

**Kobre & Kim's International
Private Client Contacts**

APRIL 12, 2023

**Ana Frischtak**

São Paulo

ana.frischtak@kobrekim.com**Elina Sfongali**

Cyprus

elina.sfongali@kobrekim.com**Evelyn B. Sheehan**

Miami

evelyn.sheehan@kobrekim.com**Polly Wilkins**

London

polly.wilkins@kobrekim.co.uk**Jason J. Kang**

Shanghai / Hong Kong

jason.kang@kobrekim.com

Politically Exposed Persons Should Preemptively Manage Risks from A Regime Change

The tumultuous power transfer in Brazil underscores the risks a regime change brings to politically exposed persons, with a global rise in politically motivated investigations that threatens liberty, reputation and assets. Our team explores proactive steps politically exposed persons and their advisors can take to protect themselves below.

In Brazil, a tumultuous power transfer to the current administration has highlighted regime change's risks for politically exposed persons. Allegations related to January's attack on Brazil's congress have led to not only the arrests of political aides (including the former justice minister), but also an investigation against the former president himself. The situation shows how far new authorities could go when targeting political opponents and their allies.

This is another instance of a larger global trend where political shifts can result in newly chosen authorities engaging in investigations that could be politically motivated. These inquiries may involve allegations which are either unfounded or undermined by a lack of due process. Such investigations often pose a threat to liberty, reputation, and assets, especially those held overseas, as authorities may target individuals with document requests or asset freezes filed via Mutual Legal Assistance Treaties (MLATs).

Politically exposed individuals and/or businesses should consider taking several proactive steps to protect their assets, liberty, and reputation, including:

- **Prepare a proactive factual packet admissible in court.**

- When facing politically motivated allegations, it is important to set the facts straight about the allegations in question and why they are lawful.
- The evidence needs to be prepared in a manner that would be accepted by courts and authorities around the world, including the U.S., where many Brazil-related cases are heard in South Florida and New York.

- **Assess asset vulnerabilities against future government attacks.**
 - Individuals at risk of attack by government authorities should consider a detailed examination of their own asset structures – including those in presumptively safer offshore jurisdictions such as the British Virgin Islands, Cayman and Dubai – with these potential future politically motivated actions in mind and explore lawful and appropriate preparatory measures that can be taken should a investigation be launched.
 - **Develop a factual narrative to protect against attacks from the media spurred on by politically motivated investigations.**
 - A court of law isn't the only arena where it helps to develop a proactive plan. A politically motivated investigation is also likely to receive significant media attention, and simply refuting the allegations doesn't always do enough to take the sting out of the story.
 - Individuals at risk should develop the framework for a communications strategy that anticipates future legal actions and serves to discredit the allegations cast against them, with the purpose of mitigating any reputational harm caused.
-

About Kobre & Kim

Kobre & Kim is a global Am Law 200 law firm that focuses on cross-border disputes and investigations, often involving fraud and misconduct.

Our capabilities include:

- Our unique position to help clients in Brazil through our team in São Paulo that routinely acts in cross-border government investigations involving Brazilian and foreign authorities.
- The deep on-the ground government investigations experience with the only former U.S. Department of Justice prosecutor resident in Brazil as well as former prosecutors based in Washington, New York and Miami.
- Our onshore and offshore lawyers – including an integrated group of U.S. litigators, offshore lawyers qualified in key jurisdictions, such as BVI, Cayman, Dubai and Hong Kong– helping clients identify vulnerable assets and mitigate reputational harm caused by investigations.

We also provide offensive and defensive cross-border litigation and crisis management strategies to ultra-high-net-worth individuals (UHNWIs) with global business interests to preserve their assets, liberty, and reputation.