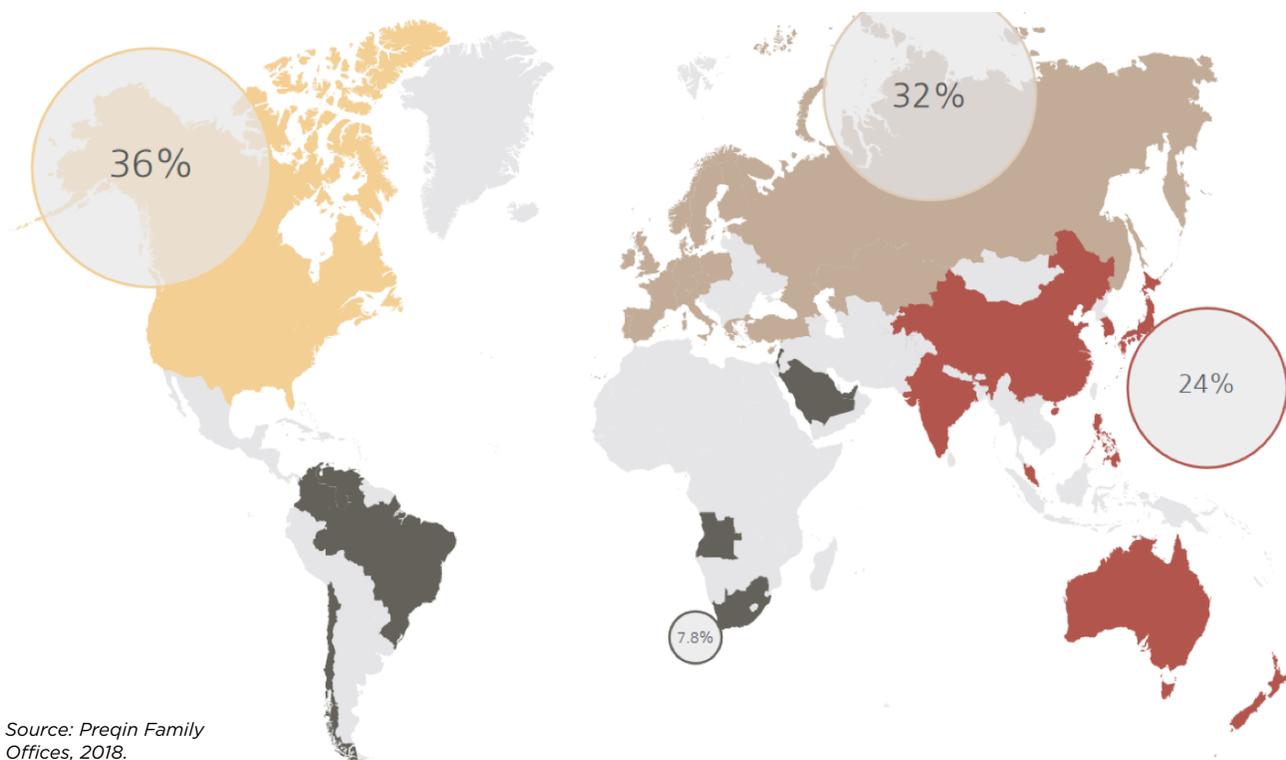
61 Ibid.

ruption scandals.<sup>62</sup> Many of these scandals reveal an entrenched system of patronage and oligopoly more largely within the Latin American economy and raise concerns about the movement of capital without regulatory oversight and weak or absent AML enforcement in the contexts of both Brazil and the United States.<sup>63</sup>

Finally, with family offices, there appear to be clear incentives for these investment vehicles to be headquartered outside of their home jurisdictions where there may be a larger pool of financial advisors and of opportunities for investment. Thus, the location of family offices provides scant detail on the origin of the funds. The Azerbaijani case above, for instance, involved a family office set up in Europe even though the tainted funds were from Azerbaijan. Amongst the different countries featured in this report, Brazil has a more sophisticated investment environment and we can track the presence of family offices in the country. But for ultra-high-net-worth individuals (UHNWIs) in other parts of the region, it is just as easy to set up investment structures in the US or Europe, thereby migrating the risk of these funds to foreign financial centres.

**FIGURE 8**

Location of Family Offices



Source: Preqin Family Offices, 2018.

62 Watts, Jonathan. "Operation Car Wash: The Biggest Corruption Scandal Ever?" The Guardian. Guardian News and Media, June 1, 2017; Brito, Ricardo. "Brazil Former Presidents Lula and Rousseff Charged in Corruption Case." Reuters. Thomson Reuters, September 6, 2017. <https://www.reuters.com/article/us-brazil-corruption-idUSKCN1BH013>; "Michel Temer: Brazil Ex-President Arrested in Corruption Probe." BBC News. BBC, March 21, 2019. <https://www.bbc.com/news/world-latin-america-47657159>.

63 Colonnelli, Emanuelle, and Edoardo Teso. "Does Patronage Still Play a Role in the Public Sector?" VoxDev. VoxDev. Accessed November 29, 2022. <https://voxdev.org/topic/institutions-political-economy/does-patronage-still-play-role-public-sector>; Teso, Edoardo. "Jobs for Votes: RDD Evidence on Patronage in Brazilian Public Sector Hiring: Guest Post by Edoardo Teso." World Bank Blogs. World Bank, November 28, 2017.

Globally, the US accounts for 32 percent of all family offices with 708 headquartered there. After the US, 13 percent of family offices are based in Austria, Germany, and Switzerland.<sup>64</sup> Germany, Europe's largest economy, has 163 family offices which account for 7.3 percent of the global total. Switzerland hosts 148 family offices (6.6 percent), including the largest multi-family office, Zurich-based UBS Global Family office, with AUM of \$226bn. Therefore, to accurately understand the money laundering risks of these investment funds, it is necessary to look outward.<sup>65</sup>

---

64 Prequin Family Offices, 2018.

65 Ibid.

## *Case Studies of Money Laundering and Corruption Using Private Investment Funds*

The leaked FBI bulletin and subsequent research on the money laundering risks in private investment funds established that criminals also operate as sophisticated businessmen and look towards the long-term horizons when investing their ill-gotten gains. At the same time, both those documents reveal that illicit actors look to global financial centers to protect their assets. So, while it is true that for most of the Latin American countries featured in this report the domestic private investment fund risks do not appear to be significant due to the small size of the markets, the risks to international private investment fund markets are real and provide proof of the ease through which illicit capital migrates. A previous report showed that the 1MDB corruption scandal that involved US\$1 billion stolen from Malaysia was routed through private investment funds in the British Virgin Islands and Curacao.<sup>66</sup> Similarly, a previous report by Global Financial Integrity analyzed the case of Sefira LLC, a boutique real estate investment company based in Florida that helped a Latin American drug cartel launder millions of dollars through the black market peso exchange.<sup>67</sup> Similarly, in a report published by the FATF on the money laundering and terrorist financing risks in the securities sector, several money laundering cases involved companies from Central America and a drug trafficking organization from South America that were utilizing the Canadian securities market to launder their proceeds. These cases and others that are discussed below demonstrate that money laundering risks to private investment funds from illicit money originating in Latin America exist. However, these risks appear to be primarily concentrated overseas, with some risks, especially in the Brazilian context, present domestically.

### **CASE 1**

## **INVESTMENT FUND TIED TO BRAZILIAN BILLIONAIRE JOESLEY BATISTA TO BE FINED US\$1.3 BILLION FOR INVOLVEMENT IN MONEY LAUNDERING, FRAUD, AND CORRUPTION**

In 2021, Brazil's three largest meat companies made close to US\$94 billion.<sup>68</sup> The largest share of these profits belonged to JBS, a company founded by José Batista Sobrinho in 1957.<sup>69</sup> The company in its early days supplied meat to construction workers but quickly grew to become the largest meat packing company in the world. In 2021, JBS made US\$64 billion, accounting for 68 percent of the total revenue amongst Brazil's top three meat companies. The company, like many other large

66 Hanichak, Erica, Lakshmi Kumar, and Gary Kalman. "Private Investments, Public Harm: How the Opacity of the Massive U.S. Private Investment Industry Fuels Corruption and Threatens National Security." Global Financial Integrity. Global Financial Integrity, December 1, 2021. <https://gfintegrity.org/report/private-investments-public-harm-how-the-opacity-of-the-massive-u-s-private-investment-industry-fuels-corruption-and-threatens-national-security/>.

67 Kumar, Lakshmi, and Kaisa de Bel. "Acres of Money Laundering: Why U.S. Real Estate Is a Kleptocrat's Dream." Washington, D.C.: Global Financial Integrity, August 2021.

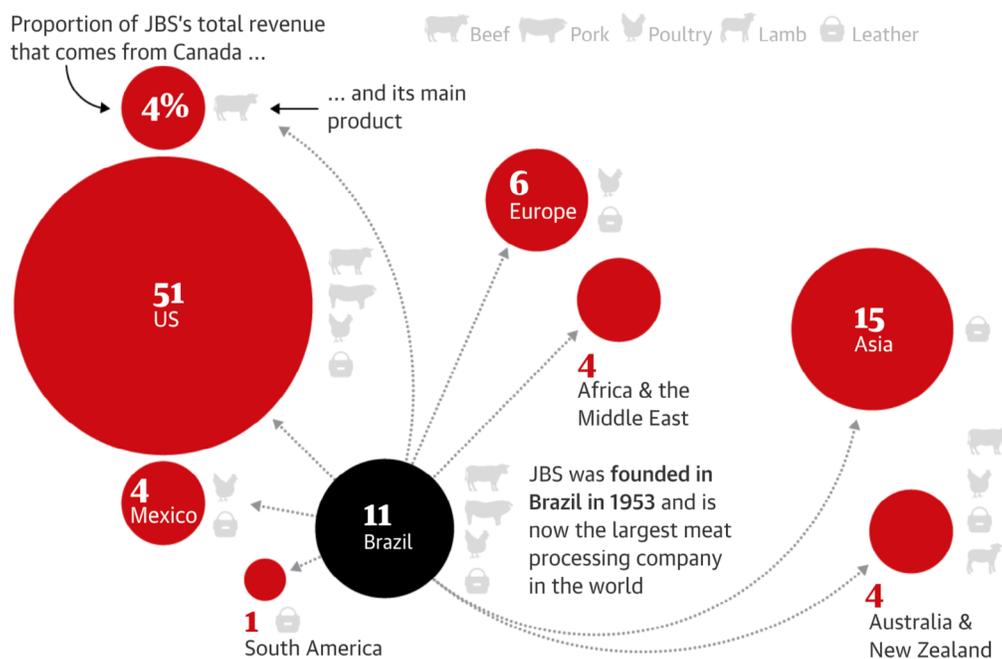
68 Ashford, Moyra, and Sue Branford. "Foreign Capital Powers Brazil's Meatpackers and Helps Deforest the Amazon." Mongabay Environmental News. Mongabay Environmental News, June 27, 2022. <https://news.mongabay.com/2022/06/foreign-capital-powers-brazils-meatpackers-and-helps-deforest-the-amazon/>.

69 "Brazil's Batista Clan: A Short Guide to an Empire Built on Beef." Drovers. Drovers, May 19, 2017. <https://www.drovers.com/markets/brazils-batista-clan-short-guide-empire-built-beef>.

businesses in Brazil, is closely controlled by the founding family which is estimated to hold over 40 percent of the shares.<sup>70</sup> From its humble beginnings, the family has expanded its business holdings and, under its main investment arm J&F Investimentos, S.A. (“J&F”), owns approximately 250 companies in 30 countries worldwide,<sup>71</sup> including significant investments in the United States.<sup>72</sup> Sao Paulo-based J&F is a private investment company wholly-owned by brothers Wesley Batista and Joesley Batista. According to the company’s website, this makes it Brazil’s largest private conglomerate, controlling companies with a combined revenue of US\$52 billion in 2015.<sup>73</sup> The firm has investments in agribusiness, manufacturing, marketing and sales, electricity generation, waste management, real estate, and publishing.<sup>74</sup>

FIGURE 9

## JBS Global Revenue Pie



Source: *The Guardian*.<sup>75</sup>

In 2017, Joesley Batista was arrested as part of a headline-grabbing investigation into corruption of Brazilian officials at the highest levels of government. As part of a plea deal, the brothers agreed

70 Bautzer, Tatiana, and Guillermo Parra-Bernal. “Exclusive: Brazil’s JBS and Controlling Family Asked Bradesco to Find Buyers for Assets - Sources.” Reuters. Thomson Reuters, May 23, 2017. <https://www.reuters.com/article/us-brazil-corruption-jbs-divestiture-exc/exclusive-brazils-jbs-and-controlling-family-asked-bradesco-to-find-buyers-for-assets-sources-idUSKBN18J2VU>.

71 “J&F Investimentos SA - Company Profile and News.” *Bloomberg.com*. Bloomberg. Accessed November 10, 2022. <https://www.bloomberg.com/profile/company/983577Z:BZ#xj4y7vzkg>.

72 “ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER: In the Matter of J&F INVESTIMENTOS, S.A. JBS, S.A. JOESLEY BATISTA WESLEY BATISTA.” SECURITIES AND EXCHANGE COMMISSION, October 14, 2020.

73 Bloomberg. “Brazil’s Batista Clan: A Short Guide to an Empire Built on Beef.”

74 “JBS Foods International B.V.” Form F-1 REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933. UNITED STATES SECURITIES AND EXCHANGE COMMISSION, December 5, 2016. <https://www.sec.gov/Archives/edgar/data/1691004/000119312516785274/d304020df1.htm>.

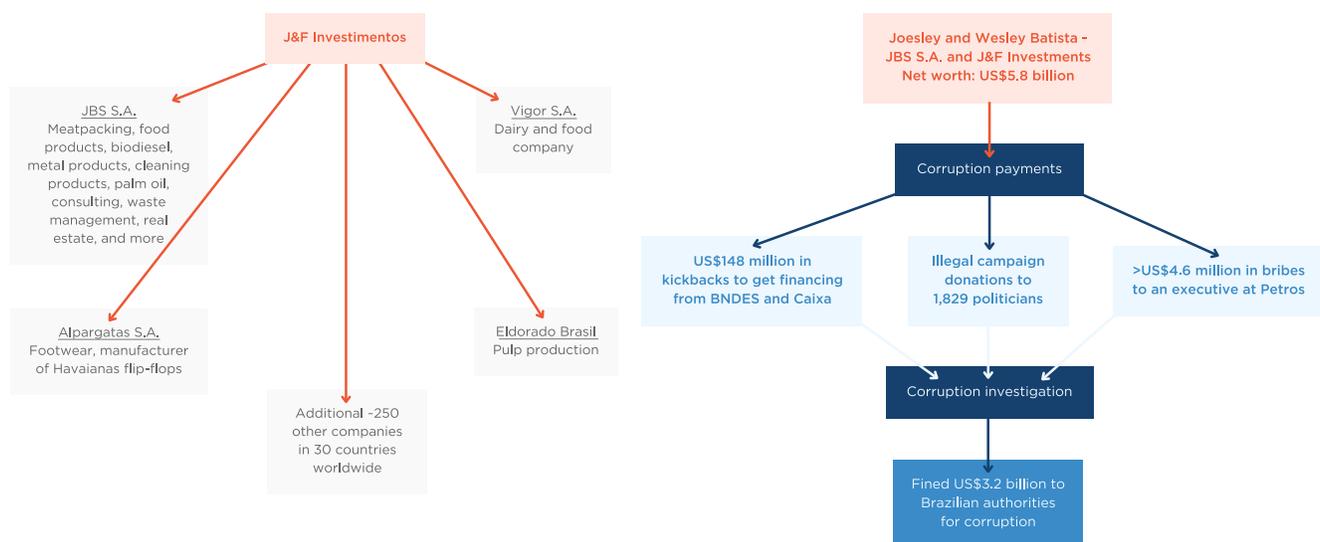
75 Phillips, Dom. “The Swashbuckling Meat Tycoons Who Nearly Brought down a Government.” *The Guardian*. Guardian News and Media, July 2, 2019. <https://www.theguardian.com/environment/2019/jul/02/swashbuckling-meat-tycoons-nearly-brought-down-a-government-brazil>.

to pay a US\$3.2 billion fine to Brazilian authorities because of their role in the corruption scandal. Reports indicated Brazilian prosecutors also sought to fine the investment company over US\$1 billion because, through their corruption scheme, significant contributions were made by the pension funds of state-run oil company Petroleo Brasileiro SA, Petros, and Brazilian State-owned banks to “a timber investment and private equity fund owned by Batista without adequate due diligence and risk analysis.”<sup>76</sup>

The brothers admitted to paying more than US\$148 million in kickbacks to obtain hundreds of millions of dollars in financing from *Banco Nacional de Desenvolvimento Econômico e Social* (BNDES) and *Caixa Econômica Federal* (Caixa), two Brazilian state-owned and state-controlled banks. They also admitted to providing illegal “campaign donations” to 1,829 politicians across all party lines in Brazil.<sup>77</sup> The US Department of Justice (DOJ) also found that J&F paid bribes worth more than US\$4.6 million to a high-ranking executive at the *Fundação Petrobras de Seguridade Social* (Petros), a Brazilian state-controlled pension fund, in exchange for obtaining Petros’s approval for a significant merger that benefited J&F.<sup>78</sup> In furtherance of the bribery scheme, executives at the investment company used “New York-based bank accounts to facilitate and make corrupt payments [and] purchased and transferred a Manhattan apartment as a bribe.”<sup>79</sup>

FIGURE 10

## J&amp;F Investment Corporate Structure and Bribery Scheme



Source: Bloomberg.<sup>80</sup> Author's illustration of case study.

76 “Corrected-Brazil Prosecutors Seek \$1.32 BLN in Fines from Dozens Accused of Crimes.” Reuters. Thomson Reuters, October 25, 2019. <https://www.reuters.com/article/brazil-corruption-idUKL2N27A0P3>.

77 Phillips, Dom. “The Swashbuckling Meat Tycoons Who Nearly Brought down a Government.”

78 “J&F Investimentos S.A. Pleads Guilty and Agrees to Pay over \$256 Million to Resolve Criminal Foreign Bribery Case.” The United States Department of Justice. The United States Department of Justice, October 15, 2020. <https://www.justice.gov/opa/pr/jf-investimentos-sa-pleads-guilty-and-agrees-pay-over-256-million-resolve-criminal-foreign>.

79 Ibid.

80 “J&F Investimentos SA - Company Profile and News.” Bloomberg.com. Bloomberg. Accessed November 29, 2022. <https://www.bloomberg.com/profile/company/983577Z:BZ>.

Since then, the brothers and their investment company have emerged unscathed given that “JBS is worth three times what it was then, operates in 20 countries and controls a quarter of US beef processing. The brothers, worth \$5.8 billion, hold stakes in companies with \$28 billion in assets.”<sup>81</sup> In April 2022, J&F Investments bought Vale mining company’s Brazilian operations which included manganese and iron-ore mines, and logistics operations, worth a total of \$1.2 billion.<sup>82</sup>

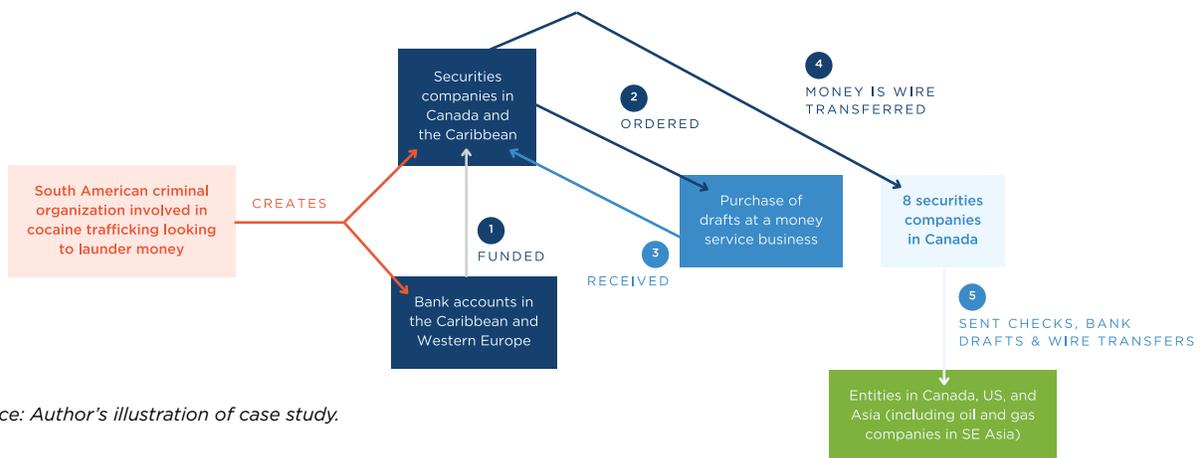
**CASE 2**

**CANADIAN INVESTMENT COMPANIES HELP SOUTH AMERICAN DRUG CARTEL LAUNDER US\$30 MILLION**

According to a FATF report, a South American criminal organization involved in cocaine trafficking set up investment companies in the Caribbean and Canada to launder drug proceeds. Individuals from the criminal organization would purchase drafts at a money service business that were to be paid to the investment company in the Caribbean. The money laundering was related to drug trafficking operations in Western Europe as well as operations which spanned the criminal organization’s drug trafficking operations. Once the money entered the financial system, it was transferred to investment companies in Canada. Over a period of two years, approximately US\$30 million was transferred to these investment companies as well as to companies in the United States and Asia. One such transfer was made to an oil and gas company in Southeast Asia that has changed its names multiple times, was somehow listed on the stock exchange and had been a company that supplied medical equipment, produced music videos and was a wholesale games distributor.<sup>83</sup>

**FIGURE 11**

**Money Laundering Scheme Involving Canadian Investment Companies and Drug Cartels**



Source: Author’s illustration of case study.

81 Marques, Felipe, and James Attwood. “Brazil’s Batista Brothers Are out of Jail and Worth \$6 Billion.” *Bloomberg.com*. Bloomberg, July 15, 2021. <https://www.bloomberg.com/news/articles/2021-07-15/brazil-s-batista-brothers-are-out-of-jail-and-worth-6-billion#x-j4y7vzkg>.

82 Marques, Felipe, and Mariana Duro. “Brazil’s Billionaire Batista Brothers Are Getting into Mining.” *Bloomberg.com*. Bloomberg, April 6, 2022. <https://www.bloomberg.com/news/articles/2022-04-06/brothers-behind-18-billion-meat-empire-are-getting-into-mining>.

83 “Money Laundering and Terrorist Financing in the Securities Sector.” FATF GAFI, October 2009, 37. <https://www.fatf-gafi.org/media/fatf/documents/reports/ML%20and%20TF%20in%20the%20Securities%20Sector.pdf>.

## CASES 3, 4, AND 5: INVESTMENT FUNDS FACILITATE LAUNDERING OF A BILLION DOLLARS OUT OF VENEZUELA

Spanning over three continents and more than twenty culprits, the *Petróleos de Venezuela* (PDVSA) money laundering scheme drained over a billion dollars out of Venezuela's state-owned oil and gas company. The scheme employed a global network of investment professionals who moved the embezzled funds into the U.S. and Europe, hiding their illicit gains through a myriad of financial transactions, fake investment schemes, real estate investment firms and other luxury asset purchases.

The money laundering scam is of particular significance because PDVSA is Venezuela's main income and foreign currency earner, and the scam only deepened the economic crisis in the country. The scheme began in December 2014, with the initial plan involving the embezzlement US\$600 million from PDVSA. However, over the next six months, that money had doubled to \$1.2 billion in embezzled funds.

The PDVSA scheme can be broken down into four distinct steps:

1. Many high-level Venezuelan officials extracted millions of bolivars from PDVSA through siphoning money from the company itself, using their connections to solicit bribes or gaining kickbacks from PDVSA contracts established in conjunction with other private firms and various government ministries.
2. Middlemen funnelled the ill-gotten money through currency exchange houses, known as *casas de bolsas*. To do so, they exploited Venezuela's currency exchange system, which sets a fixed rate of exchange between bolivars and U.S. dollars. This fixed rate was significantly lower than the actual economic exchange rate. According to the US DOJ, in 2014, the Venezuelan government's fixed exchange rate was 6 bolivars for 1 US dollar, when in reality, the true economic exchange rate was 60 bolivars for one dollar. By running the fraudulent money through the *casas de bolsas*, middlemen could receive huge markups in value on the initial illegal funds.
3. Money launderers directed the profits from the *casas de bolsas* into banking institutions around the world, primarily in Andorra, Switzerland, the US, the Cayman Islands, and Panama. In particular, over US\$273 million in a total of 25 different bank accounts at the Swiss bank Credit Suisse have been linked to members involved in the scheme.
4. Money was taken out of offshore bank accounts and poured into real estate properties, fake investment firms and luxury purchases around the world, especially in the Miami, Florida region of the US.

The cases below involve different parts of the PDVSA money laundering scheme and focus on the role of investment funds and investment professionals in helping move the stolen money.

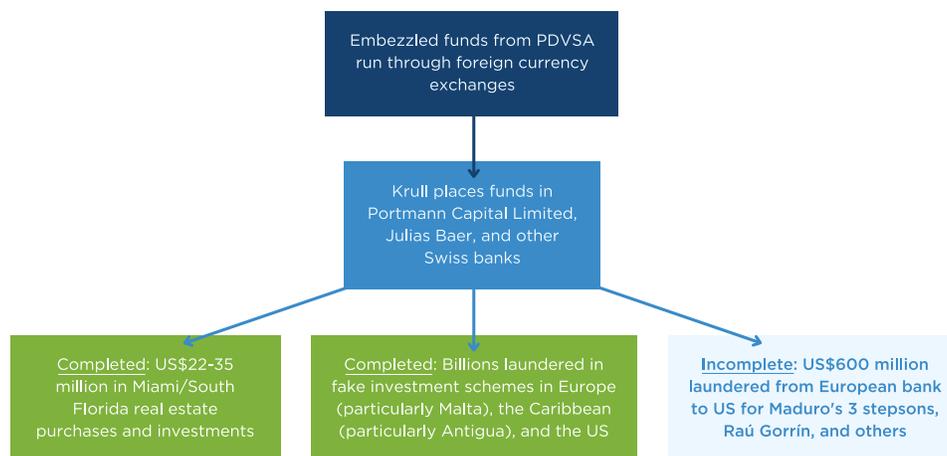
### CASE 3

## SWISS PRIVATE BANKING EXECUTIVE HELPED LAUNDER US\$1.2 BILLION EMBEZZLED FROM VENEZUELAN STATE OIL COMPANY, PETROLEOS DE VENEZUELA (PDVSA)

In 2018, Mathias Krull, the former managing director and vice chairman of Julius Baer, a Swiss private bank, admitted that he helped launder over a billion dollars for his Venezuelan clients. Krull used both real estate in Miami, Florida, and a series of fake investment schemes to conceal the origins of the stolen money. Krull admitted that the laundering operation for such a huge sum of money was made possible because real estate investment firms, money managers, and brokerage firms – both in the United States but also in jurisdictions as far as Malta and Antigua – were complicit.<sup>84</sup> Swiss-owned Portmann Capital Management Limited was the Maltese firm at the center of the scandal.<sup>85</sup>

FIGURE 12

### PDVSA Money Laundering Scheme Involving Swiss Banking Executives



Source: Author's illustration of case study.

### CASE 4

## TOP OFFICIALS FROM SWISS BASED ASSET MANAGEMENT FIRMS HELP LAUNDER MORE THAN US\$200 MILLION STOLEN FROM PDVSA

In addition to Mathias Krull, two other top Swiss private banking executives, Ralph Steinmann and Luis Fernando Vuteff from asset management firm Aquila Swissinvest, helped Venezuelan officials

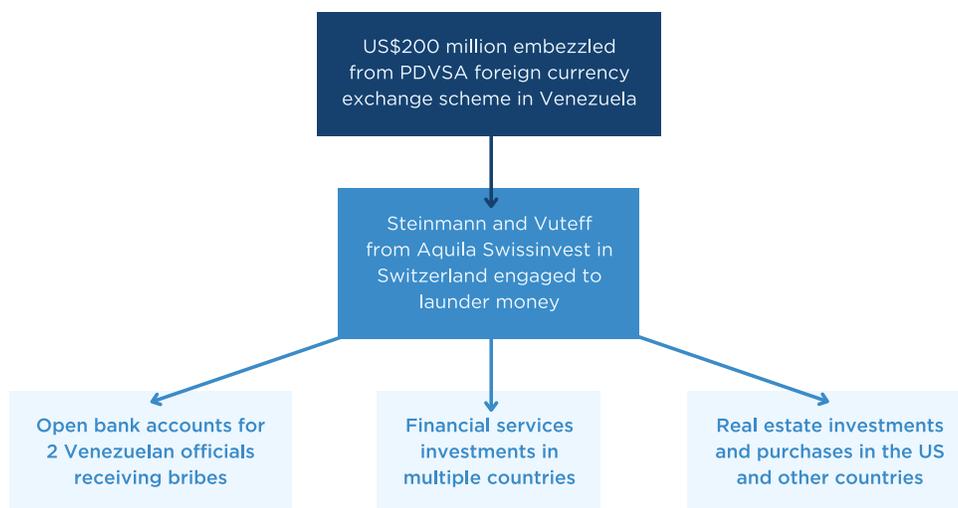
84 Former Swiss Bank Executive Pleads Guilty to Role in Billion-Dollar International Money Laundering Scheme Involving Funds Embezzled from Venezuelan State-Owned Oil Company." The United States Department of Justice. The United States Department of Justice, August 22, 2018. <https://www.justice.gov/opa/pr/former-swiss-bank-executive-pleads-guilty-role-billion-dollar-international-money-laundering>.

85 Ibid.

siphon off more than US\$200 million from PDVSA between 2014 and 2018. The banking executives, fully knowing that the proceeds were from corruption, opened accounts and helped the officials make financial and real estate investments, moving the money from Venezuela to Switzerland, and then onto other locations.<sup>86</sup>

**FIGURE 13**

Swiss Asset Management Firms Money Laundering Scheme for PDVSA



Source: Author's illustration of case study.

## CASE 5

### US CITIZEN HELPS LAUNDER PDVSA FINANCES THROUGH FAKE MUTUAL FUND

Gustavo Adolfo Hernandez Frieri, a US Citizen, used his brokerage firm and private investment fund Global Security Advisors and Global Strategic Investments to help PDVSA's then executive director, Abraham Edgardo Ortega launder his share of the money stolen from PDVSA.<sup>87</sup> The money laundering scheme set up a fake mutual fund which would receive money that on paper looks as though an investment was being made into this new private mutual fund, but in reality, the money would be directed out of the fund on the back-end of the transaction.<sup>88</sup> Gustavo set up the fake mutual fund under the name name Global Securities Trade Finance and it was registered as a Cayman Islands entity. Ostensibly, this fake mutual fund was also named Global Securities because it could pretend to fold itself under the larger umbrella of Gustavo's Global Securities Group, which had operations

<sup>86</sup> Grainger, James. "Argentine Charged with Laundering in US\$1.2-Billion Venezuelan Fraud Case." Buenos Aires Times. BATimes Newspaper, July 13, 2022. <https://www.batimes.com.ar/news/latin-america/argentina-charged-with-money-laundering-in-us12-billion-venezuelan-fraud-case.phtml>.

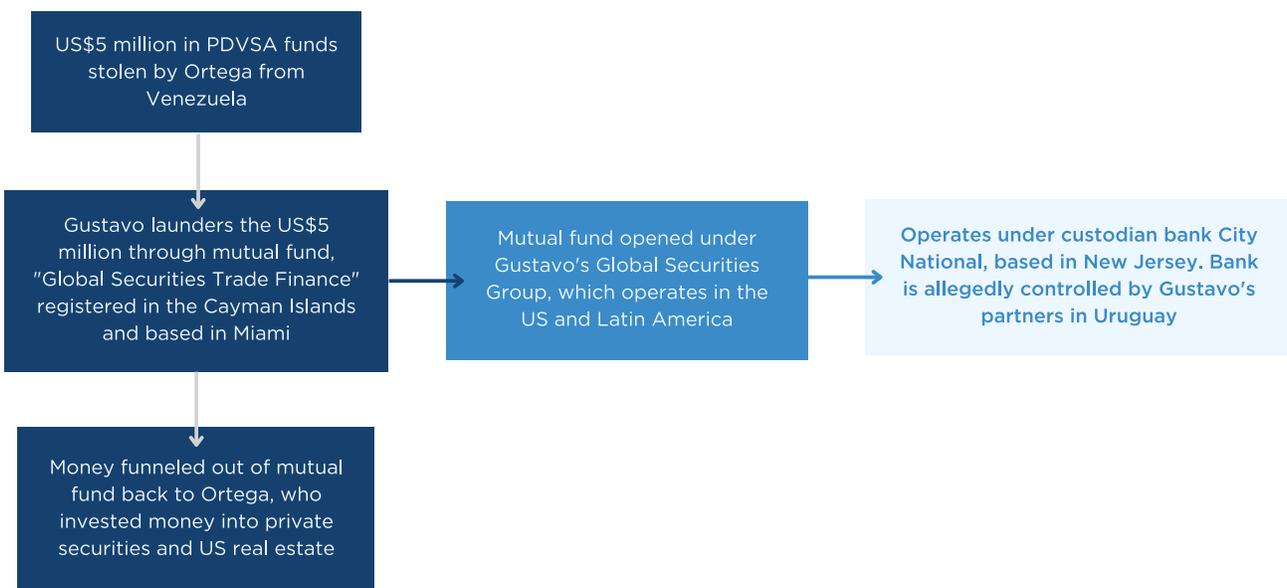
<sup>87</sup> UNITED STATES OF AMERICA v. FRANCISCO CONVIT GURUCEAGA, et al., (UNITED STATES DISTRICT COURT for the Southern District of Florida July 24, 2018), p.16 -17.

<sup>88</sup> Ibid.

in the U.S. but also in Latin America.<sup>89</sup> The custodian bank for Global Securities Trade Finance was a New Jersey based financial institution, City National. Reports indicated that Gustavo allegedly bragged to an informant that City National was “controlled by his partners in Uruguay who have our people in the back.”<sup>90</sup> Reports from the period allege that the financial institution forced out their top compliance officer who had suggested overhauling City National’s AML program. Allegedly, a second employee was fired the previous year after refusing a US\$5 million transaction to a Global Securities account held at City National from a company based in the British Virgin Islands.<sup>91</sup>

**FIGURE 14**

**Money Laundering Scheme by US Citizen to Launder PDVSA Funds Through Fake Mutual Funds**



Source: Author's illustration of case study.

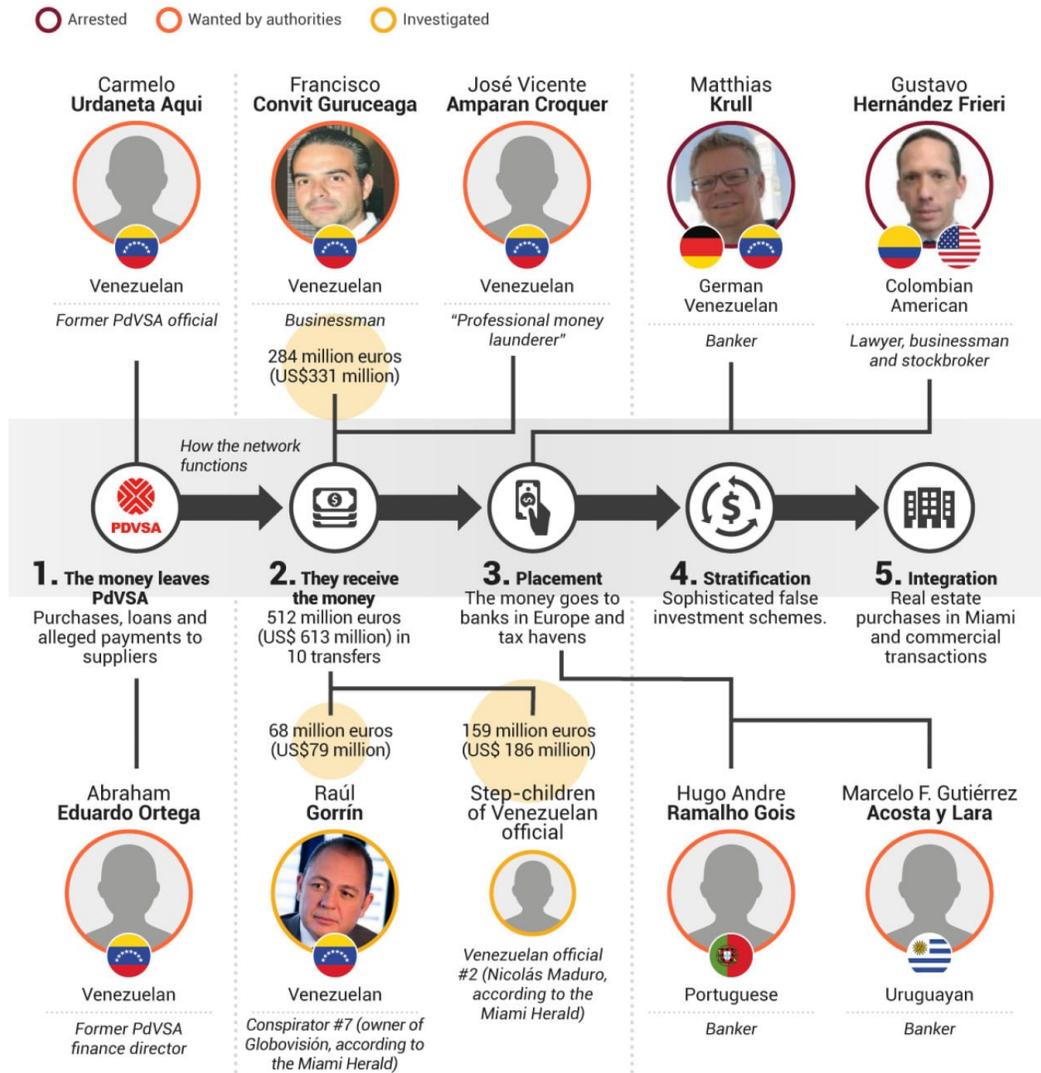
89 Daniela Sirtori-Cortina, Colombian firm to ditch board member embroiled in \$1.2bn money laundering scheme 31 Jul, 2018 <https://citywire.com/americas/news/colombian-firm-to-ditch-board-member-embroiled-in-1-2bn-money-laundering-scheme/a1143082>.

90 Bethencourt, Daniel. "EXCLUSIVE: New Jersey Bank Handled \$20 Million for Firm Tied to Venezuelan Laundering Scheme." [Moneylaundering.com](https://www.moneylaundering.com/news/exclusive-new-jersey-bank-handled-20-million-for-firm-tied-to-venezuelan-laundering-scheme/). ACAMS, July 24, 2019. <https://www.moneylaundering.com/news/exclusive-new-jersey-bank-handled-20-million-for-firm-tied-to-venezuelan-laundering-scheme/>.

91 Ibid. City National Bank was eventually closed, and penalties were given out to Board and staff

FIGURE 15

Partial Network of Actors and Facilitators Involved in the PDVSA Global Money Laundering Scheme



Source: InSight Crime.<sup>92</sup>

CASE 6

US REAL ESTATE INVESTMENT FIRM HELPS LATIN AMERICAN DRUG CARTEL LAUNDER MILLIONS

In January 2021, the U.S. Department of Justice (DOJ) settled a civil forfeiture action against the assets of Sefira Capital LLC, a Florida based boutique real estate investment company, for accepting millions of dollars of narcotics proceeds laundered through the black market peso exchange for in-

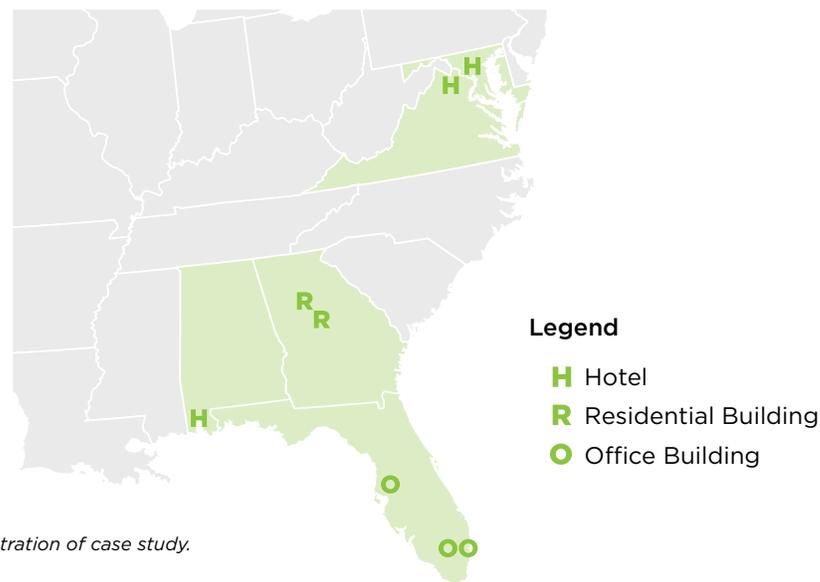
92 Albaladejo, Angelika. "US Charges Point to Rampant Corruption at Venezuela State Oil Company." InSight Crime. InSight Crime, August 1, 2018. <https://insightcrime.org/news/analysis/us-charges-point-to-rampant-corruption-at-venezuela-state-oil-company/>.

vestment in U.S commercial and residential real estate. The DOJ’s complaint alleged that between 2016 and 2019 the U.S. Drug Enforcement Administration (DEA), through an undercover operation, transferred millions of dollars of narcotics proceeds to Sefira’s subsidiaries.<sup>93</sup> Sefira accepted these funds without attempting to identify the owner of the account or the funds. The DEA as part of its undercover operation also funded other Sefira investors’ investments in Sefira. Sefira ignored blatant red flags such as when there was a discrepancy between agreed upon investment amount and the actual invested amount, or when there appeared to be no correlation between the entity sending the amount on behalf of a Sefira investor. The final investigation covered Sefira Capital LLC and 31 subsidiary corporations under it.<sup>94</sup>

The author’s own research found that Sefira invested in eight deals during the period and all its property investments were concentrated in the southeastern United States. The company invested in 3 hotels, 2 residential buildings, and 3 office buildings. Sefira co-invested with two different firms and acquired a residential complex in Atlanta, GA and another one in Locust Grove, Georgia. Similarly, Sefira, in conjunction with other co-investors, acquired two hotels operated by well-reputed hotel chains in Columbia, Maryland and in Falls Church, Virginia. For its third hotel deal, Sefira acquired a portfolio of hotels in Mobile and Daphne, Alabama. Sefira acquired three office buildings in Florida in Tampa, Weston, and in Fort Lauderdale. The majority of the investment destinations did not fall in counties where U.S. laws designed to tackle residential real estate money laundering operated. Even if they did fall under any of those counties because these were investments in commercial real estate, they would not have triggered any reporting requirements under U.S. law.<sup>95</sup>

**FIGURE 16**

Properties Invested in by Sefira Capital, LLC



Source: Preqin and author’s illustration of case study.

93 Kumar, Lakshmi, and Kaisa de Bel. “Acres of Money Laundering: Why U.S. Real Estate Is a Kleptocrat’s Dream.” Washington, D.C.: Global Financial Integrity, August 2021. p. 56.

94 Kumar, Lakshmi, and Kaisa de Bel. “Acres of Money Laundering: Why U.S. Real Estate Is a Kleptocrat’s Dream.”

95 “Preqin Pro: Investors and Fund Managers.” Preqin. Accessed November 10, 2022. <https://pro.preqin.com/fundmanager/232310/dealsAssets>.

## *Conclusion and Recommendations*

The analysis in this report reveals that the migration of illicit finance to private investment funds is something that both Latin America governments and the United States should be aware of and work co-operatively to address. For Latin American law enforcement authorities engaged in asset recovery efforts, it is important to recognize the role that private investment funds and investment advisors play in hiding ill-gotten gains. For destination economies in Europe, Canada, and the United States, it presses the case that adequate AML regulation and supervision is required so that these countries do not continue to facilitate illicit finance risks from the rest of the world. To that end, this report makes the following recommendations:

- Brazilian regulators should pay closer attention to family office architecture and undertake a risk assessment of the sector to determine the best manner in which to tackle money laundering risks.
- As the private investment fund sector continues to develop and grow, the money laundering risks within this sector in Latin America will increase. The Brazilian government, which has the largest assets under management in the region, should be the first to adopt AML regulations that will address future risks when they arise.
- Latin American authorities should look to regulate intermediaries and enabler professions for AML/CFT due diligence as they are critical in allowing illicit money to move through the financial system within the region but also to be invested in private investment funds overseas.
- Destination countries like the United States and Canada which, on the one hand, continue to feel the negative impacts from drug trafficking and corruption in the region, need to prioritize and eliminate loopholes that make them attractive destinations for criminals and money launderers. Both countries remain the only two G7 economies that do not have stringent AML regulations governing private investment funds. Moreover, countries in the European Union need to improve compliance and prioritize supervision of this sector.
- The United States, Switzerland, the Cayman Islands, Malta and other countries within the EU should conduct a robust money laundering risk assessment of their private investment fund sectors.
- Latin American law enforcement authorities involved in corruption, drug trafficking, and organized crime investigations should be provided training on the complexities of private investment funds and the manner in which they can be used to hide illicit assets.