

SULLIVAN & CROMWELL LLP

Latin America *Update*



Santiago, Chile

In This Issue

FIRM DEVELOPMENTS

At the Forefront of Matters throughout Latin America	3
League Table Rankings	6
Recent Recognitions	7

FEATURES

The Largest Latin America M&A Deal of 2017	9
Shareholder Activism	10
Argentina's Central Bank Prevails in Epic Litigation	12
Volaris Class Action Win	17
Top 10 Regulatory Considerations for Executing Consumer and Retail Deals	18
The Blueprint: Project Finance in Latin America	24
KKR Makes Historic Entry into Mexican Oil & Gas Market	30

LAWYER UPDATES

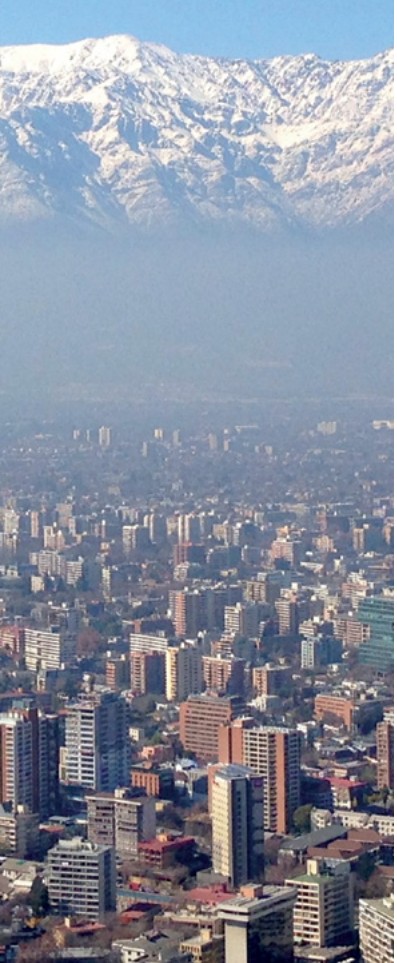
DOJ's Antitrust Chief Joins Sullivan & Cromwell	31
Recent Developments	32
Introducing S&C's New Partners	34

ALUMNI

Alumni Connections	35
S&C's Career and Alumni Resource Center	40

EVENTS

Media & Conferences	41
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Welcome to the second edition of *Latin America Update*, Sullivan & Cromwell's report on recent developments in our practice and the region.

S&C prides itself on a unique Latin America practice. We have, over more than a century of involvement in the region, come to play an integral role in Latin America's economic and legal history.

Our clients in Latin America are negotiating complex and unpredictable changes in the region's political, economic and social realities. *Latin America Update* aims to illuminate and provide additional perspective on these changes and the opportunities they present.

In this edition, we focus on:

- shareholder activism and its unique shape in Latin America
- an epic series of precedent-setting litigation for Argentina's Central Bank
- regulatory issues in executing consumer and retail acquisitions
- the significance of project finance to our practice.

We're also excited to share additional information regarding the practice's recent successes and news about the professionals of our firm.

A stylized, handwritten signature in black ink, appearing to read 'S. Galvis'.

Sergio J. Galvis

A handwritten signature in black ink, appearing to read 'Chris Mann'.

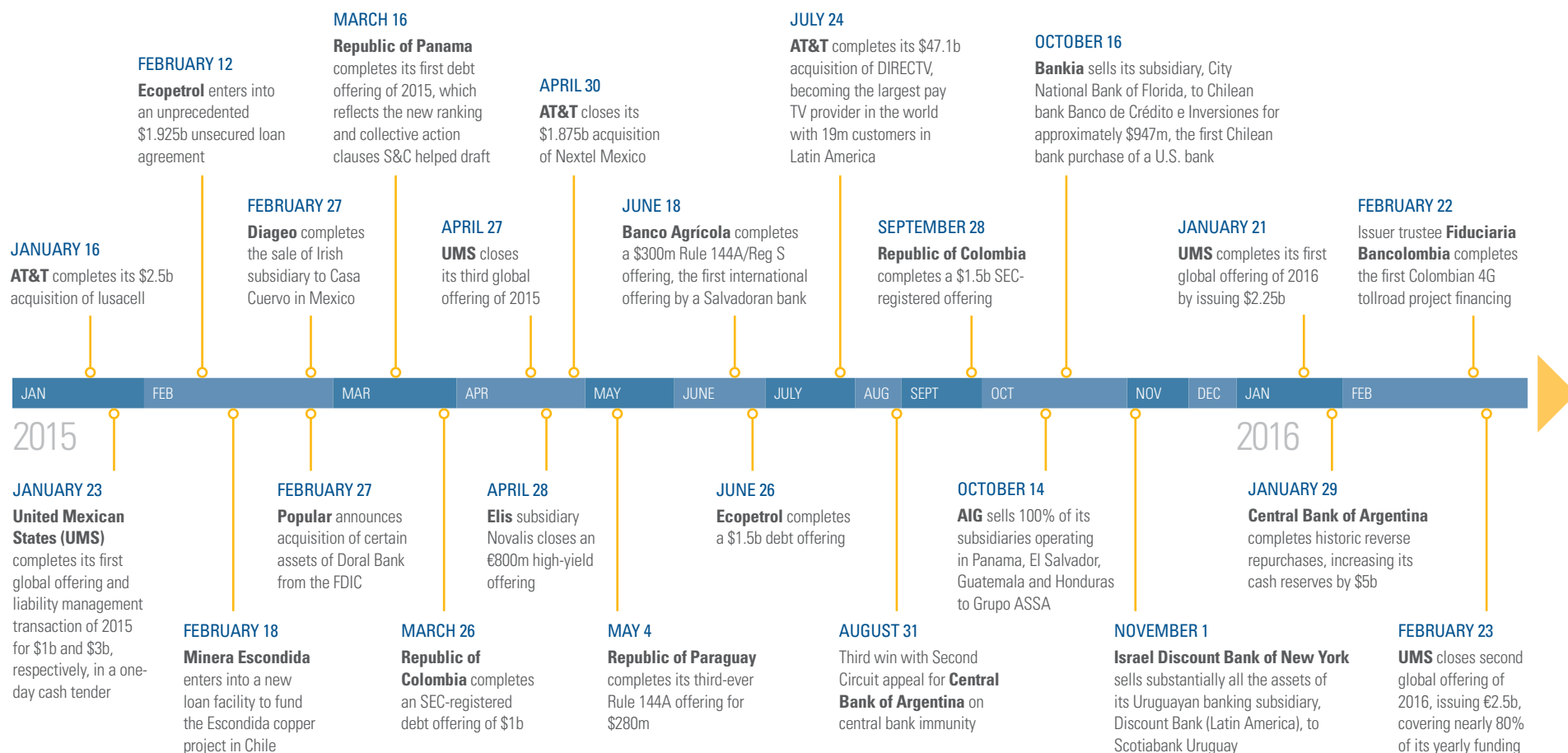
Christopher L. Mann

A handwritten signature in black ink, appearing to read 'W. Ahlers'.

Werner F. Ahlers

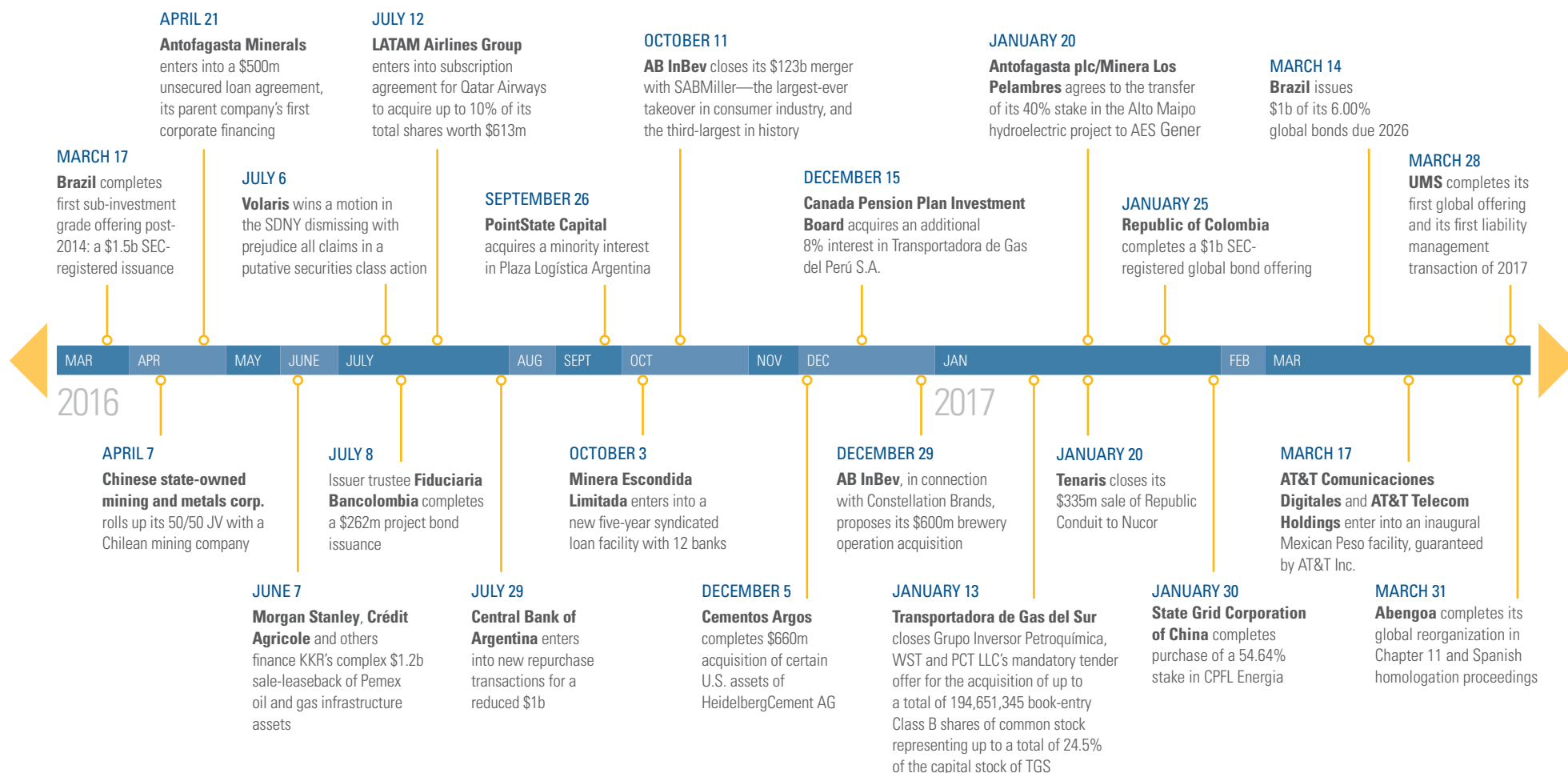
At the Forefront of Matters throughout Latin America

Our Latin America group remains at the forefront of sophisticated, high-profile, and often cross-border, matters in the region. We also continue to advise clients across a wide range of industry sectors, including financial services, pension funds, healthcare, consumer products and natural resources.



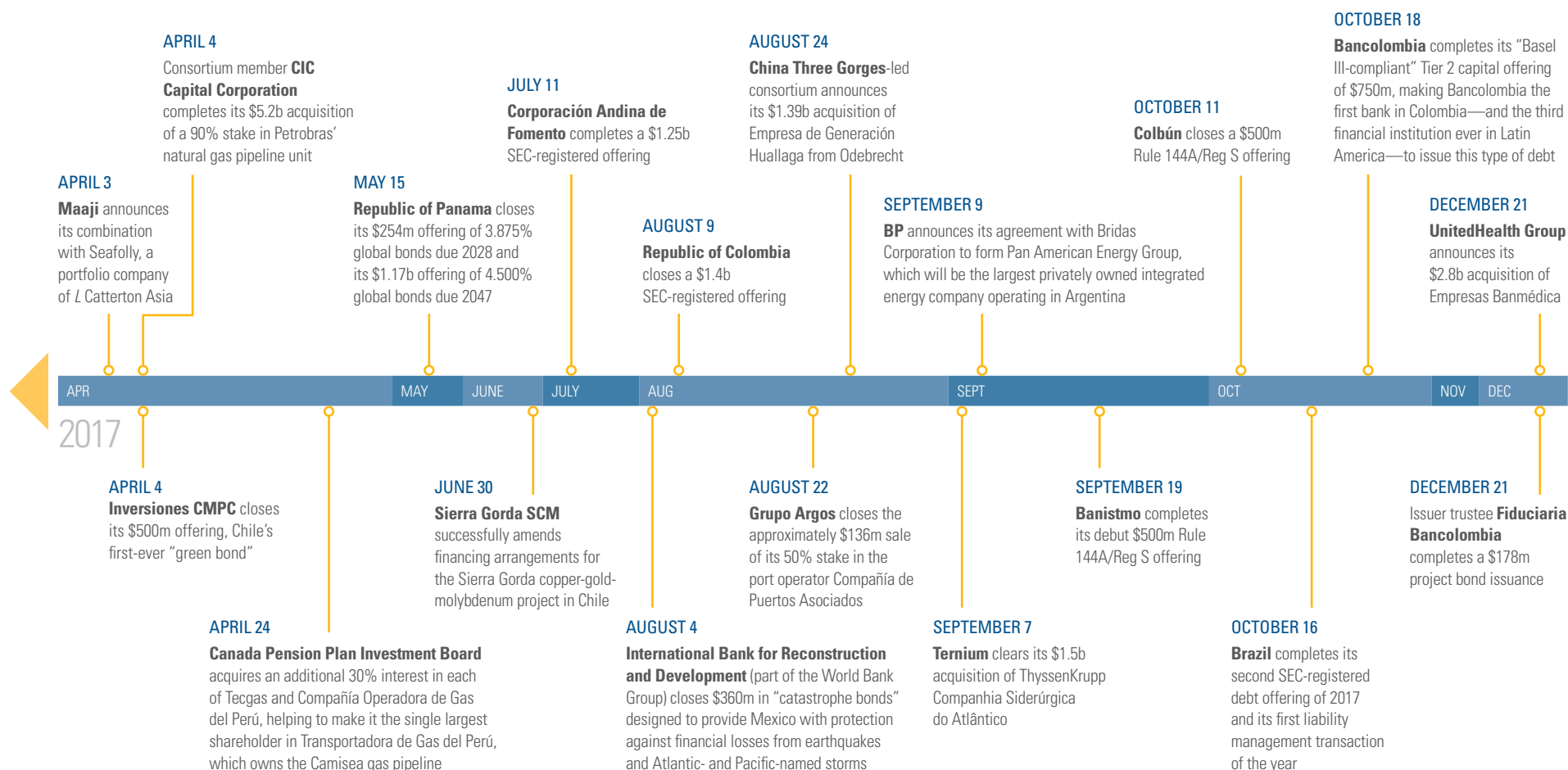
At the Forefront of Matters throughout Latin America

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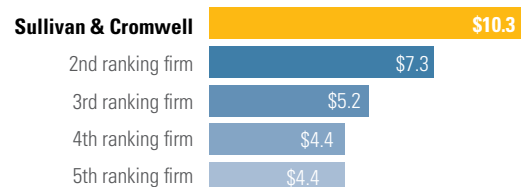
At the Forefront of Matters throughout Latin America

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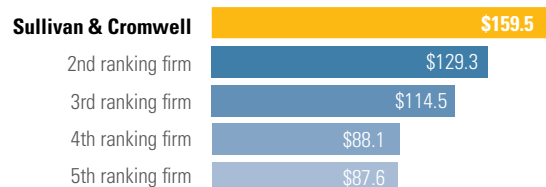
League Table Rankings

LATIN AMERICA M&A DEALS COMPLETED (2017)



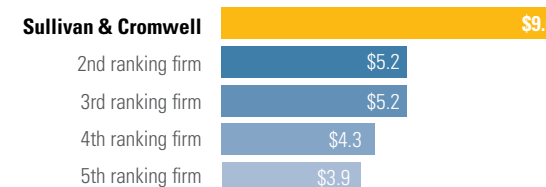
International legal adviser representations (Rank by dollar value, \$ billions)
Source: ThomsonOne, January 8, 2018

LATIN AMERICA M&A DEALS COMPLETED (LAST 10 YEARS)



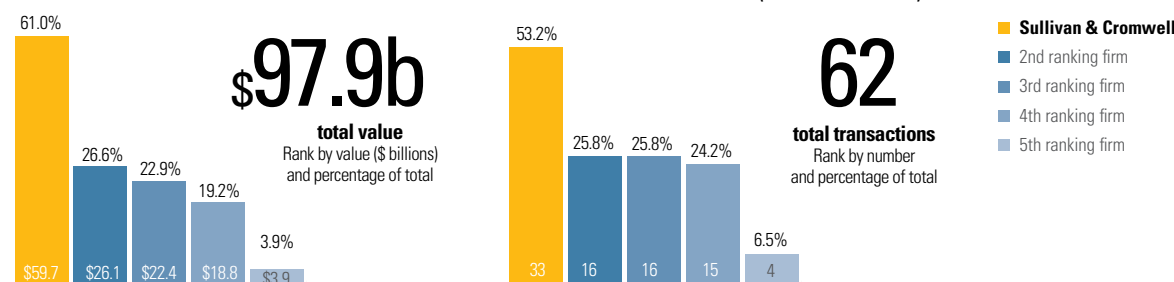
International legal adviser representations (Rank by dollar value, \$ billions)
Source: ThomsonOne, January 3, 2018

BRAZIL M&A DEALS COMPLETED (2017)



International legal adviser representations (Rank by dollar value, \$ billions)
Source: ThomsonOne, January 3, 2018

OFFERINGS BY LATIN AMERICAN SOVEREIGN ISSUERS (LAST FIVE YEARS)



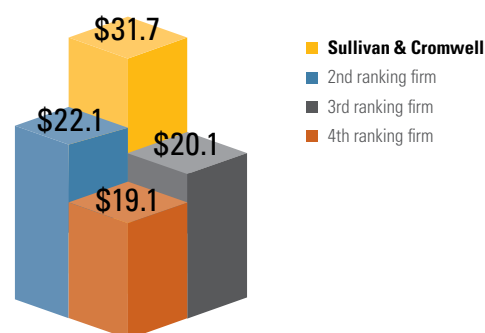
Source: ThomsonOne, January 4, 2018

MINING PROJECTS IN LATIN AMERICA (1994–2017)

LEGAL ADVISER	VALUE IN MILLIONS (\$)	MARKET SHARE (%)	NUMBER OF PROJECTS
Sullivan & Cromwell	20,434.17	48.6	23
2nd ranking firm	2,601.00	6.2	3
3rd ranking firm	2,314.60	5.5	3
4th ranking firm	2,086.00	5.0	2
5th ranking firm	1,844.50	4.4	3

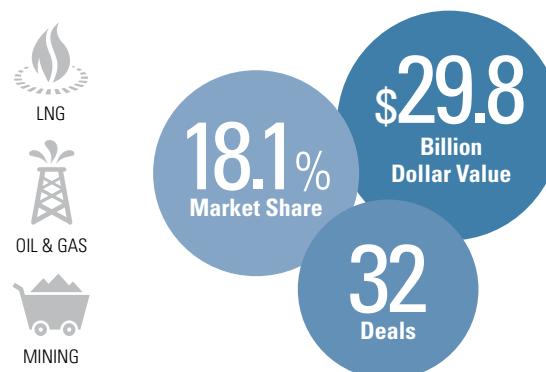
Representations of sponsors/borrowers
Source: Dealogic ProjectWare, January 4, 2018

PROJECT FINANCINGS IN LATIN AMERICA (1994–2017)

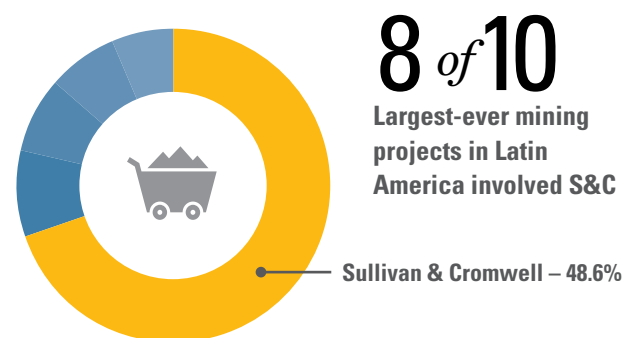


Representations of sponsors/borrowers (Rank by dollar value, \$ billions)
Source: Dealogic ProjectWare, January 4, 2018

NATURAL RESOURCES PROJECTS IN LATIN AMERICA (1994–2017)



Representations of sponsors/borrowers
Source: Dealogic ProjectWare, January 4, 2018



Representations of sponsors/borrowers
Source: Dealogic ProjectWare, January 4, 2018

Recent Recognitions

S&C Tops *Chambers Latin America* 2018 Rankings

S&C has been ranked as a leading law firm in the 2018 edition of *Chambers Latin America* for:

- Corporate/M&A
- Energy & Natural Resources
- Projects
- Banking & Finance
- Capital Markets

Sergio Galvis, head of the Latin America practice, garnered the most rankings of any lawyer in Latin America-wide categories and partner Chris Mann won the second most in these categories, reflecting the breadth of the Firm's generalist practice.

"The service we receive from Sullivan & Cromwell is superb," clients told *Chambers*. "We always feel like we have the best lawyers at the table."

S&C partners Werner Ahlers, Bob Risoleo and Joe Neuhaus were also ranked in the areas of corporate/M&A, capital markets and international arbitration, respectively.



Energy & Environmental Trailblazer

National Law Journal (2018)

In February 2018, Sergio Galvis was recognized as a 2018 Energy & Environmental Trailblazer, based on his groundbreaking work in the sector.

Financial Institutions Deal of the Year

Bonds & Loans (2018)

Bancolombia's \$750 million "Basel III-compliant" Tier 2 capital offering—making Bancolombia the first bank in Colombia, and the third financial institution in Latin America, to issue this type of debt

Innovation in Legal Expertise: Managing Complexity and Scale

The Financial Times (2017)

In December 2017, S&C was listed among the "FT25: Most Innovative Law Firms and Legal Service Providers 2017," as a "Standout" in the category of "Managing Complexity and Scale" for its representation of State Grid International Corporation in its acquisition of CPFL Energia. Sergio Galvis was separately commended for his innovative work leading our team on this deal.

Project Finance MVP

Law360 (2017)

In December 2017, Sergio Galvis was named a 2017 *Law360* MVP in Project Finance, recognizing the complexity and impact of his contributions and leadership during the year.

Private Practice Powerlist: U.S.-Mexico

The Legal 500 Latin America (2017)

In April 2017, Sergio Galvis, Chris Mann and Werner Ahlers were included in *The Legal 500*'s first-ever Private Practice Powerlist: U.S.-Mexico, a series that highlights leading U.S.-based attorneys who have demonstrated deep engagement in the Mexican market.

Global M&A Deal of the Year: Latin America

The American Lawyer (2017)

Brookfield-led consortium \$5.2 billion acquisition of a 90 percent stake in Nova Transportadora do Sudeste, Petrobras' natural gas pipeline unit

Latin America M&A Deal of the Year; Private Equity Deal of the Year

IJGlobal (2016); *LatinFinance* (2016)

KKR/Petróleos Mexicanos sale and leaseback of oil and gas infrastructure assets

South America Deal of the Year

M&A Atlas (2016)

Bankia's approximately \$947 million sale of its subsidiary, City National Bank of Florida, to Banco de Crédito e Inversiones—the first time that a Chilean bank has purchased a U.S. bank

Global M&A Deal of the Year; Global Finance Deal of the Year: Acquisition Finance

The American Lawyer (2016)

Anheuser-Busch InBev/SABMiller \$123 billion merger

Recent Recognitions continued

S&C Featured in *Latin Lawyer* 250

The 2018 edition of *Latin Lawyer* 250 profiles S&C and its globally integrated, multidisciplinary Latin America practice. *Latin Lawyer* writes that S&C's Latin America practice "is fully integrated with the wider firm, which gives it a pool of highly talented and experienced lawyers to draw upon," and recognizes our partners for their work on high-stakes matters in a range of practice areas.

The write-up outlines S&C's cross-border M&A, private equity and infrastructure deals, project financings, sovereign work, capital markets deals, arbitrations, litigations, investigations and crisis management matters, and states that "Sullivan & Cromwell is one of the inner circle of firms working on government capital raising... [and] has a highly renowned banking and finance practice across the board... The Firm is very prominent in litigation, particularly for Latin American clients in conflicts in the US." *Latin Lawyer* notes that for clients dealing with Latin America, S&C is "the Firm you call in when stakes are high... having Sullivan & Cromwell on your side of a deal table promises an excellence of service, and sends a powerful message about your intentions."



LATIN LAWYER 250

Project Finance Deal of the Year; Latin America Roads Deal of the Year; Best Road Financing; Best Infrastructure Financing — Andes; Latin America P3 Deal of the Year

Latin Lawyer (2016); *IJGlobal* (2016); *LatinFinance* (2016); *Project Finance International* (2016)

Fideicomiso P.A. Pacífico Tres's project bond issuance to finance the construction and improvement of toll roads in the Valle del Cauca region in Colombia—the first Colombian Fourth Generation (4G) project to raise financing in the cross-border markets

Transatlantic Rising Star

The American Lawyer (2016)

In June 2016, Werner Ahlers was recognized as a Transatlantic Legal Awards Rising Star based on his work on a number of cross-border M&A transactions, including acquisitions by AT&T in Mexico and by Canada Pension Plan Investment Board in Peru.

Litigator of the Week

The American Lawyer (2015)

In September 2015, Joe Neuhaus was named Litigator of the Week in recognition of his victory in the Second Circuit on behalf of client Banco Central de la República Argentina (BCRA).

International Lawyer of the Year

Latin Lawyer (2015)

In March 2015, Sergio Galvis was recognized as a Latin America specialist with globally reputable M&A, projects, banking and finance, and sovereign debt restructuring practices.

Latin America Wind Deal of the Year

IJGlobal (2015)

Tres Mesas wind project under construction in Mexico

Sovereign Bond of the Year

LatinFinance (2015)

World's first euro-denominated century bond offering by the United Mexican States

Disputes Deal of the Year

Latin Lawyer (2014)

Repsol v. Argentina

Sovereign Liability Management Deal of the Year

LatinFinance (2014)

Federative Republic of Brazil's \$3.5 billion liability management exercise

M&A Deal of the Year; Cross-Border M&A Deal of the Year

Latin Lawyer (2014); *LatinFinance* (2014)

MMG acquisition of Las Bambas copper mine in Peru

DEAL SPOTLIGHT:

The Largest Latin America M&A Deal of 2017

State Grid International Development Limited (SGID), the overseas investment platform of State Grid Corporation of China (the world's largest electric utility company and #2 company on the Fortune Global 500 list), turned to S&C for its acquisition of a controlling interest in Brazil's CPFL Energia S.A. S&C's team, led by Sergio Galvis and Werner Ahlers, in close collaboration with Brazilian counsel, helped the client execute an approximately \$13 billion transaction securing a 94.8 percent stake in CPFL Energia, Brazil's largest non-state-owned electric energy generation and distribution group and the third-largest Brazilian electric utility company, from Camargo Corrêa S.A. and five Brazilian pension funds. As a result of the deal, SGID is now the owner of Brazil's third-largest private sector power generation portfolio.

The acquisition is the largest M&A deal completed in Latin America in 2017, the largest M&A deal in Brazil's energy sector to date, one of the top 10 largest M&A deals settled over BMFBOVESPA with a Brazilian target and one of the largest energy M&A matters in Latin American history.

It is perhaps one of the most prominent examples of S&C's hallmark practice in representing many of the world's leading strategic investors, including state-owned entities, in their cross-border investments in Latin America and around the world. The deal was executed as part of the wave of large-scale investments that foreign investors, including Chinese companies, are making in companies in Brazil, as a recent recession has shaken up ownership of many of its most important market sectors. It also serves to highlight the speed and scale with which the trade relationship between China and Brazil is deepening. ■

2017

Most Innovative Law Firms and Legal Service Providers—Standout: Managing Complexity and Scale

The Financial Times

The Largest Latin American Energy M&A Deals in 2017

ACQUIROR	TARGET	ACQUIROR/ TARGET NATION	RANK VALUE
State Grid Brazil Power (SGID)	CPFL Energia SA	China/Brazil	\$13b
Nova Infraestrutura FIP	Nova Transportadora do Sudeste	Brazil/Brazil	\$5.2b
State Power Invest Overseas Co	Cemig-Hydropower Con São Simão	China/Brazil	\$2.3b
An investor group comprised of Brookfield Business Partners LP of Canada, a unit of Brookfield Asset Management Inc, and Sumitomo Corp of Japan	Odebrecht Ambiental SA	Canada, Japan/Brazil	\$1b
AES Tiete Energia SA	Nova Energia Holding SA	Brazil/Brazil	\$610m
Engie Brasil Minas Geração	Cemig-Hydropower Con Jaguará	Brazil/Brazil	\$604m
Infraestrutura Energetica Nova SAB de CV (IEnova)	Ductos y Energéticos del Norte S de RL de CV	Mexico/Mexico	\$547m
Southern Cross Group	Petrobras Chile Distribución	Argentina/Chile	\$464m
Engie Brasil Minas Geração	Cemig-Hydropower Con Miranda Ltda	Brazil/Brazil	\$430m
Huikai Clean Energy Sàrl	Duke Energy Intl Brazil Hldg	Luxembourg/Brazil	\$400m

Source: ThomsonOne, January 24, 2018

Any Latin American Involvement Completed January 1-December 31, 2017

EMERGING ISSUES:

Shareholder Activism



Sergio Galvis >, head of S&C's Latin America group, outlines steps to weather an activist attack.

Shareholder activism is now effectively mainstream in the United States, and it will continue to evolve as a force that will disrupt and transform traditional approaches to shareholder relations.

Latin America is not immune from this phenomenon; companies and their boards of directors from the region should recognize that historic shareholder relations models, as well as “traditional” approaches to responding to shareholder initiatives, may no longer be optimal. The high-profile attempt by Cartica Capital to thwart CorpBanca’s merger with Itaú Unibanco, among other campaigns, is a sign of things to come, and there is much that Latin American companies and practitioners can and should learn from the experience of U.S. companies.

Before outlining that experience, it is important to briefly review some of the significant differences between corporate governance and disclosure regimes in Latin America and the United States, which will undoubtedly affect the nature of shareholder activism in the region.

One key difference is the composition and outlook of corporate shareholders in the region. Controlling shareholder blocks are often held by family or other close-knit affiliations in Latin America, which will affect the tenor and expected impact of shareholder-outreach efforts. Additionally, shareholder activists will be drawn from a wider palette in Latin America. Traditional market participants like index and hedge funds are joined by privately managed pension funds and non-governmental organizations, who are key players unique to the market. In contrast to the United States, this environment will likely produce activist shareholder campaigns with the potential for extremely varied economic, social and political agendas, as well as different prospects for success.

Having recognized these differences, there are several approaches and strategies that can help Latin American companies prepare for, and respond to, shareholder activist campaigns.

Shareholder Activism

continued

Develop Profiles

Every company has a definable set of characteristics that determines how attractive it is to activists. The company's capitalization, shareholder constituency, recent returns and media profile all contribute to the company's allure. A thorough examination of the company's organizational documents that set out the rules for stockholder meetings and director nominations should be conducted—activists will certainly be performing the same analysis. Conversely, the company should analyze the identity and history of the activist, including its profile in the media and overall track record.

Plan Their Attack

Having developed these profiles, boards, managers and advisers should model possible activist attacks. What proposals are likely to be advanced by activists? What weaknesses will they exploit? How, if they have any worth, can their proposals be incorporated into current corporate planning? Companies should then consider sharing these hypotheticals with investors ahead of an attack, including detailed explanations for why certain proposals should be rejected.

Understand the Institution

Privately managed pension funds in Latin America are expanding their investment profile into equity securities. Index funds are ramping up investing in the region to increase their exposure to emerging markets. Given their focus on long-term investing, these institutions can serve as valuable allies in an activist campaign. Furthermore, previously rare or nonexistent activists may emerge in force from Latin America's unique political and social milieu, including, for example, environment-focused non-governmental organizations and institutions.

Involve the Board

Company management and advisers should meet regularly with the board of directors to review the likelihood of activism, the expected

avenues of attack and the optimal responses. This preparation should be incorporated into strategic planning and capital allocation discussions. Likewise, board members should consider their role in active shareholder engagement. For example, formal committees might be established to direct shareholder outreach activity. Other companies might not find such measures necessary or appropriate.

Formulate a Well-Articulated Response

DuPont's successful defeat of a proxy challenge from Norman Peltz's Trian Fund Management provides an excellent example of how a strong board and management team used shareholder engagement to contain a highly influential activist. DuPont took the fight to the shareholders, spending \$15 million and several months persuading them of DuPont's strength and long-term potential. Special attention was given to the retail investor block, which was highly active in the vote and favored management, and which was largely ignored by Trian. In the end, it was DuPont's active engagement with shareholders that secured victory in the contest—an important lesson for both activists and their targets alike.

Final Thoughts

There is no "one size fits all" approach to shareholder activism—especially in a region that possesses Latin America's variety of shareholder profiles and catalysts for activism. Whatever shape a company's response might take, advance analysis, preparation and action are the ingredients for success. ■

The suggestions and case histories touched on in this article are explored in greater detail in several S&C publications, which we invite you to read on our website. Please see ["Shareholder Activism Update: DuPont Announces Victory in Proxy Fight with Trian"](#) (May 13, 2015) and ["The Evolving Landscape of Shareholder Activism: Key Developments and Potential Actions"](#) (March 10, 2015). Also available is Sergio Galvis' ["Latin America: Lessons On Shareholder Activism From A U.S. Perspective,"](#) published July 15, 2015 in the Review of Securities and Commodities Regulation.

IN DEPTH:

Argentina's Central Bank Prevails in Epic Litigation

Argentina's credit crisis—the result of one of the most dramatic national debt defaults in recent history—set off a cascade of litigation against the Central Bank of Argentina (BCRA). At stake: crucial and previously unsettled law regarding the immunities afforded to sovereign financial institutions by the Foreign Sovereign Immunities Act. S&C partner Joe Neuhaus, who handled the litigation for BCRA, and Sergio Galvis, head of S&C's Latin America group, assembled this in-depth history of the litigation and its consequences.

Beginning in late 1998, the Republic of Argentina was hit by a deep economic depression, which spurred record levels of inflation and unemployment and led to significant social unrest. The Republic defaulted on a vast debt—nearly one-seventh of the money borrowed by the developing world at that time. A protracted recovery ensued, a process that found expression in the courts as much as it did in the marketplace.

S&C had a unique, front-row perspective as a participant in the recovery efforts, from an early role in restructuring the Republic's debt in 2005, to a set of debt repurchases with seven international banks hammered out in 2016—transactions which increased the country's U.S. dollar cash reserves by \$5 billion, and marked the country's recovered economic clout.

The Firm's longest sustained involvement was an intricate series of litigations on behalf of the Central Bank of Argentina. These suits, which stemmed from the Republic's 2002 debt default, spanned nearly a decade and involved three separate appearances before the Southern District of New York and three trips to the Second Circuit Court of Appeals.

Argentina's Central Bank Prevails in Epic Litigation

continued

Two of the Republic's creditors set in motion legal proceedings to obtain the assets of BCRA held in reserve at the Federal Reserve Bank of New York. While the dollar figure at stake was not high, relatively speaking—roughly \$100 million was in dispute—the case centered on novel interpretations of the Foreign Sovereign Immunities Act (FSIA), particularly the question of the immunity to attachment of funds held in the United States by a foreign sovereign bank.

The plaintiffs won victories at the district court level that promised to erode key protections built into the FSIA, which, once removed, would jeopardize the role of the U.S. dollar as the world's reserve currency and adversely affect the economies of both the United States and the world as a whole.

Background

In 1994, Argentina began issuing debt instruments under a fiscal agency agreement that contained a special proviso. Given Argentina's record of previous debt restructurings, investors requested that the agreements include a waiver of the Republic's standard foreign sovereign immunity in any future litigation over the debt. Argentina agreed to the stipulation.

And then, in late 2001, the Republic, hit by a deep economic depression, ceased principal and interest payments on more than \$80 billion of this foreign debt. In two separate offers over the following decade, Argentina was able to restructure more than 90 percent of its debt through exchange offers, which allowed affected creditors to receive new, less valuable bonds in exchange for the defaulted debt.

But a number of bondholders, including hedge fund NML Capital, along with its fellow major debtholder, hedge fund EM Ltd., refused to accept either offer. Instead, the pair filed actions in the Southern District of New York in 2003 to recover losses from the Argentine bonds they owned. Eventually, they would be awarded close to \$2.4 billion in judgments by the court. Argentina refused to pay.

The Republic's refusal led to a concerted effort by the funds to obtain Argentine assets wherever they could find them. The ensuing litigation against BCRA would last nearly a decade.

2006 Suit

At the height of its debt crisis, Argentina had borrowed billions of dollars from the International Monetary Fund. President Nestor Kirchner announced in December 2005 that Argentina would use BCRA reserves to pay off his country's debt with the International Monetary Fund in early 2006.

Shortly after the decrees, NML Capital and EM Ltd. secured an ex parte order from the SDNY attaching the roughly \$100 million left in deposit by BCRA at the Federal Reserve in New York (the bank had already moved upwards of \$21 billion out of the Fed).

The hedge funds argued that President Kirchner's decision to use BCRA's funds to pay the debt effectively converted the bank's assets into assets owned directly by the Republic, and rendered them attachable.

But on January 12, 2006, only days after BCRA's deposits were frozen, the Southern District vacated the attachment order. Judge Griesa, who would preside over all the district court decisions that followed, concluded that while the Kirchner decrees directed BCRA to execute certain activities, they did not mean that the ownership of BCRA's assets had effectively changed hands. The Second Circuit agreed with Judge Griesa on appeal.



S&C has represented the Central Bank of Argentina since the early 2000s. **Sergio Galvis** >, left, handled numerous transactions for BCRA, including recent landmark repurchase transactions, and **Joe Neuhaus** >, right, helped the institution win its decade-long battle to maintain its independent status.

Argentina's Central Bank Prevails in Epic Litigation

continued

But, in the meantime, the plaintiffs had filed another litigation. And the attachment on the \$100 million remained in place while this new case worked its way through the Southern District.

Alter-Ego Theory

Moving on, the plaintiffs sued again in September 2006 under the alter-ego theory. They argued that, under the U.S. Supreme Court's 1983 *Bancec* decision, BCRA was liable for Argentina's debts because the bank was not independent from the Republic, which, they claimed, had "exploited the legal fiction of independence unjustly and fraudulently" to avoid paying its creditors. BCRA was the "alter ego" of Argentina, and the Republic and BCRA should be treated as one and the same by the court.

Therefore, if BCRA were an alter ego of the Republic, then its deposits could be held to pay the funds' outstanding judgments against the Republic.

In 2010, Judge Griesa found for the plaintiffs, ruling that BCRA was an alter ego of Argentina, and was not entitled to the presumption of independence in court. BCRA's assets were therefore no longer immune from attachment under the FSIA, which afforded such protection to central banks of foreign governments.

The FSIA establishes the limitations under which a foreign sovereign can be subject to the judgment of the U.S. courts. More narrowly, it renders the property of a foreign state or its agents in the United States immune from "attachment arrest and execution." It defines some of the specific instances where this immunity does not hold—where immunity has been waived by the sovereign, for instance. Congress included special protections that are even more rigorous for the property of a foreign central bank or monetary authority "held for its own account" in order to encourage central banks to hold reserves in the United States.

The district court ruled that the exceptions to immunity trumped those special protections. Since, Judge Griesa held, BCRA under *Bancec* was not a separate legal entity from Argentina, and the Republic had waived its immunity in the original fiscal agency agreement under which the hedge funds' bonds had been established, BCRA had, in essence, waived its immunity along with the Republic's. Its deposits were therefore subject to attachment.



Palace of the Argentine National Congress

Second Circuit 2011 Ruling

In its 2011 ruling, the Second Circuit addressed the immunity question differently.

Arguing from the text of the statute and the historical context of the FSIA's adoption, the court ruled that the specific immunity granted to property of a foreign central bank remained intact regardless of the bank's independence from its sovereign. "Foreign central banks," wrote Judge Cabranes, "are not treated as generic 'agencies and instrumentalities' of a foreign state under the FSIA; they are given 'special protections' befitting the particular sovereign interest in preventing the attachment and execution of central bank property."

The Second Circuit did not address the plaintiff's alter-ego theory; it considered the question moot. The only issue to be decided was whether or not BCRA held its funds "for its own account," as stated in the FSIA. The meaning of this phrase was a question of first impression for the Second Circuit.

Weighing out several suggested definitions of the phrase, the court tweaked BCRA's suggested reading: that funds used for "traditional central banking activities" as "normally understood," irrespective of their commercial nature, were immune from attachment.

Argentina's Central Bank Prevails in Epic Litigation

continued

The court ruled that the funds held by BCRA at the New York Fed met this test. The funds were held in BCRA's name, and were derived at the time of the original 2005 attachment order from standard central banking transactions—for instance, about one third of the frozen \$100 million had been transferred into the account from Argentine banks that were increasing dollar reserves.

Because BCRA's funds at the New York Fed were derived from, and used for, standard central banking purposes, the Second Circuit argued, they were immune from attachment. The ruling vacated Judge Griesa's order, and the funds were released in 2012 after the Supreme Court denied certiorari on the case.

2012 Amended Complaint

With BCRA's funds protected by the FSIA's central bank exemption, NML and EM moved forward with an amended complaint in September 2012, again before Judge Griesa, and again advancing the alter-ego theory. They hoped to secure a declaration from the district court that BCRA is an alter ego of the Republic, which would enable the hedge funds to attach “any asset held by BCRA anywhere in the world” in order to recoup some of the judgments they had won against Argentina. Such a declaration could be useful in attaching BCRA's assets that were not used for central banking functions, or were held in a jurisdiction outside the United States.

Since this point had not been addressed by the Second Circuit, the plaintiffs made two arguments: that BCRA was an alter ego of the Republic, so that Argentina's waiver of immunity applied to the bank as well, and that BCRA waived immunity by “engaging in commercial activity” in New York through its account at the Fed. Either claim could trigger exemptions from BCRA's immunity to the U.S. courts' jurisdiction under the FSIA.

Judge Griesa found for the plaintiffs, denying BCRA's motion to dismiss the case and maintaining that the plaintiffs had enough evidence to prove their theory. BCRA appealed.

2015 Second Circuit Decision

In 2015, the Second Circuit addressed the alter-ego question, discussing the criteria for determining whether or not BCRA was independent of the Republic. The test, established under *Bancec*,

had two aspects: first, whether or not the bank in question was so extensively controlled by the sovereign that a relationship of principal and agent was created; and second, whether or not recognizing BCRA as an independent entity would result in a fraud or injustice.

The Second Circuit's decision shed light on the application of these tests, which had not been explored in much depth previously:

- The plaintiffs alleged that, because the Republic had appointed and removed BCRA officials, borrowed money from the bank to repay Argentine debts, and worked with BCRA to set monetary policy, the bank was not truly independent from its sovereign. The court dismissed these assertions, as each activity was a “governmental function performed by most central banks,” and therefore did not demonstrate a lack of independence.
- The “fraud and injustice” aspect of the alter-ego test was designed to help ensure that sovereigns did not use affiliated entities to avoid obligations or engage in criminal activity. In this suit, the plaintiffs claimed that because BCRA had paid certain preferred creditors of Argentina in advance of their own judgments, the bank had engaged in unjust activity. But the Second Circuit noted that such preferential payment was a common repayment strategy.

The court also ruled on the separate issue of an exception to immunity from commercial activity. Immunity is triggered by commercial activity when the activity is a key component of the allegations in the plaintiffs' complaint. The court ruled that the substance of the plaintiffs' complaint related to Argentina's decision to default on its bonds, a decision in which BCRA had played no part.

The plaintiffs tried to propose that BCRA's use of its Fed account to purchase dollars allowed the bank to make loans to the Republic which were used, in turn, to make payments on the bonds in question. But the court dismissed this theory as well, noting that if dollar purchases were tied in such a way to the eventual use of the funds, “any allegation of the wrongful use of dollars outside the United States would conceivably lead to a sovereign immunity waiver, so long as the plaintiff could show that these dollars were acquired in U.S.-based transactions.”

After nine years in court, BCRA prevailed.

Argentina's Central Bank Prevails in Epic Litigation

continued

Protecting the U.S. Economy

Of all of the disputes that arose between Argentina and its creditors, the BCRA suits may have the most consequence for the future of the global financial system.

In its 2015 decision, the Second Circuit also noted the “immediate and adverse impact” that the plaintiff’s interpretation of the FSIA would have on the U.S. economy and the global financial system.

Foreign central banks hold a sizable portion of their international reserves in U.S. dollars because of the dollar’s stability and the health of the U.S. financial markets. The Federal Reserve Bank of New York alone holds accounts for approximately 250 foreign central banks, governments, international official institutions and other financial authorities. Such accounts, amounting to approximately \$3 trillion, represent about half of the world’s overall official U.S. dollar reserves.

This central position confers enormous benefits on both the U.S. and the global economy. A significant withdrawal of central bank reserves would likely raise interest rates as government securities were sold off; higher interest rates on government securities would increase servicing costs on the U.S. public debt. The centrality of the dollar also promotes the United States in international trade, keeping transaction costs low for U.S. businesses.

A rapid shift of currency away from the U.S. dollar would have a destabilizing effect on foreign exchange markets around the world and unsettling effects on foreign relations, as retaliatory moves against U.S. reserves held abroad would become much more likely.

The plaintiffs’ suits threatened this central role of the dollar as the reserve currency of choice for the international community. The Second Circuit explicitly recognized the significant damage that might have been done had they ruled in favor of the plaintiffs.

The immunity from attachment offered by the FSIA is key to maintaining the stability and strength of global finance. Without it, a “flight from the Fed” would likely begin among foreign central banks—indeed, BCRA felt constrained to begin moving most of its dollar reserves out of the United States to “friendlier” jurisdictions in the years preceding the 2005 attachment order. Other countries

would surely have followed suit if the Second Circuit had ruled differently.

The 2011 BCRA victory clearly set aside the funds of foreign central banks held in the United States as immune to attachment, regardless of the independence of the banks themselves. And the 2015 BCRA win helped clarify the tests required to determine bank independence and the definition of the nature of commercial activity by central banks, in general favor of immunity.

Both rulings strengthened the legal framework of the international financial system.

Argentina's Return

With new political leadership, led by President Mauricio Macri, Argentina was eager to demonstrate a newfound market strength and desire to reenter the global marketplace as a full participant.

Accordingly, following BCRA’s win in the courts, the bank tapped S&C to execute a set of complex transactions that demonstrated the nation’s continuing recovery. In early 2016, the bank entered repurchase agreements with seven international banks for bonds issued to BCRA by the Republic—transactions which increased BCRA’s U.S. dollar cash reserves by \$5 billion.

The complex cross-border repurchases, a relatively rare species of transaction in the world of sovereign finance, were predicated on a thorough knowledge of the bank’s evolving litigation landscape—including provisions to ensure that the repurchase would not be subject to injunctions issued in 2014 by the Southern District of New York against the Republic’s ability to issue foreign debt.

Following this agreement, Argentina reached settlements with a number of holdout creditors representing a significant majority of outstanding claims from the 2002 default. S&C helped BCRA again in similar repurchase transactions in July 2016. In another promising development, the SDNY committed to vacating the 2014 injunctions preventing Argentina from issuing new international debt.

Both milestones demonstrate that the Republic has made strong strides toward resuming a full role in the global economy. ■

CASE SPOTLIGHT:

Volaris Class Action Win

Volaris, an “ultra-low-cost” Mexican airline that has issued American Depositary Receipts (ADRs) that trade in the U.S., recently found itself facing a securities class action lawsuit in the U.S. District Court for the Southern District of New York. An S&C team, led by Robert Giuffra (who argued the motion to dismiss) and David Rein, stepped in and swiftly obtained the dismissal with prejudice of all claims in the action and before any costly discovery took place.

Since it began operations in 2006, Volaris has expanded to more than 60 cities in Mexico, the United States and Central America, and offers more than 200 daily flights on routes connecting Mexico and the United States. Volaris is Mexico’s second-largest airline after Aeroméxico with a market share of over 23 percent of domestic traffic. It operates Mexico’s youngest aircraft fleet and has been active in reducing its CO₂ emissions by installing devices called Sharklets on its aircraft.

Volaris faced allegations that it made material misstatements regarding its non-ticket revenue

in the offering documents for its September 2013 IPO in violation of Sections 11 and 15 of the Securities Act of 1933. The class action plaintiffs argued that the documents incorrectly stated that Volaris recognized non-ticket revenue at the time of the associated flight, even though the company actually recognized certain of that revenue at the time of sale. As damages, plaintiffs sought the loss in value when the company’s ADRs declined 17.5 percent.

The court adopted S&C’s position that the challenged statement was not material as a matter of law because the allegedly deferred revenues constituted a mere 0.36 percent of Volaris’s overall 2013 revenue. In his decision, Judge William H. Pauley III concluded that “Volaris is right” that the \$3.6 million revenue deferral did not satisfy the applicable five percent threshold for quantitative materiality. Faced with this decision, the plaintiffs did not appeal. ■

(dismissed July 2016)



Top 10 Regulatory Considerations for Executing **Consumer and Retail Deals**

Even though the consumer and retail industry is not typically considered a “regulated industry” compared to banking, insurance or energy and power, the regulatory landscape for consumer and retail companies has become increasingly complex in recent years. This complexity, in turn, can pose challenges for consumer and retail companies executing deals. Melissa Sawyer and Audra Cohen, partners in S&C’s M&A Group, lay out 10 of the most important regulatory regimes affecting consumer and retail acquisition.



[Melissa Sawyer >](#)



[Audra Cohen >](#)

Now more than ever, acquirors of consumer and retail companies need to have a heightened focus on the key regulatory regimes that are relevant in the M&A context. This will usually include some or all of the ones described below.

1. Antitrust and Competition Law

During the past few years, the U.S. antitrust regulators—the Department of Justice (DOJ) and the Federal Trade Commission (FTC)—have pursued more aggressive theories with respect to defining relevant markets and assessing competitive effects of acquisitions, and they have instituted enforcement actions in connection with M&A deals. The termination of the Staples/Office Depot and Sysco/US Foods transactions are just two examples.

Most transformative deals with meaningful synergy opportunities involve some antitrust risk, and antitrust planning should be front and center in deal preparations. The planning should encompass not just analyzing whether the parties have overlaps that could raise a red flag for a regulator, but also working with outside counsel and, if necessary, economists to develop compelling arguments about why the deal is not anticompetitive and how potential issues, if any, can be resolved. These arguments are not always successful. In Staples/Office Depot, for example, the parties argued unsuccessfully that their competitors in the market for office supplies included Amazon and large discount retailers like Walmart and Target, not just specialized office supply stores. The FTC persuaded the court that there was a narrow business-to-business market for consumable office supplies in which only the merging parties had a significant presence.

Top 10 Regulatory Considerations for Executing Consumer and Retail Deals

continued

For transactions with a cross-border component, it is also important to assess what jurisdictions outside the U.S. may require the parties to make filings or secure approvals and the potential time frame for securing the approvals. The E.U. has a well-established procedure for handling competition law filings, whereas some other jurisdictions have more opaque and seemingly less objective processes. For example, media reports suggest that some jurisdictions have competition law enforcement policies (recently, particularly in connection with technology-focused businesses and licensing) that are influenced by protectionist policy goals.

2. FCPA and Anti-Bribery

Investigations and enforcement actions under the Foreign Corrupt Practices Act (FCPA) and anti-bribery statutes in other jurisdictions are a serious issue for companies in the consumer and retail industry. In the last three years, Hitachi, Goodyear Tire & Rubber Company and Mead Johnson Nutrition have all paid fines, penalties or

settlement amounts due to alleged FCPA violations. The Securities and Exchange Commission (SEC) has stated it will enforce the FCPA to its “fullest extent,” and the DOJ and the SEC fines for FCPA violations totaled \$1.25 billion in the aggregate in 2014. In addition to potential monetary penalties, acquirors may also be subject to reputational risk for FCPA violations and have exposure to related civil suits. Therefore, it is critical for an acquiror to diligence not only a target’s FCPA policies and procedures, but also to attempt to develop an understanding of the risk profile of the transactions and countries in which the target operates. In some cases, the acquiror may even need to retain an outside consultant to perform transaction testing.

FCPA risk assessments are particularly important for acquirors looking at targets that operate in territories where bribes, unrecorded transactions or other “favors” were historically considered to be customary local business practices and in industries where the target interacts regularly with government officials. This may be the case for consumer and retail companies



Top 10 Regulatory Considerations for Executing Consumer and Retail Deals

continued

that manufacture, supply or distribute alcoholic beverages, tobacco products, firearms or certain other “vice” or regulated products, or that conduct business or manufacturing activities in developing countries that give officials substantial discretion in how they enforce import/export controls or licensing requirements.

3. Cybersecurity Issues

There have been a number of high-profile data breaches involving retail and consumer companies. Retail companies are particularly at risk if they retain consumer data or accept, process or store cardholder or other payment data (including via mobile apps). Just because a target has not publicly reported any data breaches, this does not mean it is free of data security risks. Breaches can go undetected for months or years, as evidenced by Yahoo’s recent announcement that it just discovered it had suffered a breach two years earlier, creating problems (such as FTC enforcement or civil cases) long after a deal has closed.

Breaches of a target’s cybersecurity, especially those which result in the theft of consumers’ personal data, can have an effect on the reputation and valuation of a business, especially if accompanied by significant negative publicity. Accordingly, an acquiror must understand whether cybersecurity is a key focus of the target’s business. In addition to diligence on the policies, systems and business processes of the target, an acquiror should assess whether senior management of the target has devoted adequate management time to (and has a sophisticated understanding of) the target’s cybersecurity protections and potential risks. The cost of implementing and/or improving cybersecurity systems and infrastructure to an acceptable level should also be factored into the acquiror’s valuation of the target.

In the M&A context, the parties to the transaction need to agree on the appropriate allocation of the risk of a cybersecurity breach that occurs between signing and closing, as well as, in private deals, the risk of post-closing breaches that result from systemic issues in the design of the target’s network pre-closing.

DEAL SPOTLIGHT:

Creating the world’s largest independent swimwear and beach lifestyle business

Founded by sisters Manuela and Amalia Sierra, Maaji’s

distinctive swimwear is influenced by their Colombian heritage: “Each of our collections is inspired by a magical surreal story and the result of a careful creative process,” the company proclaims. “Innovation is the hub of this whimsical world full of eclecticism and attitude.”

So when L Catterton Asia, the Asian arm of the world’s largest consumer-focused private equity firm L Catterton (backed in part by luxury goods house LVMH), expressed interest in Maaji, the founders maintained that any deal they struck would preserve Maaji’s unique point of view.

Maaji tapped S&C to handle the transaction and help the brand navigate the short- and long-term implications of the proposed new business and legal structure.

The final transaction, completed in 2017, was a complex merger agreement involving Singapore, Australia and Colombia, whereby L Catterton Asia purchased a majority stake in Maaji. Maaji’s creations gained access to a powerful marketing and distribution platform. And the founding families of both Maaji and Seafolly prepared for new and exciting collaborations.



Top 10 Regulatory Considerations for Executing Consumer and Retail Deals

continued

4. Counterfeit Goods, “Grey Market” Sales and FTZs

Consumer companies are continuously looking for ways to leverage their global supply chain to reduce manufacturing costs. This benefit is accompanied by risks, including the possibility of having goods counterfeited at the place of manufacture or by other actors in the same geographic location. Once evidence of counterfeiting has been identified in diligence, an acquiror needs to determine the damage to the business and whether patent and trademark enforcement, or other action, is a realistic or economical remedy.

Patent and trademark enforcement (or seizure orders) can be challenging for consumer and retail companies. Remedies can take time to obtain and, in many cases, the infringing party may be an inadequate source of monetary recourse. Rather than relying solely on post-transaction remedies, an acquiror should ensure that the patent and trademark portfolio of the target is appropriately registered and protected in each key jurisdiction in which the target operates, as well as consult local counsel to understand the effectiveness of enforcement remedies.

Consumer and retail companies should also take care to diligence the extent to which the target’s products are being sold on the “grey market.” “Grey market” sales, although not necessarily illegal, are usually carried out by third parties operating outside of official distribution channels (often by sourcing goods from other markets to take advantage of price disparities). For those companies that tailor their products to different markets, a thriving “grey market” can undermine local consumer perceptions of a product and, therefore, brand equity (and consequently, deal value).

Several jurisdictions also operate a system of free trade zones (FTZs). While consumer and retail companies can benefit from the logistical advantages these FTZs offer, it is important to ensure that operational due diligence on a target covers an investigation of whether goods have been sold out of a FTZ into the domestic market without paying the appropriate duties and complying with the appropriate clearances, import/export licenses and quotas.

5. Environmental Risks

Environmental issues can result in fines from regulators in the U.S. and China, among other jurisdictions. They can also severely damage the reputation of a business. As a result, an acquiror should be aware of any potential environmental violations by the target. For example, in May 2013, Walmart pleaded guilty to six counts of violating the Clean Water Act in connection with illegally handling and disposing of hazardous materials at its retail stores across the country, resulting in \$81 million in criminal penalties. Walmart also settled with the EPA and paid \$7.6 million in civil penalties due to related RCRA and FIFRA violations.

The acquiror should also be aware of a target’s potential violations of state and local environmental laws. State and local authorities, especially in California, are quite active in environmental enforcement. Lowes, TJX Companies and Albertsons were all defendants in civil suits brought by district attorneys in California in environmental enforcement actions. The actions alleged that retail stores of these companies throughout California unlawfully handled and disposed of various hazardous wastes and materials. The companies settled and were ordered to pay civil penalties collectively totaling \$23.9 million.

Consumer companies, not just retail companies, may also be at risk of environmental compliance issues. This could be the case, for example, for consumer companies that own and/or operate manufacturing facilities.

6. Currency Controls and Repatriation of Funds

Repatriation of foreign earnings may be limited by foreign currency regulations, U.S. and foreign tax laws, including U.S. restrictions on inversion transactions and newly proposed guidance on related-party debt/equity characterization, or not be economical due to the tax rates imposed in connection with repatriating such earnings. Although the details are beyond the scope of this article, acquirors should consider with their tax and financial advisers how to value any acquired cash that is located in non-U.S. jurisdictions.

Top 10 Regulatory Considerations for Executing Consumer and Retail Deals

continued

Some companies doing business in Venezuela, for example, have converted those businesses to the cash method of accounting due to uncertainty regarding their ability to extract dollars from the country. If the acquiror is seeking to finance the acquisition using foreign earnings or through borrowings at its U.S. entities, it and/or its financing sources should give consideration to any tax leakage that may result from accessing the target's foreign earnings.

Targets should pay particular attention to acquirors from jurisdictions that have currency controls. For example, there were reports that China's KingClean failed in its bid for German coffee machine maker WMF because it could not transfer enough funds offshore by a deal deadline, and the business was ultimately sold to a European buyer. Even where issues with currency controls are not anticipated, it can take weeks to get the appropriate permissions, which may put an acquiror at a relative disadvantage in an auction process, and a target in an uncomfortable situation where there is a need to complete an acquisition expeditiously.

7. Non-GMO/Organic Issues

The consumer food industry is subject to a range of sourcing regulations across various jurisdictions. For example, the European Union, Japan, Russia and China have mandatory GMO labelling. Despite chemical, agricultural and food companies spending over \$100 million on anti-GMO labelling campaigns in four U.S. states—Oregon, Colorado, California and Washington—in August 2016, President Obama signed into law the Safe and Accurate Food Labeling Act, which requires food manufacturers to clearly label products that contain GMOs. For targets with a complex supply chain, the new federal law creates a minefield of potential compliance issues that an acquiror needs to understand.

Comparable issues arise when an acquiror is seeking to acquire a business with “organic” or other certifications (such as Danone's recent pending acquisition of WhiteWave Foods) (the deal has closed since this article was published). In this context, the

acquiror must ensure that the production processes continue to be in compliance with the regulations associated with these certifications. This may have a bearing on the anticipated synergies of the deal, if such processes are different from the production processes used by the acquiror in its own manufacturing.

8. Product Liability/Defect Issues

Consumer and retail companies have long operated under substantial risk of regulatory action and potential liability relating to product contamination or defect, especially businesses in the food and beverage industry. Recalls, such as Kraft's recall of 6.5 million boxes of macaroni and cheese or General Mills' recall of Gold Medal Flour, can cost millions of dollars in operational costs alone, and expose the company to product liability and mass tort litigation. The potential for reputational damage from product contamination or defect is also significant, as seen by the decline in Chipotle's sales following its foodborne illness crises. Similar effects can be felt in non-food businesses, such as Lululemon's loss of one-third of its market value after complaints that a line of its yoga pants was sheer (resulting in a recall and destruction of the faulty garments).

Acquirors can attempt to mitigate their risk in several ways. Firstly, a comprehensive diligence exercise, with particular focus on product safety processes and procedures, the target's insurance coverage (including whether a change of control transaction will invalidate the insurance, or whether, in a carve-out sale, the benefit of any seller group-wide policies can be passed to the acquiror) and areas of concern within the relevant industry, can help with the identification of any specific risks. Secondly, in any negotiation for the purchase of part of the business of a seller, the acquiror should consider negotiating for a contractual allocation of risk for product liability issues. A stronger case for the seller retaining a share of the risk can often be made if due diligence has identified specific areas of concern.

Top 10 Regulatory Considerations for Executing Consumer and Retail Deals

continued

9. Child Labor and Slavery Issues

While most companies selling into the U.S. market adhere to strict policies to prevent the use of child labor and slavery in manufacturing, acquirors should pay close attention to the audit process by which the target confirms it does not use child or slave labor in its production process. Particular issues can arise in the use of third-party subcontractors or providers (whether directly or indirectly engaged by the target). For example, in 2016, human rights organization Amnesty International accused Apple, Samsung and Sony, among others, of failing to do basic checks to ensure cobalt used in lithium iron batteries in their products is not mined by children.

Certain jurisdictions (e.g., California's Transparency in Supply Chain Act) have statutes requiring disclosures relating to slavery and human trafficking in supply chains. Costco and Nestlé have both been the subject of consumer lawsuits pursuant to such statutes. Equally, if not more important than the statutes, can be the reputational damage to a brand if child or slave labor is used in the supply chain. This is particularly important for companies whose brand perception includes "ethical sourcing" or those that sell to consumers in jurisdictions where child and forced labor are "hot button" issues. Although it will often not be practical for an acquiror to visit or diligence all supply chain operations, a due diligence exercise should include discussions with target's senior management on this issue, as well as requesting both internal and third-party supplier operating codes relating to labor.

10. False Advertising

As well as the risk of extensive reputational damage, false advertising can bring with it civil charges. For example, in January 2016, consumer retailers Bed Bath & Beyond, Nordstrom, JC Penney and Backcountry.com were fined a total of \$1.3 million

by the FTC for misleading environmental labelling. The companies settled the FTC charges and were barred going forward from labeling and advertising rayon textiles as made of bamboo. In January 2013, Amazon, Macy's, Sears and Leon Max (a women's clothing retailer) agreed to pay a combined \$1.26 million to settle similar claims.

For larger scale M&A relating to consumer and retail businesses, false advertising claims are unlikely to move the needle by themselves. However, they can be an early warning sign of lax internal regulatory compliance. Acquirors in the food industry should pay particular attention in their diligence to verifying any target claim of "all natural" or other nutrient content claims. Such claims, if not true, can result in class actions under state specific statutes (e.g., in California).

The issues discussed above highlight the importance of a comprehensive diligence process to understand and identify the risk areas for a particular consumer or retail target. Understanding those risks is the first step in figuring out how to ameliorate them (e.g., through risk sharing with the seller, or through appropriate representations and warranties) or whether the risk profile of the target affects the price an acquiror is willing to pay. Those who continue to view consumer M&A as a business area with limited regulatory overlay underestimate the complexity of this market sector and the risk profile associated with industry targets. ■

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The Blueprint

For generations, S&C lawyers active in Latin America have helped to shape the landscape of the project finance market around the world.

FROM OUTER SPACE

Chile's Escondida copper mine is one of the few man-made structures that can be seen from outer space. In many ways, the mine is emblematic of S&C's project finance practice—the Firm handled the acquisition and project financing of the asset in the 1980s and continues to work for the project today. Partners Chris Mann and Werner Ahlers, who were originally drawn to the Firm by its challenging practice across a wide range of emerging economies in Latin America and elsewhere, and across a variety of project finance and other disciplines, have participated in many of the Firm's project finance assignments, especially in Latin America, first as associates and later as partners. Here, they share their experiences and describe how this practice has played such an important part of S&C's work around the world.

FROM WHOLE CLOTH

Chris Mann: Our project finance lawyers have led some of the most significant projects around the world for almost 40 years. The modern era of S&C's project finance practice began with the Escondida copper mine project financing in Chile, which S&C led in the late 1980s. S&C was hired by a multinational consortium seeking to develop a project that would require the first major foreign direct investment in Latin America since the 1982 debt crisis.

Werner Ahlers: Fred Rich and Sergio Galvis, who were associates at the time, and John Merow, the partner on the deal, developed many of the structural innovations of that landmark project, which are still relied on today across the market.

CM: Like much of our other work, Fred and Sergio were working on everything related to the project—the foreign investment and joint venture arrangements, M&A transactions, structure and documentation for the financing, and commercial and other

A NASA image of the Escondida copper mine (the largest of its kind in the world, which covers 30x23 km or approximately 19x14 mi), taken by the Advanced Spaceborne Thermal Emission and Reflection Radiometer (ASTER) onboard the flagship satellite of NASA's Earth Observing System.

The Blueprint: Project Finance in Latin America

continued



Chris Mann is head of the Firm's infrastructure practice and co-head of its Africa practice. [Bio >](#)

pieces required to develop the project. Other law firms would have parceled out this wide-ranging work to several teams in different practice areas. But then, just like now, S&C encouraged a generalist approach to the training and to the practice itself. In Escondida, this integrated approach led to a completely new structure for project financing. The documentation framework that the Firm invented for the Escondida project quickly created a market standard, adopted by developers and sponsors for large-scale multi-source project financings across a wide variety of industries.

And what is an example of one of the features of that documentation framework?

WA: Part of the approach that's become commonplace in the market involves the common documentation containing the core substantive terms of the project financing, including representations and warranties, covenants, conditions precedent to draw-down of the loans, and events of default in remedies. Those common terms would apply to all loans from any lending source, regardless of whether they were a bank or a multilateral or an ECA. Individual lending groups could have their own loan agreement include the purely monetary terms and the basic mechanics for draw-down and repayment.

However, there are still aspects of S&C's approach that are fairly unique; for example, as in Escondida, we as sponsor counsel often draft the definitive documentation, which is very uncommon.

Does this allow you to avoid reinventing the structure for every deal?

CM: Well, while we're not actually reinventing the structure for each deal, we have to do a significant amount of work with the client and its other advisers to adapt it to fit the specific risks and business realities of a particular project. That's what makes project finance work so interesting. Generally, in transactional practice, lawyers are engaged after commercial terms are established between or among the parties; there are balance sheets and income statements of an actual entity to review, and a commercial understanding about the transaction. In our project financings, we're starting from

scratch and often securing billions in commitments from lenders for something that doesn't exist. Essentially, we're asking lenders to approve a financial model and a description of contractual arrangements that are supported by certain key elements, such as a proven resource, a feasibility study and necessary permitting.

That makes the lawyers critical to the creation of a project, because while the business people may have an essential idea of the basic commercial undertaking, we as lawyers are hired to structure that undertaking most effectively from both a sponsor commercial point of view and a credit point of view, and to create the contractual underpinning for that project. This is why work for sponsors or borrowers is particularly rewarding.

So you represent sponsors exclusively?

WA: Not at all! But our significant sponsor representations are a big part of what has allowed us to introduce innovations in project finance, and they make particularly good use of our strengths. Since we're involved in the design of some of the corporate and commercial aspects of project structure from much earlier than we would be if we were representing lenders, sponsors need us to understand their fundamental business objectives. We help design the agreements and other documentation around their goals, instead of shoehorning what they want into a standard structure expected by lenders.

But our lender representations are helpful here, too, because our experience with lenders allows us to anticipate for sponsor clients at the structuring and design phase the types of concerns that lenders will later raise.

DIVERSE PRACTICE DEMANDS

Since Chile was in some ways the practice's birthplace in the modern era, do the lawyers work on only Latin American projects?

CM: No. Firm lawyers in a variety of offices, including London and Hong Kong, lead projects in a number of different regions—

The Blueprint: Project Finance in Latin America

continued

Australia, Africa, Asia, the Gulf Region. In fact, the managing partner of our practice, Stewart Robertson, sits in London, and one of our other partners based in London, Jamie Logie, recently moved to Hong Kong to address increasing demand in Asia for our projects expertise. It's a very global practice, which also tends to be the nature of our Latin America practice more generally.

I do think that, for a law firm, we've had an outsized impact on significant projects financed in Latin America. Escondida, for example, was the largest foreign direct investment in Chile and the region as a whole at that time. It was the first significant foreign investment in Chile following the implementation of a groundbreaking, untested foreign investment regime. It represented a comeback for the region's economy after a series of economic shocks in the 1980s. We played an important role in that comeback.

WA: In some ways, our firm's history with groundbreaking projects in the region goes all the way back to the role that Mr. Cromwell played in the finance and construction of the Panama Canal. Of course, its development and the Firm's work on it did not look anything like the project financing we know today, but it was the first high-profile involvement the Firm had with the trade, foreign investment, restructuring, and project development and finance in the region that has continued for more than a hundred years.

CM: And today, since natural resources and infrastructure development continue to be a mainstay of the Latin American economy, and because of the sheer number of corporate and government players in the development of any asset, major projects in the region are very complex and unconventional, which again plays to our strengths.

How does project finance interact with the other work the Latin America practice group is doing?

WA: It enriches it. It's an enormous benefit for our regional practice as a whole, because we have to gain a full understanding of the political, legal and regulatory structures of the country in which we are operating when we're working on a major project. How are

contracts enforced? And more generally, how does the country "work" legally and politically? What is the regulatory environment affecting the project, and how do we think about its prospects for stability in the future? Who are the key players in the local economy with potential influence over the success of the project? These types of insights help us with everything we do in the region, from M&A to sovereign finance. We get a direct window into major sectors of the region's economies.

CM: For example, about 15 years ago, we began working on a major project in Peru that exemplifies this. Until that time, the country had depended mostly on expensive imported diesel fuel to generate power. This was less than ideal—diesel is very dirty, so air pollution was a problem in Lima, and Peru had to import the diesel, using up the country's valuable foreign exchange. Peru badly needed an alternative fuel supply.

Around that time, Peru discovered a massive natural gas reserve in the Amazon. This was an important opportunity for the country's



Werner Ahlers became a partner in 2014 and is a member of the committee of the Cyrus R. Vance Center for International Justice and a term member of the Council on Foreign Relations. [Bio >](#)

The Blueprint: Project Finance in Latin America

continued



The 540 km (340 mi) Camisea pipeline traverses the Andes mountains. It was one of the most significant capital investment programs in Peru's history and Peru's largest gas project. In 2004, it was awarded "Latin American Oil & Gas Deal of the Year" by *Project Finance*.

economy, but the difficulty was how to transport the gas down from the Amazon over the Andes to where it was going to generate power in Lima and elsewhere.

We represented a consortium of six companies—from Argentina, the United States, France, Korea and Algeria—who developed a plan to pump the gas out of the jungle, separate the liquids from the gas, transport it in pipelines over the Andes and hundreds of miles to the coast. But there was no gas market in Peru. So we worked with this consortium on the project financing of the pipeline. And the sponsors negotiated with the government, which agreed to guarantee a minimum cash flow for the pipeline until a domestic gas market had developed in Peru, sufficient for the project to service its debt without the government's support.

WA: And we've continued working on it—we're still working on it now, 15 years later. In 2013 or so, we began to work on a series of transactions for Canada Pension Plan Investment Board, which was not involved in the original project development. We helped CPPIB with a series of investments that gave it a significant stake in the project company, and joint control of the pipeline together with other partners. There, familiarity with the regulatory and commercial landscape that led to the pipeline's creation was enormously helpful in our client getting to its preferred outcome, and it's another example of how the breadth of experience from our project finance practice helps in other engagements as well. This last leg was more of an M&A transaction involving the project. Our project finance practice generates other work, and makes us better at it, more informed about it. If we go into an M&A transaction in the same jurisdiction, we know the lay of the land.

It was exciting to see that something we were involved in creating became an important driver of economic development in Peru. And the strength of our Latin America M&A practice gave us an opportunity to help another client of the Firm develop a major presence in the now highly developed gas sector in that country.

GENERALLY SPEAKING

The practice also sounds like the ideal classroom for associates.

CM: Yes—it's another example of the value we see in training our young lawyers to be generalists. That makes the work more interesting for our lawyers, but it is also helpful because the work we do is novel and demands lawyers who can think creatively and who have a wide skillset.

WA: One of the most interesting experiences I've had at the Firm from a pure learning perspective was an assignment that Fred and Sergio gave me during my first week at the Firm as a summer associate.

Several years ago, the Panama Canal Authority was about to embark on a major, multibillion-dollar expansion. Since the canal represents about 20 percent of the Panamanian economy, there was a lot at stake. They hired the Firm to study legal and corporate structure relating to the canal and optimizing them for the expansion financing. The Authority wanted a window into how lenders might think about such issues as the Authority's independence from the Panamanian government, the potential impact of obligations under the Panama Canal Treaty and how decisions made by the government or the Authority could affect the ongoing commercial operation of the canal.

It was my introduction to project finance—and to the Firm, really. I was asked to read many of the key documents underpinning the canal's legal and regulatory framework in Panama (including the country's constitution, the treaty and the most important contracts affecting the Authority's operations) in order to identify issues for the team to analyze in a comprehensive report to the client. It was a fascinating and creative assignment, driven by the practical business objectives of the Authority in the first expansion of the canal in a hundred years.

CM: A number of S&C lawyers have cut their teeth on project finance and have gone on to develop new practices and capabilities at the Firm. This includes several partners who work on the same

The Blueprint: Project Finance in Latin America

continued



In 2012, S&C lawyers and alumni visited the Panama Canal's expansion project, also called the "Third Set of Locks Project," which doubled the capacity of the Panama Canal. The project began commercial operation in June 2016.

floor as Werner and I work on, for example—Neal McKnight and John Estes are the co-heads of our leveraged finance practice, and John is an active member of our energy and natural resources practice. Andy Dietderich leads our bankruptcy and restructuring practice. Sergio Galvis, Werner and I are the three core partners in our Latin America practice. Inosi Nyatta and I co-head our Africa practice and she is also a key member of our energy and natural resources practice. I

coordinate our infrastructure practice. All of us had an important education in project finance, which instilled in us a creative sense of lawyering and gave us a diverse set of skills—and a somewhat fearless willingness to try new things—that allowed us to pursue new disciplines.

AND FURTHER AFIELD

Looking ahead, what trends do you see developing? What changes do you anticipate for the practice?

WA: Well, as we all know, commodity prices have taken big hits and have been very volatile in the past decade, which has decreased somewhat the number of large new-money natural resource projects in Latin America when compared to the prior decade. But that has created other opportunities. Chris mentioned Andy Dietderich and the restructuring practice, and many of the lawyers in our project finance and leveraged finance practices are also restructuring lawyers whose experience has been highly relevant to sponsors and lenders in recent years. In the face of the various commodity price slumps of the last few years, many big mining companies and individual mining projects, for example, were focused on shoring up their balance sheets and restructuring their debts, and our lawyers have played a major role in that trend.

CM: There are two other specific trends that come to mind. One is that the universe of sponsors for projects in Latin America and elsewhere has expanded. It used to be that most of our clients were big operators—oil and gas or mining companies, for example—that were undertaking a major project. Now there are a lot of private equity and other players in the market, and that means more nontraditional lenders and nontraditional equity and debt financing structures.

The second trend is that there are new forms of debt and other financing available. Private equity firms, pension funds and insurance companies are increasingly becoming direct private lenders. This disintermediation of financing has required creative lawyering and structuring to help drive more efficient capital structures.

What's a good example?

WA: Streaming transactions. Chris mentioned that the new sponsors are "nontraditional." These would include private equity players, or smaller mining companies backed by private equity funds. These players don't have the same balance sheet that a typical old-school sponsor has. So they seek investment from sources that are willing to take greater risks for the potential of greater reward, secured by a direct claim on a portion of the output being produced by the project, the project's "stream" (Sergio and Inosi wrote an article on this trend, "[Alternative Financing of LatAm Projects](#)," published by *Project Finance International*).

CM: Let me give you a slightly different type of example.

We've also been building an infrastructure practice over the last decade as a component of our project finance practice. This practice draws on the project finance skillset of our lawyers, but is often fundamentally more of an M&A practice when our work is in the context of a brownfield (existing) asset. Greenfield projects, by contrast, are more directly like a project development and finance assignment. Many of the lawyers and other advisers in the infrastructure space actually come from a project finance background—which has made it easy for us to add value to infrastructure transactions, in both the greenfield and brownfield contexts.

The Blueprint: Project Finance in Latin America

continued

In connection with that infrastructure practice, we have developed a significant U.S. policy initiative, in which we assembled government officials, advisers to the government, investors, economists and operators that might be affected by U.S. infrastructure policy. We gathered them together for a private discussion in Washington back in February 2017, and we have produced a large amount of policy papers based on those discussions. Our work on infrastructure policy has kept us in close touch with staff members, supporting members of Congress and senior officials within the U.S. administration. Clients are very interested in the work we have been doing, because it gives them an insight into what the likely policy initiatives are that might come out of Washington.

On another level, it's an echo of Werner's first assignment on the Panama Canal expansion. We brought in a group of associates and had them do a lot of research on various aspects of U.S. infrastructure and policy, and had them put together a very ambitious briefing book for the conference. That briefing book analyzed at a fundamental level what infrastructure actually is, the role it plays in the economy, the different asset classes it comprises and the various state and federal programs that support it. The work by the associates has continued over the succeeding months and our working group continues to play a key role in our policy contributions and our advice to our clients and potential clients.

WA: It's exciting. And as Chris said, it draws together some of the strengths of our practice—obviously, first and foremost, our experience and knowledge of what is possible in project financing. But also our curiosity, our willingness to explore new intellectual territory, and push the boundaries of our practices in ways that are useful to clients. And because we're involving our youngest lawyers in that effort, we're training them in this...generalist approach, I wanted to say, but I think it's also an attitude, or a basic orientation to practice. We're helping them to develop broad skills, so that when the next sea change transforms their practice or the industries in which they are developing their careers, they'll be clear-headed, flexible and creative. ■

DEAL SPOTLIGHT:

Grupo Argos Compas Sale

Grupo Argos is a publicly traded Colombian holding

company with investments in the cement and concrete, energy, real estate, and transportation and logistics sectors. Given the Firm's infrastructure M&A experience, the company (a longtime S&C client) hired our team to advise on a complex transaction that allowed it to reap a return of 2.5 times its initial port investment through the sale of its 50 percent interest in Compañía de Puertos Asociados (Compas)—the largest port operator in Colombia and the only in the country with operations on both the Caribbean and Pacific coasts—to West Street Infrastructure Partners III, an infrastructure investment fund managed by Goldman Sachs.

The transaction value totals COP 407 billion—approximately \$136 million—equivalent to 24 times the EBITDA generated by Compas in the year before its sale in 2017. The deal helped Grupo Argos more efficiently allocate company resources and focus its concessions portfolio and other sustainable investments in Latin America.



DEAL SPOTLIGHT:

KKR Makes Historic Entry into Mexican Oil & Gas Market



2016
**Latin America
M&A Deal of the Year**
IJGlobal

2016
**Private Equity
Deal of the Year**
LatinFinance

Mexican energy behemoth Petróleos Mexicanos (Pemex), like many oil and gas companies worldwide, was seeking financing alternatives in 2016 for its ongoing operations and potential expansion opportunities. In addition, the company publicly announced an ambitious financing program as part of comprehensive reforms aimed at easing its debt load.

Private equity firm KKR stepped in to facilitate this financing objective by leading a structured financing involving the sale and leaseback of a number of Pemex's infrastructure assets, including undersea cables, pipelines, non-drilling platforms and other facilities. Recent Mexican energy reforms had opened up the possibility of the sale, and for the first time since nationalization of the oil industry in 1938, foreign investors were permitted to acquire certain assets related to Mexico's oil production.

Nonetheless, the transaction posed a number of difficulties. Challenging structural issues and financing constraints emerged, including lingering regulations proscribing foreign operation of oil production facilities in Mexico.

The final deal, a complex acquisition and leaseback of the Pemex assets by a special purpose vehicle established by KKR, was a first-of-its-kind transaction in Mexico. To fund it, Morgan Stanley and other initial purchasers executed a senior secured notes offering, while Crédit Agricole and other lenders executed a senior secured credit facility, both on behalf of KKR's Mexican SPV. Morgan Stanley and Crédit Agricole turned to S&C to handle the combined \$1.2 billion financing.

The financing entailed a major structuring exercise, reconciling a diverse set of objectives among the involved parties and an array of complex accounting, credit security, regulatory and operational considerations, including energy reform, treasury parameters, local and investor tax requirements, desired accounting treatment, rating agency requirements, the needs of the project finance bank market and expansion flexibility. ■

DOJ's Antitrust Chief Joins Sullivan & Cromwell



Renata Hesse joins S&C after leading the Antitrust Division at the U.S. Department of Justice and a distinguished career in government.

Since joining the Firm, Renata has helped clients in high-profile mergers and acquisitions, including overseeing the swift regulatory clearance of Amazon's \$13.7 billion acquisition of Whole Foods.

At the DOJ, Renata was involved in major technology and communications deals and is uniquely positioned to help clients navigate the shifting antitrust landscape.

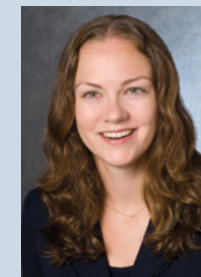
In an article covering Renata's new role at S&C, *The Wall Street Journal* writes that while merger activity is likely to stay strong in the coming years, the focus will shift from cost-cutting deals to transactions that help companies grow.

"The need for Renata's skills is only going to grow as companies look for ways to market more efficiently priced, higher-value products in more jurisdictions," S&C chairman Joe Shenker told *The Wall Street Journal*. "Renata is one of the most sought after legal experts coming out of Washington. She has deep knowledge and experience in complex, cross-border matters as well as the intersection of antitrust and intellectual property issues."

The New York Times also quoted Joe saying, "Renata brings to S&C deep and highly relevant government experience, further strengthening our world-class antitrust practice." [Bio >](#)

Litigator with high-profile FCPA experience in Latin America joins S&C

Aisling O'Shea has re-joined S&C as special counsel in the Litigation Group following more than five years as a trial attorney in the Fraud Section of the U.S. Department of Justice's Criminal Division. Her practice focuses on criminal defense, government investigations and the Foreign Corrupt Practices Act, including experience in matters related to Latin American governments and issues surrounding corruption and money laundering.



At the DOJ, she was instrumental in a high-profile FCPA and money-laundering investigation involving corruption at Venezuela's state-owned oil company, resulting in multiple convictions and significant judgments. The matter was awarded the Homeland Security Investigations 2016 Outstanding Financial Investigation.

Within the Criminal Division, Aisling was a member of the Foreign Corrupt Practices Unit of the Fraud Section, where she focused on international corruption, money laundering, securities and healthcare fraud, and other complicated economic crimes.

She is among more than a half-dozen attorneys who have joined S&C from the DOJ, the U.S. Attorney's office and other government agencies over the past year. With global regulation and enforcement activities on the rise, these additions strengthen S&C's capabilities in both regulatory review and corporate defense for the benefit of S&C clients worldwide. [Bio >](#)

Recent Developments



Werner F. Ahlers

New York

Werner was recognized as a Transatlantic Rising Star by *The American Lawyer* in 2016. He maintains a strong project finance, M&A and joint ventures practice with an emphasis on natural resources, infrastructure and financial services. His recent transactions include State Grid's acquisition of CPFL Energia; PointState Capital's strategic acquisitions in Argentina; UnitedHealth Group's Chilean and Brazilian acquisitions; AT&T's acquisitions of Iusacell and Nextel Mexico; Cementos Argos' acquisition of certain HeidelbergCement U.S. assets; and Bankia's sale of its subsidiary, City National Bank of Florida, to Banco de Crédito e Inversiones, the first time that a Chilean bank has purchased a U.S. bank. [Bio >](#)



John E. Estes

New York

Co-head of our credit and leveraged finance group, John has handled important financings for many of the region's most active borrowers, including CEMEX, Argos, and AB InBev. John recently led S&C's work for the initial purchasers and lenders on KKR's complex acquisition and leaseback of certain Pemex oil and gas infrastructure assets, a first-of-its-kind transaction in Mexico. He also has significant experience in Peru, having advised Minsur and HudBay Minerals on various loans and offerings, as well as in Chile, leading the S&C team advising on Minera Escondida Limitada's loan facility, which provides unsecured financing to expand its Escondida copper project. [Bio >](#)



Sergio J. Galvis

New York

Recognized by *Latin Lawyer* as its 2015 International Lawyer of the Year, Sergio heads our Latin America and Spain practices and sits on S&C's management committee. He has recently been featured in several news outlets, including *El Financiero* on M&A and *O Jornal do Comercio* on FCPA, as well as *Project Finance International* on alternative options for projects in Latin America financings, and *Capital Markets Law Journal* on sovereign finance. He has recently advised on corporate governance, project finance and joint ventures, capital markets, sovereign finance and restructurings, and crisis management and disputes matters throughout Latin America and other parts of the world. [Bio >](#)



Christopher L. Mann

New York

Chris leads the Firm's infrastructure group, representing sponsors and private equity funds in equity and debt investments in infrastructure, natural resources and other sectors, as well as Latin American sovereigns and their underwriters in several offerings. His recent matters have included advising CIC Capital in a Brookfield-led consortium's acquisition of a stake in the natural gas pipeline unit of Petrobras; Grupo Argos in the sale of Compas; and Maaji in its combination with Seafolly. Other recent matters have included the Tres Mesas Wind Project acquisition; CPPIB's acquisition of stakes in Chilean toll roads and the Camisea gas pipeline in Peru; and Anglo American's Brazilian iron ore projects. [Bio >](#)



Joseph E. Neuhaus

New York

Head of S&C's arbitration group, Joe's practice focuses on international commercial litigation in both arbitral and court settings, with particular emphasis on Latin America matters. He successfully represented Banco Central de la República Argentina (BCRA) in three appeals regarding the Foreign Sovereign Immunities Act and has advised investors in disputes with Latin American sovereigns as well as parties in commercial arbitration disputes in the region and served as arbitrator in numerous Latin American disputes. In 2015, he was named "Litigator of the Week" by *The American Lawyer* for the latest BCRA victory and was interviewed by *Law360* in 2016 on what attracted him to international arbitration work. [Bio >](#)



Inosi M. Nyatta

New York

Twice named a *Law360* Rising Star, Inosi works on complex natural resources and energy matters. She has advised on several project financings in South and North America, Africa and Australia, including representing Cheniere Corpus Christi Holdings in the financing of its LNG development in Corpus Christi, Texas. She likewise advises on multiple renewables matters, including representing TerraForm Power in its sale to and sponsorship transaction with Brookfield Asset Management. Together with Sergio Galvis, she co-authored an article on alternative financings of Latin American projects for *Project Finance International*. [Bio >](#)



Robert S. Risoleo

Washington, D.C.

Bob maintains an active practice in the region, giving corporate advice and handling capital markets offerings for a number of issuers. He works with various Latin American companies with NYSE ADR programs and represents sovereigns and supranationals on debt financings and other matters. Bob advised Banco Agrícola on the first international offering by a Salvadoran bank and Banistmo on its maiden offering. He represented Fiduciaria Bancolombia S.A., as trustee of Fideicomiso P.A. Pacífico Tres, Fideicomiso P.A. Costera and Fideicomiso P.A. Concesión Ruta Al Mar, in separate project bond issuances and credit facilities to finance the construction and improvement of toll roads in Colombia as part of the country's "Fourth Generation" (4G) project. [Bio >](#)



Dennis C. Sullivan

Washington, D.C.

Dennis works on structured finance, commercial loans and restructurings, with a focus on Latin America. He is a regular adviser to CAF on its financings and investments and recently represented the International Bank for Reconstruction and Development, part of the World Bank, in issuing "catastrophe bonds" to provide Mexico and other Pacific Alliance countries with protection against financial losses from earthquakes. He was instrumental in helping the Central Bank of Argentina complete its 2016 repurchase transactions, which helped increase the Central Bank's U.S. dollar cash reserves by \$5 billion. [Bio >](#)



William D. Torchiana

Paris

William is head of S&C's Paris office and has led many of the most significant multijurisdictional asset monetizations in Latin America by European financial institutions arising from the global economic crisis. He has broad-based experience in transactional and regulatory matters involving international and domestic insurance and reinsurance companies and other financial institutions, which has included advising on ING Groep's dispositions of its Latin American insurance, pensions and wealth management businesses; BBVA's dispositions in Chile, Colombia, Peru and Mexico; and financings for insurers and reinsurers elsewhere in the Caribbean and Latin America. [Bio >](#)

Recent Developments continued



Ari B. Blaut

New York

Ari was elected to the partnership in 2016. He has particular expertise in leveraged finance, acquisition finance and strategic credit transactions, and has acted for AT&T on multiple Latin America financing matters, including advising on its subsidiaries' inaugural Mexican Peso facility. [Bio >](#)



Patrick S. Brown

Los Angeles

Pat advises financial services, technology, alternative investment management, real estate, healthcare and other clients in securities offerings and leveraged recapitalizations, as well as in M&A and corporate governance matters, including in Latin America. [Bio >](#)



Ronald E. Creamer Jr.

New York

Ron heads S&C's Tax Group and works on complex tax structures for M&A and securities matters, including for CMPC, Bancolombia, CAF, Colombia, Panama and Brazil. [Bio >](#)



Scott B. Crofton

New York

Scott was elected to the partnership in 2016 and has advised on several major M&A matters. He has assisted with S&C's representation of clients in Colombia and Argentina and advised AT&T in its \$47.1 billion acquisition of DIRECTV, which grew its TV customer base in Latin America to 19 million. [Bio >](#)



Robert G. DeLaMater

New York

Del is active in M&A, takeover bids, joint ventures and divestitures, as well as on securities offerings, privatizations and other corporate and financial matters globally, in particular in the mining and metals and financial services sectors. He advised AIG in several Central America dispositions. [Bio >](#)



Andrew G. Dietderich

New York

As the global head of the Firm's restructuring practice, Andy has represented various clients, such as Kodak in its landmark bankruptcy, which included significant assets in Argentina and Brazil. [Bio >](#)



Theodore Edelman

New York/London

Ted is co-coordinator of the Firm's FCPA and anti-corruption practice group and has been involved in many litigation and regulatory matters, including FCPA and other government investigations, involving Latin America. He is likewise a frequent presenter on Latin America-related topics. [Bio >](#)



C. Andrew Gerlach

New York

Andrew's practice includes strategic financial services matters in the region, such as advising Bancolombia on its acquisitions of HSBC in Panama (the largest acquisition by a Colombian company) and Banagrícola in El Salvador. He also advised Ally Financial on its strategic dispositions in Brazil, Mexico, Colombia and Chile. [Bio >](#)



Juan Rodriguez

London

Head of S&C's EU competition group, Juan has handled global antitrust matters for LAN Airlines, Cementos Argos and Antofagasta, as well as Alcatel-Lucent, Bayer, Praxair and Teva Pharmaceuticals. [Bio >](#)



Melissa Sawyer

New York

Named a 2017 Rising Star by *IFLR1000* and a 2015 "Dealmaker of the Week" by *The American Lawyer*, Melissa is recognized for her work on M&A and corporate governance matters, in particular in the consumer and retail industry. [Bio >](#)



Thomas W. Walsh

New York

Special Counsel Tom Walsh works on numerous international commercial and investor-state arbitrations, commercial litigations and regulatory investigations involving Latin America. [Bio >](#)



Basil P. Zirinis

London

Head of the Firm's international private client practice, Basil has vast experience representing family-controlled businesses, fiduciaries and individuals in Latin America and worldwide. [Bio >](#)

Introducing S&C's New Partners

In January of this year, S&C elected eight new partners. The quality of their work and accomplishments, and the breadth of practice areas they represent, including financial services, real estate, capital markets, litigation and intellectual property, strengthen our ability to serve clients worldwide on their most complex issues.



Top row from left: **Mehdi Ansari** ([Bio](#)); **Andrew J. Finn** ([Bio](#)); **Ching-Yang Lin** ([Bio](#)); **Ann-Elizabeth Ostrager** ([Bio](#)); **Stephen M. Salley** ([Bio](#)); **Pavan C. Surapaneni** ([Bio](#)); **Benjamin H. Weiner** ([Bio](#)); **Isaac J. Wheeler** ([Bio](#)).

S&C Expands its European Antitrust Practice

Opens Brussels Office and Elects Michael Rosenthal to Partnership

In May 2017, S&C elected Dr. Michael Rosenthal to the partnership and opened an office in Brussels, which he now heads. These developments further strengthen S&C's global antitrust and competition group, led by Juan Rodriguez in our London office.

In his almost 20 years of practice, Michael has advised a broad range of clients on all aspects of EU and German competition law. He has worked on a number of the largest global transactions as well as complex cartel investigations and monopolization matters across many different industries, such as technology, natural resources, chemicals, airlines and automotive.

"Michael is a demonstrated leader in the European competition field," said Joe Shenker, chairman of Sullivan & Cromwell. "I am delighted he has decided to join us; his experience and expertise will continue to expand our antitrust and merger clearance practice servicing clients in Europe and throughout the world." [Bio](#) >





Alumni Connections

Pablo Jiménez-Zorrilla and Andrés Gutiérrez Fernández, both Visiting Lawyers Program alumni, have taken on key roles at international brewing giant AB InBev. We sat down with them to discuss their post-S&C careers; along the way we learned about their recent work on AB InBev's merger with brewing giant SABMiller, their thoughts on the differences and similarities between law firm and corporate legal practice, and how S&C prepared them for a fast-paced, high-stakes global work environment.



Pablo Jiménez-Zorrilla (left), VP legal and corporate affairs, AB InBev – Middle Americas and **Andrés Gutiérrez Fernández** (right), head of corporate affairs, AB InBev – Middle Americas.

Pablo and Andrés demonstrate the strong ties forged by S&C's Visiting Lawyers Program.

After spending time as fellow associates in Mexico, both went on to join the VLP—Pablo from 2005 to 2006 and Andrés from 2009 to 2010. After returning to Mexico and years spent practicing at firms and in-house, their paths crossed again when both took positions with longtime S&C client AB InBev, the world's largest brewer and one of the world's top five consumer products companies by revenue.

Please describe your roles at AB InBev and how you came to join the company.

PABLO: I joined AB InBev as legal and corporate affairs vice president, Mexico zone in January 2014—a few months after AB InBev combined with Grupo Modelo. My biggest challenge, but also the biggest opportunity, was to organize the legal and corporate affairs team at Grupo Modelo headquarters practically from scratch. It was quite challenging during the first few months; however, the talented, driven and engaged team we now have is the single biggest source of pride for me in this company.

Alumni Connections continued



The “Mexico zone” in my title was changed to “Middle Americas” in October 2016, upon AB InBev’s combination with SABMiller. This new designation comprises company operations in Mexico, Honduras and El Salvador. I head up a team of 130 people, the majority of which are lawyers. We’re responsible for the company’s legal and compliance matters, institutional relations with all levels of government and the business community, external communications, and corporate

social responsibility and sustainability. I’m also the secretary of the advisory board of Grupo Modelo. And I brought Andrés on board right after I joined—he was one of my first choices for the new team. I was certain that Andrés would be an important contributor for bringing strategy, knowledge and cohesion to the legal team.

ANDRÉS: Until last September, I served as AB InBev’s corporate legal director in charge of most commercial, M&A, securities, litigation and other legal matters. In

October, I changed roles, becoming corporate affairs director, Middle Americas. In this new role I manage institutional relations, external communications, crisis management and the image of the “beer category” for the zone.

PABLO: We had worked together at the Galicia y Robles law firm, now Galicia Abogados, in Mexico City, and our shared experience in S&C’s Visiting Lawyers Program means we communicate and coordinate very efficiently—which is important, because we work very closely on a day-to-day basis. There were only a couple of years between when we joined AB InBev and its combination with SABMiller, which reshaped the company yet again, making close coordination ever more critical.

What was it like playing a central role in that deal? It was a record-breaker.

ANDRÉS: It was intense. The deal is the largest in our industry’s history and the third-largest acquisition in the history of corporate transactions, so as you can imagine it was around-the-clock work, meeting after meeting. As I mentioned, I switched roles from corporate legal director to corporate affairs director, and that transition happened right in the middle of the deal, which was quite a challenge! But it gave me a unique view of different aspects of the deal.

What aspects were you working on?

PABLO: The work we focused on initially was broken into three parts: we teamed up with outside counsel to secure timely approval of the deal before the COFECE (Mexican Federal Economic Competition

Alumni Connections continued

Commission); we handled the listing of the new AB InBev entity on the Mexican Stock Exchange; and we designed and executed the external communication and stakeholder engagement plan regarding the “global transaction” in Mexico, Honduras and El Salvador.

Also, only a few days before the global closing of the deal, we took responsibility for the concentration files in Honduras and El Salvador, which hadn’t been finalized. We took over and made significant progress very quickly; since then, we have received approval in both countries. Once the transaction closed, the next challenge appeared on the horizon: because of the global combination, what was once AB InBev’s Mexico zone became the Middle Americas zone, which means bringing our familiar Mexican market together with these two new markets in Honduras and El Salvador.

ANDRÉS: There’s no question that putting the deal together was an impressive achievement by our senior management. But the integration of the companies is not a small challenge either; blending SABMiller’s experiences with ours, and seeing how their practices reshape and influence the combined company. We’ll redefine our communications and legal platforms globally first, and then start on the specific execution—implementing the new zone structure on the ground. It’s going to be fascinating work.

Was there a moment that you remember from the SABMiller deal that sums up what it was like “in the trenches?”

ANDRÉS: A few nights before closing, we were in a meeting discussing securities issues and trying to hammer out how things would work for the closing,

both from a communications and a legal perspective. It was a typical meeting for this deal—working with various firms in different jurisdictions and time zones around the clock, and other teams of lawyers on the phone from offices around the world. I was attending the meeting as legal director, but as I mentioned earlier, I was transitioning into my current corporate affairs role, so I was discussing the communications plan at the same time—I was on a conference call with the communications team.

At one point in the middle of all this, the communications team said that they were going to hold off on the plan until the legal team decided a particular issue. And I said, “Wait, guys—I just heard from legal how they’re going to handle it,” and this caused a lot of confusion—“Who are we talking to? Corporate affairs or legal?”

How would you contrast working in law firms, which are relatively small organizations, with working at a multinational giant like AB InBev?

PABLO: In a law firm environment, normally you have a handful of files or transactions running at the same time, but you can dedicate substantial time to each. At a company like AB InBev, you have dozens of matters hitting your desk every week. Consequently, there’s less time to sit and think through each issue, so you develop skills to manage this workload. Asking the right questions, to the right people and at the right time, becomes crucial. You develop a laser-like focus on the truly critical matters.

That’s part of what makes it extremely exciting to work here. When I was invited to join this company, Sabine

“

At a company like AB InBev, you have dozens of matters hitting your desk every week....Asking the right questions, to the right people and at the right time, becomes crucial.”

—Pablo Jiménez-Zorrilla

Chalmers, then the company’s chief legal and corporate affairs officer, promised me that I wouldn’t have a dull day. Sabine and the company certainly kept this promise!

In the midst of this flood, what does a typical day look like?

PABLO: There’s no such thing as a “typical day!” There’s a wide variety of work at any given time. It’s very hard to predict what we’ll tackle day to day.

ANDRÉS: The content varies, but I’ll add that each day takes on a familiar shape—you get up very early, review all of the relevant projects and problems which are already building up pressure to be solved—we also review all relevant media that’s out there, check in on what stakeholders are saying, review possible crises and other immediate priorities: a problem in a plant, a foreclosure and so on.

Then you get to the office. Pablo makes fun of my calendar—he says it looks like a game of Tetris, with three

Alumni Connections continued

different meetings at the same time! Meetings from 8 a.m. until let's say 3 or 4 p.m.; the “typical day” would involve negotiating any deal you're working on, reviewing and handling litigation, working out a crisis at a production facility. Then, around 5 p.m., your day really starts!

PABLO: That's when the planning and creating begins...

ANDRÉS: And you usually work into the night, and then get ready for the next day. People who join AB InBev from a different world—people who did not work in a law firm, for instance—often find this pace a bit of a shock! But S&C got me ready for it. I think anyone with that background would thrive here.

Aside from navigating a fast-paced environment, do you rely on other skills or habits that you developed at S&C?

PABLO: Attention to detail—being meticulous. I also learned to formulate the right questions at the right time, and developed the nerve to ask them even if they might seem obvious or even impolitic. I learned to leave very little to chance; I'm prepared and respond swiftly.

“

I learned to formulate the right questions at the right time, and developed the nerve to ask them...”

— Pablo Jiménez-Zorrilla

ANDRÉS: I think you become very comfortable with complexity—S&C taught me to dive into each project or

transaction wholeheartedly. The collaborative culture at S&C trained me to think about my team as a whole: how does my work affect other areas of the business? I also learned valuable communication skills—because I was working on deals for top-flight multinationals, I had contact with more than just the client; I had the opportunity to talk with top-flight investors, parties across the deal table, important creditors and so on.

But S&C taught me the most important thing: a sophisticated lawyer understands the business reality behind the client's needs and wants; understands balance sheets, financials, leverage—the deep business details. This was invaluable. How can you help clients make decisions unless you know their businesses inside out?

Why did you choose to work at S&C? How did you get there?

PABLO: Back in 2002, when I was a junior associate, I had the great opportunity to work along with an S&C team in a cross-border transaction. The transaction was complex and intense and we spent a few days working from Buenos Aires without much access to the “outside world.”

I was really impressed by the thoroughness, diligence and hard-working style of S&C attorneys. The following year, I started my application process for pursuing a Master's Degree in the United States—I even called Latin America practice head Sergio Galvis to ask for his opinion about the law schools I was applying to. As soon as I was admitted to Stanford, I called him and expressed my great interest in being part of the Visiting Lawyers Program at S&C.

Fast forward to October 2004, and I was lining up interviews with a few top-tier firms in New York City. I received an offer from one of them almost immediately after the interview; however, S&C was my number one choice, no question about it. So, I called Sergio and told him about the situation; he responded by making an offer in a couple of days' time, which I most happily accepted. I joined the VLP in September 2005, and the rest is history...

“

A sophisticated lawyer understands the business reality behind the client's needs and wants...How can you help clients make decisions unless you know their businesses inside out?”

— Andrés Gutiérrez Fernández

ANDRÉS: After Pablo went on to S&C, we served on many transactions together. At some point, Sergio and the Latin America team asked Pablo and the leaders at Galicia if they had any suggestions for a visiting lawyer candidate—there were strong ties between the firms, and their opinions were valued.

Pablo and the head of Galicia y Robles recommended me, and I applied. I think that one of the things that grabbed their attention was that I did not fit the usual profile of a foreign lawyer. There's a career “checklist,” I think, that certain foreign lawyers follow—get a law

Alumni Connections continued

degree in their home country, then go to the U.S. to get their LL.M., apply to a big New York firm and so on.

I didn't go that route—I got an MBA instead, and many of the interviews I had at S&C focused on why I pursued an MBA instead of an LL.M. I believe they might have been interested in me because my experience was atypical but at the same time fit well with S&C's values, since business expertise is part of what S&C is known for.

“

[S&C was] interested in me because my experience was atypical...

— *Andrés Gutiérrez Fernández*

Do you have any advice for prospective visiting lawyers?

PABLO: It is a fabulous program, and there are significant opportunities for learning and growing—both personally and professionally. But the quality of your experience largely depends on you. You will only get as much as you put in!

Although you may be a relatively senior associate in your home country, remember that no legal work is below you when you begin; be humble and prove yourself with great dedication and quality work. Senior

lawyers around you will soon realize you have more “bandwidth” and give you greater responsibilities and more exciting work. Then it's time to shine!

Was there a particular moment at the Firm you recall—a representation or an interaction from your time at S&C that captured the essence of the place?

PABLO: Two representations were especially interesting. We were representing a potential buyer of assets being sold by a Latin American commodities company. After working on due diligence—in another law firm's conference room for a couple of weeks—I was presented with the opportunity to take on a larger role; I traveled a couple of times with Sergio to meet with the client's senior management. As I watched him explain the key risks and opportunities of the transaction, I was impressed by his thoroughness—but also his clarity and simplicity.

Another interesting transaction was representing the underwriters of an IPO in Mexico, with Rule 144A and Regulation S tranches. Besides expanding my securities practice enormously, I was immersed in immigration, labor practices, FCPA and many other interesting issues, all topics which are relevant for Mexican companies doing business in the United States.

It also introduced me to the high drama of being a lawyer: the transaction became particularly complex, to the point that it seemed doomed at certain moments. But after a massive effort it finally went through with great success! ■

S&C and AB InBev: A History

Early in the new millennium, beer consumption was dropping worldwide, and the world's leading brewers sought new avenues to maintain growth. Belgian label Interbrew was one among many companies on the hunt for M&A opportunities in global growth markets.

AmBev—then Brazil's largest beer company—presented an attractive target. One industry expert claimed that “AmBev is the prize... that may, from a strategic point of view, define the marketplace for years to come.”

After failed approaches by its competitors, Interbrew executed an \$11.4 billion merger with AmBev in 2004, creating InBev, the world's largest brewing company. Interbrew tapped Sullivan & Cromwell for the deal (which was signed at S&C's midtown office), beginning a long-term relationship spanning a series of industry-transforming deals.

S&C was there in 2008 when InBev executed a \$60.8 billion acquisition of Anheuser-Busch, then the largest-ever U.S. acquisition by a non-U.S. company. At close, AB InBev instantly became one of the top five global consumer product companies.

S&C then advised AB InBev on a series of moves to expand in North America, including the \$20.1 billion acquisition of Grupo Modelo in 2013 and a number of related follow-on transactions.

In 2016, AB InBev entered into a \$123 billion merger agreement with SABMiller, making corporate history as the largest-ever takeover of a British company and the third-largest acquisition ever.

With annual revenues of \$55.5 billion and 200,000 employees in 50 countries, the new company will produce a quarter of the world's beer—a stunning transformation of S&C client Interbrew and its progeny.

S&C's Career and Alumni Resource Center



Rachel Marx Boufford, director of career and alumni services.

In 2016, S&C launched its Career and Alumni Resource Center. The Resource Center's services are available to all current and former S&C lawyers at any point in their careers, and include:

- Customized career counseling in support of your personal career objectives
- Facilitated access to and between the Firm's alumni, clients, colleagues and friends
- Placements with legal and non-legal employers
- Networking opportunities at business seminars and social events

Rachel Marx Boufford is S&C's director of career and alumni services and is available for consultation by phone, e-mail or in person for alumni as they navigate and assess post-S&C professional and business opportunities. Rachel graduated from Harvard Law School and practiced at a New York law firm before joining Vault, where she served as Law Editor and oversaw publication of *Vault's Guide to the Top 100 Law Firms*. Rachel has held senior positions in S&C's Legal Recruiting & Professional Development and Communications departments. Prior to law school, Rachel attended Tufts University and was a Fulbright Scholar in Madrid. She is a member of the New York City Bar's Committee on Recruitment and Retention of Lawyers.

To learn more about the Resource Center, please contact Rachel at bouffordr@sullcrom.com or (212) 558-4736.

Please also visit our recently launched alumni.sullcrom.com.

S&C ALUMNI FAST FACTS

3,300+
ALUMNI

30+
INDUSTRIES

150+
GENERAL COUNSEL

120+
CEOS AND FOUNDERS

70+
COUNTRIES

Stay in Touch

S&C provides many great resources through its alumni network. We regularly host events around the world, including receptions, conferences and interactive webinars.

Our substantive client memos are available through e-mail subscription to our client mailing list (email scpublications@sullcrom.com) or on Twitter (@sullcrom).

Follow Sullivan & Cromwell's company page on LinkedIn and join "The S&C Connection" and "Sullivan & Cromwell Latin America Alumni Group" for additional information on Firm and practice news and upcoming events.

Media & Conferences

International Bar Association Annual Conference October 8–13, 2017 — Sydney, Australia

S&C hosted a breakfast reception for more than 225 external guests in connection with the IBA Annual Conference. Sergio Galvis, Renata Hesse, Wally Jones and David Rockwell participated in panels.

Solving the Pari Passu Puzzle: The Market Still Knows Best July 7, 2017

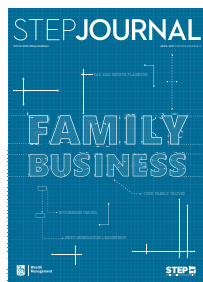


Sergio Galvis authored an article published by *Capital Markets Law Journal*, a publication of Oxford Press, analyzing the ways in which the *pari passu* clause and corresponding collective action clauses have affected

the international sovereign bond market following the Argentine sovereign debt crisis and resulting holdout litigation.

M&A Advisor International M&A Symposium June 12, 2017 — New York, New York

Werner Ahlers participated in a keynote one-on-one conversation titled “**When Brazil Sneezes – Will Latam Catch the Cold**” at The M&A Advisor International M&A Symposium.



Succession Planning for Latin American Family-Controlled Businesses April 17, 2017

Sergio Galvis and Melissa Sawyer co-authored an article published in *STEP Journal* titled “**Steps to Succession**,” which explored succession planning issues relevant to Latin American

high-net-worth individuals leading family-controlled businesses, discussing techniques such as liquidity and third-party investments, exit strategies and devices for sustained ownership and dual-class equity structure, among others.

Pictet Wealth Management Conference for Latin American Clients April 4–5, 2017 — Nassau, Bahamas

Basil Zirin spoke about “**International Wealth Planning and US Issues**” at the request of Pictet Wealth Management at its annual conference for its Latin American clients and their family offices.

LatinFinance 14th Annual IDB Breakfast April 1, 2017 — Asunción, Paraguay

S&C co-sponsored a roundtable breakfast discussion, featuring Chris Mann as a panelist in connection with the Inter-American Development Bank (IDB) and the Inter-American Investment Corporation (IIC) Annual Meeting.



Wharton Latin America Weekend 2017 March 24–25, 2017 — Philadelphia, Pennsylvania

Werner Ahlers participated in the 2017 Wharton Latin America Conference at the University of Pennsylvania on a panel titled “**Policy and Investment in Energy and Infrastructure**.” The panel addressed energy and infrastructure topics such as LNG market opportunities, Mexico energy reform, financing the infrastructure needs of the region and adapting infrastructure for climate change, among others.

Argentina Presentations March 15–16, 2017 — Buenos Aires, Argentina

Pat Brown gave a presentation to Comité de Abogados de Bancos de Argentina on March 15, titled “**Global Capital Market Trends: Challenges and Opportunities for Argentine Issuers**,” regarding developments in capital markets, including macro trends in global capital markets as well as recent developments and trends in the U.S. capital markets, among others. He separately spoke on a panel titled “**Overview of the M&A market in Latin America**” on March 16 as part of the International Bar Association conference “**Mergers and Acquisitions in Latin America: New Opportunities in a Changing Scenario**.” Pat considered questions including competition for capital with respect to infrastructure investments and the effects of uncertainties around the future of globalism on cross-border M&A.



2017 Alumni Reception May 7–8, 2017 — New York, New York

More than 700 alumni, S&C lawyers and guests attended the Firm’s alumni reception on May 7, held at the Mandarin Oriental in New York City.

Media & Conferences continued

International Bar Association Annual Conference September 18–23, 2016 — Washington, D.C.

S&C hosted a breakfast reception on the rooftop terrace of our D.C. offices in connection with the IBA Annual Conference. Fourteen S&C partners and more than 235 external guests, representing 40 countries, attended. Vanessa Blackmore, Rodge Cohen, David Rockwell and Rebecca Simmons participated in panels.

Energy and Infrastructure Investments in Mexico: Tax and Other Key Structuring Issues June 20, 2016 — New York, NY



S&C collaborated with Mexican law firms Chevez Ruiz Zamarripa and Galicia Abogados to host a seminar covering new opportunities and oil and gas tax provisions under Mexico's recent energy reform, as

well as structuring issues in cross-border investments and tax considerations involving FIBRA-E vehicles relevant to U.S. investors. The seminar took place in S&C's New York offices and featured the participation of Chris Mann, Werner Ahlers, Inosi Nyatta and David Spitzer.

Alternative Financing of LatAm Projects May 18, 2016

Project Finance International, a Thomson Reuters publication that serves as a leading source of global project finance intelligence, published an article co-authored by Sergio Galvis and Inosi Nyatta. The article, titled **"Alternative Financing of LatAm Projects,"** discussed potential alternative project financing sources and structures for projects in Latin America in light of decreased cashflows resulting from the drop in global oil and gas prices.

Latin Lawyer 6th Annual M&A Conference December 4, 2015 — Rio de Janeiro, Brazil

Sergio Galvis moderated a panel titled **"Dealing with compliance, corruption issues"** at the *Latin Lawyer* 6th Annual M&A Conference in Rio de Janeiro.

Vance Center 2015 Legal Summit of the Americas December 3, 2015 — New York, New York

Werner Ahlers co-moderated working group sessions at the Cyrus R. Vance Center for International Justice's 2015 Legal Summit of the Americas along with Carmen Rosa Villa, Regional Representative for Central America of the Office of the United Nations High Commissioner for Human Rights. The sessions focused on strengthening pro bono practice through the region, developing the legal profession's role in addressing issues of corruption and the Vance Center's core mission of ensuring access to justice.

Jornal do Commercio FCPA in M&A October 22, 2015

Leading Brazilian economic outlet *Jornal do Commercio* published an article by Sergio Galvis on the significance of FCPA due diligence in M&A in Brazil. In the article, Sergio explained the importance behind the FCPA and the DOJ/SEC 2012 "Guide," particularly for Brazil due to the Lava Jato operation, and how U.S. businesses participating with Brazilian companies view these considerations as a high priority.

Latin Lawyer 6th Annual Private Equity Conference September 17, 2015 — New York, New York

Sergio Galvis moderated a panel titled **"Never enter a saloon unless you know how to get out — structuring the successful PE deal"** as part of the *Latin Lawyer* 6th Annual Private Equity Conference. The panel covered mitigation of regulatory and foreign investment risks, navigation of the

competitive bid processes and planning an exit, among other topics, and included lawyers from various Latin American law firms.

El Financiero Mexico M&A September 7–15, 2015 — Mexico City, Mexico

El Financiero, a leading business and financial newspaper in Mexico affiliated with Bloomberg News, featured Sergio Galvis in an article analyzing current M&A activity in Mexico. The publication also released its league table for M&A in Mexico, in which S&C was ranked first.

Financiación de Infraestructura como motor del crecimiento de la economía del país June 24, 2015 — Bogota, Colombia

Sergio Galvis, Chris Mann and Werner Ahlers discussed project finance and infrastructure at a legal conference hosted by the University of Javeriana School of Law and sponsored by Bancolombia.

El Financiero Q&A Feature May 15, 2015 — Mexico City, Mexico



El Financiero, one of Mexico's leading business and financial newspapers, published an interview with Sergio Galvis as

part of its Q&A series. Sergio discussed the diversity of conditions across Latin American markets and the increasingly global nature of the M&A market. Sergio noted that Latin American countries that have established transparent and balanced regulatory environments aimed at providing investor protections, while simultaneously ensuring the long-term growth and prosperity of their inhabitants, attract the most foreign investment activity.

