



Opalesque Roundtable Series '16  
**LATIN AMERICA**

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# Editor's Note

## Capitalism in Latin America – LatAm could be the major opportunity set ahead, but beta play is over

Over time, we could witness some very good examples of capitalism in Latin America. During the '80s, Venezuela was the place where investors were focused. During the '90s, it was Argentina, and in the 2000s Brazil kicked in and everyone wanted to be invested in Brazil. In the meantime, we also had Colombia and Peru shifting back to a market oriented economy and almost doubling their outputs of oil and mining respectively in less than a decade. *Going forward, will it be Mexico with all the reforms that they have done? Or, will it be Argentina with all the reforms that it is making? Will Venezuela have a comeback?* **One of these regions will dominate the next 10 years.**

But, at least for the moment, depending on one's perspective on Latin America, it's either dismissed or a region of tremendous opportunity. In public markets there's been a massive exodus from emerging markets securities into more defensive and developed market investments. Consequently, also in Latin America, markets have experienced tremendous capital outflows.

At the same time, history has that some of the best investments in the less liquid market environment occur when there are dislocations, and certainly, there are many dislocations across the region. Despite depreciating currencies, falling economic output, increasing inflation that seems to be consistent across most of the countries in the region, and challenges with the legal systems, LatAm could be the major opportunity set that lies ahead.

The question is having access to the right people on the ground, identifying the right partners, identifying the managers that can size up those opportunities and execute effectively. There still remains considerable risk in that particular region, but again, if you are selective and can identify the opportunities and the right partners, there could be interesting investment opportunities. But for sure, **the beta play has ended in Latin America.** Right now is a great time to really find out who has put up their sleeves and who can actually generate results in alpha from markets that are either on a downturn or go sideways.

## Opportunities in real estate, structured credit, infrastructure, and agriculture

With the end of the commodity super cycle and, in the case of Brazil, with the political turmoil the country is going through, there are a lot of companies with great assets suffering from a tremendous credit squeeze. Many of these are going through a fire sale process. This could also be a good moment for someone with a longer term horizon to enter the Brazilian markets. However, this is not an obvious move and there should be patience and a very thorough process of choosing well your assets. The sectors which present some really good opportunities right now are real estate, structured credit, infrastructure, and agriculture.

In fact, **agriculture** is a sector that is currently suffering from this credit crunch but shouldn't be, since it's benefiting a lot from the currency devaluation. This is an area where Brazilian companies have excelled for years and years, and was also one the sectors that relied heavily on the State owned banks to finance itself. Agriculture is particularly interesting sector for foreign investors who don't want to run a currency risk. Most of the financial structures are Dollar denominated as the majority of the corporations are big exporters, generating revenues in hard currency.

**Colombia** has opened up a wealth of opportunities, especially in the oil and gas sector. **Peru** is opening opportunities right and left in the mining sector. **Argentina is finally back in the markets.** In fact, there is already a lot of investment going on in Argentina. **The last six months have been crazy in terms of M&A,** but those are mostly Argentinians buying out companies because they feel comfortable already with the current reduction of roadblocks, which for an investor say from the U.S. is clearly not sufficient yet.

While countries like Venezuela or Argentina, even **Cuba**, are now perceived as the next places to send money, maybe we will not see countries like **Paraguay, Bolivia,** Colombia, and Peru in a better shape than now when it comes to an investment. So, **if an investor continues to wait for the perfect timing, it might be too late.**

## How the Wealthy have adapted to the Brave New World of International Financial and Tax Information Exchanges, Amnesties

The world has fundamentally changed with all the international exchanges of financial and tax information which are either already in place or kicking in soon. Even offshore jurisdictions are signing into OECD standards and try to show that they cannot be used to hide money. Today, there is no way you will be able to have money abroad without being declared and without being in a proper structure. *You can plan for succession, you can do tax optimization or deferral, you can do asset protection, but you can't plan outside the reach of governments.*

Along with that, a number of countries, both in the developed and developing world, have structured or are structuring tax amnesties, so there are a good deal of people who are now paying more attention to their actual financial structures and things like reporting and these tax amnesties, and they are taking more time to decide whether to bring money to a country or not, where to structure their trust or simply finding out if they have to change something in their current structure. In quite a few cases, the wealthy families and individuals are currently prioritizing these questions over making actual investment decisions right now.

For example, there is anecdotal evidence that **in Chile most people have accepted the amnesty and actually declared 100% of what they have.** These amnesties have tremendous implications not only for the wealthy and the governments involved, but also **provide a huge new opportunity set to asset managers to target those assets** in order to manage them professionally.

The Opalesque 2016 LatAm Roundtable was sponsored by Litwak and took place in February in Miami with:

1. Alicia Green, [Marketing Manager, BVI Finance](#)
2. Andres Baez, [Partner, LW Investment Management](#)
3. Carlos Chaves, [Founder & Partner, Seival Investments](#)
4. Julie Neitzel, [Partner, WE Family Offices](#)
5. Martin Litwak, [Founder and Managing Partner, Litwak & Partners](#)
6. Stephan de Sabrit, [Managing Partner, Leste Capital Management](#)

The group also discussed:

- Which opportunities does the growth of the private pension fund system in Latin America provide? (pages 20-21)
- Cosmetics or fundamental reforms? What are the chances of Argentina's Macri to succeed? (pages 12-15)
- What to do with the recurring populist swings in LatAm? (page 14)
- What fund structures are LatAm's busiest lawyers setting up? (page 12)
- The role of triggers for investments in LatAm (page 17)
- What's the #1 issue professional investors do not compromise when investing in LatAm? (page 17)
- How to best collateralize a loan (pages 18-19)
- Why are the new BVI fund types "Incubator" and "Approved Fund" so helpful for smaller managers? (pages 19, 21-23)
- Why Madoff could not have set up his fraudulent structure in an offshore jurisdiction (page 23)

Enjoy!

Matthias Knab  
Knab@Opalesque.com

# Participant Profiles



(LEFT TO RIGHT)

Matthias Kna, Andres Baez, Alicia Green, Julie Neitzel, Martin Litwak, Carlos Chaves, Stephan de Sabrit

Cover photo: Patagonia, © Matthias Knab

# Introduction

**Julie Neitzel**  
WE Family Offices

My name is Julie Neitzel, I am a partner with WE Family Offices based in Miami. WE is a family-focused independent advisory firm with US and non US clients.

Our focus is to support with our clients in managing substantial net worths. The we approach entails comprehensive mapping of the family wealth enterprise, development of WE a strategic plan to manage the family wealth, and support/guidance on the day-to-day execution and decision-making.

**Stephan de Sabrit**  
Leste Capital Management

I'm Stephan de Sabrit. I am a managing partner and portfolio manager for the structured credit book of Leste. Leste Capital Management is a recently formed high performance alternative investment advisor company. We are originally from Brazil and decided to operate in the U.S. by mid-2015. The idea behind coming to the U.S. was to basically broaden our asset base, diversifying our portfolios.

Most of the group and partners are Brazilians, so that's still where most of our presence and investments are. We have four different business areas divided into liquid and illiquid assets: on the liquid front, we manage a multi-strategy hedge fund that seeks alpha on global assets, providing Brazilian investors access to offshore markets. On the illiquid part, we invest and manage a portfolio of distressed real estate assets, we have strategic investments in private companies and also run a high yield structured credit portfolio.

**Carlos Chaves**  
Seival Investments

My name is Carlos Chaves. I'm a founder and partner of Seival Investments. Seival Investments is an independent asset management company founded and based in Porto Alegre, Southern Brazil. Seival's strategy is systematic, with trend following as our main focus. Our portfolio is diversified across different asset classes and markets through global futures contracts. Naturally, holding positions on Brazilian inflows and outflows.

Seival has been active since 2007, and on 2016 started soliciting in the U.S., as a CTA, offering a program with our proprietary 100% systematic approach. We came here for the same reason mentioned by Mr. Stephen Sabrit, which is to diversify our asset base. Moreover, we want to offer Brazilians a product in which they can reduce risk by investing in a different currency.

**Andres Baez**  
LW Investment Management

Andres Baez of LW Investment Management; I'm a partner and fund manager to two of our strategies there. We focus mainly on Latin American credit: from direct lending and structured finance to high-yield and distressed investments, very focused in U.S. dollar-dominated debt. We are also expanding now into private equity, specifically in Venezuela where we see a lot of changes going on at the government level. We feel that Venezuela is coming back to the markets after 17 years mainly out of equity markets.

**Alicia Green**  
BVI Finance

My name is Alicia Green of BVI Finance.

BVI Finance is the voice of the British Virgin Islands' financial services industry; marketing and promoting its products and services, as well as managing and maintaining its reputation as a premier offshore financial centre. My role involved initiating, developing and maintaining connections to strategically promote and increase business for the jurisdiction.

The BVI has established itself as the leading provider of offshore financial services, due to its best-in-class innovative regulatory regime and business-friendly environment.

We also engage our clients at conferences, trade events and discussion forums in our core and emerging markets, and lend support to the industry in maintaining a strong relationship with key stakeholders both locally and internationally. To retain the jurisdiction's competitiveness, BVI Finance partners with local and international practitioners, (such as Martin Litwak – who is sitting next to me this afternoon), media outlets and investors in emerging and traditional markets.

BVI has been building relationships with intermediaries and end users based in Latin America over the past few years. BVI business companies, our flagship product, are already heavily used in the region as an asset protection and succession planning tool. A great portion of the investment funds that are set up by Latin American managers are domiciled in the BVI. In fact, the jurisdiction has recently enacted specific legislation aimed to further develop this sector.

Our commitment is to position the BVI as a one stop shop for financial services to the Latin American market making the process seamless, and reasonable for international business. We provide solutions for international cross border business and are very interested in the opportunities that are becoming available in the region.

**Martin Litwak**  
Litwak & Partners

My name is Martin Litwak. I'm a lawyer specializing in investment funds, private client work and corporate finance and have been practicing offshore law (especially British Virgin Islands law) for the last 15 years. I originally obtained my law degree in Argentina, where I also obtained a masters degree in finance, and I then transferred my law degree to England and Wales. Five years ago I set up my own law firm with our main office in Montevideo, Uruguay. We also have offices in the BVI and Lima (Peru) and we have just opened a month ago an office here in Miami.

Litwak & Partners is an award-winning boutique law firm highly specialized in three areas of practice. One is estate planning and trusts; the other one investment fund formation; and the third one is corporate finance and capital markets, all areas where not only myself but also the rest of the team have vast experience.

Our vision is to offer Latin American clients an alternative to the traditional Anglo-Saxon legal powerhouses. We firmly believe that when there is an offshore transaction or structure with a Latin American component we are in a better position than anybody else to provide the advice that is needed.

With the opening of our office here in Miami we are also the offshore law firm with the most coverage in Latin America. No other offshore law firm has four offices in the region. This has been the plan since the moment we opened up the firm and we are therefore very happy to have achieved this goal in a rather short period of time.

# 70

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**Eurex Exchange – the home to the euro yield curve.**



**Julie Neitzel:** Depending on one's perspective on Latin America, it's either dismissed or a region of tremendous opportunity. We've seen in the public markets a massive exodus from emerging markets securities into more defensive and developed market investments. Consequently, in Latin America markets have experienced been tremendous capital outflows.

It's interesting in that many of the investment strategists from the major investment houses are still not constructive on Latin America. However, some of them are starting to say, "There will be a time to reenter those markets, we just don't think it's now." This appears to be the general consensus.

Alternatively, history at times has shown that some of the best investments in the less liquid market environment occur when there are dislocations, and certainly, there are many dislocations across the region. This could be the major opportunity set that lies ahead.

The question is having access to the trustworthy people on the ground, identifying the right partners, identifying the managers that can size up those opportunities and execute effectively. There still remains considerable risk in that particular region, but again, if you are selective and can identify the opportunities and the right partners, there could be interesting investment opportunities.



At this time we are not actively doing anything specific in Latin America but patiently awaiting the right re-entry point.

**Stephan de Sabrit:** With the end of the commodity super cycle and, in the case of Brazil, with the political turmoil the country is going through, there are a lot of companies with great assets suffering from a tremendous credit squeeze. Many of these are going through a fire sale process.

I believe this is a good moment for someone with a longer term horizon to enter the Brazilian markets. However, this is not an obvious move and there should be patience and a very thorough process of choosing well its assets.



The two sectors I believe present some really good opportunities right now are **real estate** and **structured credit**.

Real estate is suffering from an oversupply, fueled by a long period of extensive credit, along with a rapid slow in demand, once the economic downturn came at a faster pace than anticipated, shooting unemployment at its highest rate throughout the last ten years. Prices have gone down, sometimes presenting situations where the sale is being offered below the construction or replacement cost.

In the case of credit, state owned banks, who were the main inducers of the credit expansion throughout the past 12 years, are now out of fire power. On the other hand, the private sector banks are skeptical about an eventual quick recovery of the local economy, placing them in a much more conservative position. This is generating some great opportunities for structured credit deals in the region.

With the correct structure and the right deal, you will have access to a lot of collateral. In fact, since there are so few people actually lending money down there, you can end up with a very robust, over-collateralized deal, that will allow you to navigate through rough times as the one happening right now. You will be very well-protected.

**Matthias Knab**

Stephan, you talked about credit and real estate, can you maybe drill down a bit more and share with us more insights into the sectors, geographies, sizes, etc. where you see opportunities?

**Stephan de Sabrit:** In the case of credit opportunities for many industries, geographically speaking, I would point out to São Paulo, which is the largest economy within the country, as the place to be. You don't actually have to go much elsewhere in Brazil to find really good opportunities, since a very large part of the GDP is located there. Even though some large conglomerates and their factories could be elsewhere in the country, most likely their headquarters, or their financial departments are located in there. Therefore, by being there, you'll be able to find some pretty good opportunities.

In terms of size, the situation right now is overall so complicated, that an investor with USD 1m as well as someone with a USD 100m ticket would be able to find demand for its capital.

One specific sector that is currently suffering from this credit crunch but shouldn't be, since it's benefiting a lot from the currency devaluation, is the agricultural sector. This is an area where Brazilian companies have excelled for years and years, and was also one of the sectors that relied heavily on the State owned banks to finance itself.

Agriculture is a very interesting sector for foreign investors who don't want to run a currency risk, since most of the financial structures are Dollar denominated; most of them are big exporters, generating revenues in hard currency.

Now in terms of real estate, I can point to a specific sub sector that we like a lot, which are the land developers. The country side of Brazil still lacks a lot of infrastructure, therefore these companies were very important to provide a proper land parcel for the low and middle income families to acquire and build their first ever owned home on top of it. Many of these developers have grown beyond their financial capacities. But the reality is that they have great receivables that outsize by many times their shorter term liabilities, having created a financial mismatch, since they finance their buyers for up to 15 years. By "fulfilling" this financial gap, an investor can achieve great results with a limited, and pulverized risk.



**Carlos Chaves:** Latin America as a whole is going through a period of growth rate adjustment. This is due mainly to China's slowdown and by the overall decline of global growth, which are negatively impacting the price of commodities and exports from Latin America. The Brazilian economy is strongly dependent of commodities for achieving trade surplus. Furthermore, the worsening of fiscal stability conditions in many countries, especially in Brazil, can lead to the deterioration of investor confidence, both domestic and foreign.



The positive aspect of this negative scenario is that the prices of several assets begin to present an accentuated decrease, possibly exaggerated undervaluation, which in time can provide amplified gain opportunities coupled with strong uptrends in face of macro corrections such as fiscal reform and retaking of global growth.

Two areas that tend to be promising in the region are investments in **infrastructure** – despite the negative effect of the new rates of economic growth there is a very large deficit of investments in infrastructure in the region – and in the agricultural export sector. It seems that agricultural commodities have a promising future simply with the population growth in China and India, even with slower income growth.

**Andres Baez:** I certainly agree that current dislocations everywhere provide good entry points. **At the end of the commodities super cycle it's important to understand governments' activities, because under such pressure governments are forced to start shifting to the right in the political spectrum and to bring necessary changes that are long overdue in most of Latin America.**

Those necessary changes are typically very hard to make when governments are awash with money because it's easier to please the electorate with giveaways than to push through these required reforms. Specifically in Brazil, this coincided with the whole "car wash scandal" which, even though painful, I think is great for Brazil in the long run because it's going to bring and, in fact it is already bringing a substantial change in how companies go about their bidding processes.

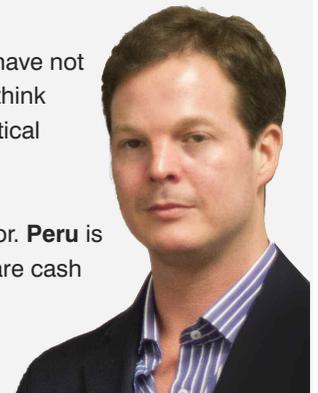
We have always known that there are basically four aspects to the famous "Custo Brasil" of doing business there. Infrastructure, which is a point where I don't agree with Carlos – I think there is still too much political meddling in that sector to be an important investment class for private investors.

The second aspect is the tax system in Brazil. It's just way too complicated and needs to be reformed, the third being the labor laws that limit companies from moving swiftly from one economic environment to the other, and then the fourth one is corruption.

With all this that's going on – and I expect to see a lot of push of the Carwash Scandal into the political spectrum during 2016 – I think that it is safe to say that over the next 10 years we will see minimal corruption levels at the bidding processes of companies doing large infrastructure projects and large developments in Brazil.

I think that's very important for the country because it opens a window of investment. We personally have not seen the window quite open yet. We want to wait for the impeachment process to be over, which we think Dilma will be able to override it. Even though we would favor a change, we think is better to have political continuity than add to the whole economic conundrum in Brazil, political instability too.

Besides Brazil, **Colombia** has opened up a wealth of opportunities, especially in the oil and gas sector. **Peru** is opening opportunities right and left in the mining sector. There are still businesses in the region that are cash flow positive trading at distressed levels, allowing investors to collect on current yields of 20-25% on companies that have enough money to make payments all the way to 2018.



And then, of course, **Argentina** is finally back in the markets. There are a lot of investments that will be necessary there. There is going to be a lot of sovereign debt coming to the markets. We are very positive that Macri's government will deal with the holdouts swiftly and these will most probably be paid in kind, so the Sovereign will be issuing plenty of debt and that signifies to us that companies will not have access to markets this year.

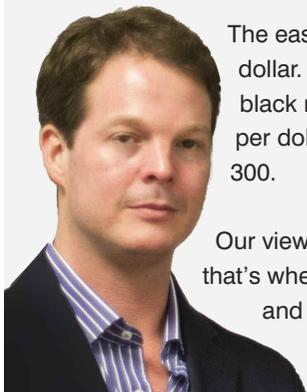
Other than that, we believe that Latin America is a commodity producing continent, not only Brazil but all the way from Mexico to Argentina, and that's where we should focus, especially in oil & gas. Sure, several companies will go bankrupt if oil prices hit \$20, but there are a number of companies that will be able to push through at current prices. Mexico's Gulf or Venezuela's Orinoco Belt can produce oil at minimal prices and will find investors if the right regulation is in place.

**Matthias Knab**

As you are from Venezuela, can you please share with us more details what is going on in that country and where it is heading?

**Andres Baez:** Sure, **Venezuela** is very dear to me and to my firm as a whole. We are all in one way or another tied to Venezuela. As you all know, for the past 17 years, Venezuela has experienced a very deep shift to the left, especially from 10 years ago on when government was able to take over the majority of the national assembly.

With the national assembly now back in the hands of parties opposed to the current government, we will see a rebuilding of government institutions, a rebuilding of checks and balances. There is an incredible amount of roadblocks on the way. Most of them are legal roadblocks that the national assembly can actually overturn.



The easiest example is the foreign exchange system. Venezuela has three legal exchange rates for the same dollar. Depending on government regulations, you can access a dollar for 6.30 or 15 or 200 while the illegal black market rate just hit a thousand. Many would find it profitable to invest in the country at 1000 bolivars per dollar, if it were legal. Once restrictions are lifted, I have no idea if the bolivar will go down to 500, 600, or 300.

Our view is that it will go down because there's a lot of money waiting to go in to rebuild the companies. And that's where we see a huge opportunity going forward. As you said earlier, high risks may bring high rewards, and this is as high risk as you can get in Latin America.

**Martin Litwak:** There were some very interesting points that Julie made at the beginning of the discussions about whether this is the point of entering Latin America or not yet.

In my opinion, the answer to this question is rather complex because the question itself assumes that all investors have the same background and that all the countries in LatAm look the same, which is clearly not the case.

It's difficult to sort of come up with a general statement about LatAm because the region is not what it's used to be 20 years ago when it was perceived as one big continent with little differences among its countries.

Now, there is a much better knowledge about the different economies, and an astute investor can clearly see when one country can be doing wrong and another one is doing great.

Having said that I think that there is also a big difference between international families or international institutions investing money in LatAm and people that are originally from those countries but who have assets offshore that they can potentially send back to their home country. For example, there is now a lot of investment going on in Argentina. The last six months have been crazy in terms of **M&A**, but those are mostly Argentinians buying out companies because they feel comfortable already with the current reduction of roadblocks, which for an investor say from the U.S. is clearly not sufficient yet.

So, people that are originally from these places are already investing because they are used to the rule of law being what it is. I don't think you will see countries like **Paraguay, Bolivia, Colombia, and Peru** in a better shape than now when it comes to an investment. So, **if an investor continues to wait for the perfect timing, it might be too late**

Then, countries like Venezuela or Argentina, even **Cuba**, are now perceived as the *next* places to send money. I do understand that, in the cases of these countries, prospective investors who are not originally from the region, wait a little bit longer.

Of course, Brazil is more on the opposite cycle these days, so Brazilians (and investors into Brazil) are more looking to leave the country that to re-enter.

Let me also share how the regional asset management industry has developed over time. Ten years ago, most of our work was in hedge funds. We got calls from a Brazilian manager based here from Brickell and, when we asked what he wanted, we heard: "a hedge fund." And another one from Peru, "I'd like a hedge fund." Now, **we still set up hedge funds, but actually most of the funds we work on now are private equity funds, niche funds, infrastructure funds and agriculture funds.** Managers in the alternative investment industry are much more sophisticated and have learned a lot during the last decade.

There is also another development that has become really interesting after a few quiet years. I think everyone by now is aware that the world has fundamentally changed with all the **international exchanges of financial and tax information.** Along with that, a number of countries, both in the developed and developing world have structured or are structuring **tax amnesties**, so there are a good deal of people who are now paying more attention to their actual financial structures and things like reporting and these tax amnesties, and they are taking more time to decide whether to bring money to a country or not, where to structure their trust or simply finding out if they have to change something in their current structure. In quite a few cases, the wealthy families and individuals are currently prioritizing these questions over making actual investment decisions right now.



**Matthias Knab**

Can you tell us more about Argentina, what is really going on and where is the new government heading?

**Martin Litwak:** Over the last 80 years or so, Argentina has mostly been governed by the Peronist Party, with very few moments when the opposition took office. Macri, whom I do respect and admire, has won the election by less than three percent after twelve years of a disastrous government.

So actually the result was extremely good for the Peronist Party. I do not know if it could have been better, especially if you consider that the Peronist candidate is considered to be the worst governor of the Province of Buenos Aires ever. However, coming back to Macri, I don't know whether he will have sufficient time to lead the country to a different level. I also do not know what Argentinians would really like to happen with their country. Once again, they have consistently voted for the Peronist Party and Scioli lost to Macri for less than 705,000 vote with 25 million people entitled to vote.

I think that **Macri** has some characteristics that are very positive and extremely unusual for an Argentinean President. He's not a lawyer to start with, which is good. He is an engineer, so he is more into how to sort out things for real and not how to put things on a paper for them to look nice. I'm a lawyer, so I am allowed to say this.

[laughter]

Macri has very good management and delegation skills. He is very skilled in forming task groups that then get things done. That has always been his particular way of governing in the City of Buenos Aires.

If Argentineans continue to support him and his successor, then I believe that we will see a different country in eight years. One of the greatest advantages Macri has in order to achieve a decent level of governability is that for the first time in a long period, a party other than the Peronist Party has won the province of Buenos Aires, the City of Buenos Aires and the country. This means that he controls the money that is sent out to the provinces. The governors have to be good with him so that they will get the money, so this will be the way things will work out. This is how the Argentinean co-participation tax system works in practice.

Macri is also a great learner. He started his public or political career by winning the elections to preside Boca Juniors, the most popular soccer team in Argentina. At the beginning of his presidency, he made various mistakes, essentially by signing expensive players and DTs. So he made some mistakes the first one or two years, but then, for six years, Boca was the team that won the most international cups. He transformed the most popular team in the country into the most successful team worldwide.

I mean, only last year Barcelona won three international cups to reach a total amount of 20 and left Boca Juniors in the second place with 18 (having won the last one in 2008). It was absolutely incredible what Macri did for the club.

Then he moved to the City of Buenos Aires and it was the same. At the beginning, it was difficult again to handle the city, but he ended up with a good government and I think he will have a very good presidency.

The problem is that Argentina – differently of what happens with the city of Buenos Aires – is a Peronist country and I don't know if he's going to stay in government as long as he needs to really change the country. Because in four years, you can do some cosmetics, but you cannot change a country that needs very deep cultural changes. So I think that's the big question mark for Argentina.



**Andres Baez:** I disagree with you on that one. Yes, there are obviously a lot of risks, and Macri has a big agenda. But in less than two months since he assumed government, he eliminated restrictions on the foreign exchange system that Kirchner had built, and he did that very well. The currency actually reevaluated right away and a lot of the exporters that were hoarding their inventories started selling it. He also reduced taxes to incentivize them to sell. He reduced substantially the subsidies to the electricity sector, and he has done this in six weeks in government.

With this I mind, I disagree with you in that he's only going to be able to do cosmetics in four years. I think he has a chance to substantially change the country in six months to one year. If he's able to get a deal done with the holdouts, which he already did with Italians and he will do with the U.S. counterparts, Macri will be getting a lot of inflow of capital into the country. I think his only real challenge is to control inflation so that Argentineans can actually feel the changes in a positive way and not being drained down by it.



**Martin Litwak:** In Argentina people tend to say that you can do virtually anything in December, January or even February, mainly because people are on vacation mood.

The problems can start in March when people are coming back, and I totally agree with everything you said, Andres. I do think Macri will make a good presidency, that's actually the first thing I said.

At the same time, I don't know how he will manage a country that is by heart Peronist and populist when people start to feel in their pockets that they are no subsidized anymore and that prices go up. Again, I agree with what he is doing, and I think Macri is doing what needs to be done.

I believe that, if not all, a lot of these things will work out.

The problem is that in two years there are midterm elections, and if at that time he is not doing great as he doing now, those 52% could go to 46% or less, and then he will have a huge problem in the third or fourth year of the mandate. I wish that this will not happen. I wish that he will be able to continue his work. Like I said, he is a very interesting person and a different president. He has a great image. He speaks English fluently. Everybody loves him, there is an international euphoria and a good momentum for the country. But don't forget, Macri is governing Argentina, and Argentina is a Peronist, populist country.



People in Argentina still see politics as a soccer game, with more passion than brains. So either someone is a Peronist or he is against Peronism. It's very difficult to have people from the Peronist party to vote for him.

And that fact does have wide ranging consequences. For example, I believe that out of a hundred elections Macri would in effect have lost 99. This last election was the only one where everything aligned and he won. I was in Argentina that day and it was a happy day. In a way, you can feel the change and the liberty in the air. You can feel the rule of law on the street. But I don't know how long that will last, that's my only point.

**Stephan de Sabrit:** Maybe we could almost say that these recurring populist swings are one of the constant problems of our countries in Latin America. Look at Brazil, Argentina, Venezuela, and even Chile. Chile has always been seen as an island of prosperity in Latin-America. But what happened? We had Piñera, a very market-oriented president who ensured the rule of law, and the country was doing well, and what happens? They turned to the left. They put back the populist speech, the socialist view.

Honestly, I have been trying to understand all my life the differences and the mindset of the majority of our populations in Latin-America, which tends to look and listen to these **populist governments**. And this has happened over and over throughout the past 20, 30 years – they come back in a way just to ruin what somebody like Macri is currently doing.

I agree with Martin that Macri is trying to do the most in the beginning when everybody is still on a honeymoon with him. But then, possibly at one point the average Argentinean feels, "Oh, this is not so great that my energy bill is going up because they cut the subsidies!" Everyone wants their country to progress, but whenever it affects somehow their own personal life, they go, "Oh no, this is not for me. I don't like this. I want my subsidy back", and they turn away and vote for the populists again.

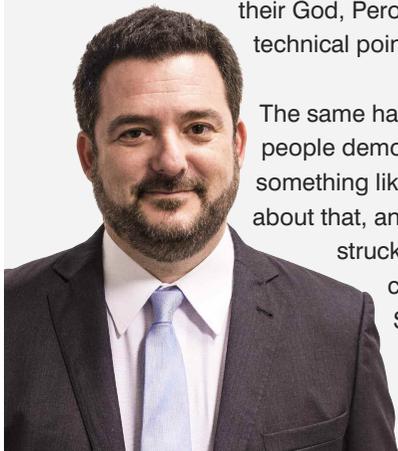
So that dynamic is certainly a big factor. I have heard this from a very successful money manager who has invested tremendous amounts of money for the past 20 years, who said:

*"In Latin-America, things are never as good as they seem, but they are also not as bad as it seems."*



So, coming back to Brazil, maybe it's not as bad as it seems, and maybe Argentina is not as good as it seems. All opportunities we discussed do have their own idiosyncratic drivers and dynamics which investors need to understand. And timing, of course, is always a very important issue for Latin-American investments.

**Martin Litwak:** I had mentioned the link between politics and soccer, and there is another analogy you can draw which is between politics and religion. In Argentina, for example, the **Peronist party** is almost like a religion. They have their God, Peron who in fact was absolutely detrimental for the country. This can be easily proven from a technical point of view but, similar to religion, you don't discuss Peron. That's it.



The same happened somehow in Venezuela with **Chavez**. I was watching on TV a report yesterday where people demonstrated in front of a supermarket and they were upset because there was no chicken or something like that. So there was a shortage of chicken and around 1,000 people were arguing and upset about that, and when the police came people started to run and there was a camera shooting. What then struck me was that one person, who was actually asking for changes in the government and chicken there, but when she saw the camera, instead of saying something bad about Maduro. She said, "Viva Chavez!" So, these are very illiterate people who in a way are not able to see the link between what is going on now with Chavez' policies five years ago. But, once again, those people are the ones that vote.

**Andres Baez:** I think we need to be aware about one very important change that has happened and affects now all these governments, which is that they don't have money anymore. Brazil and Argentina were able to maintain a number of subsidies, and Venezuela took it literally to the limit of the absurd because they had a lot of money.

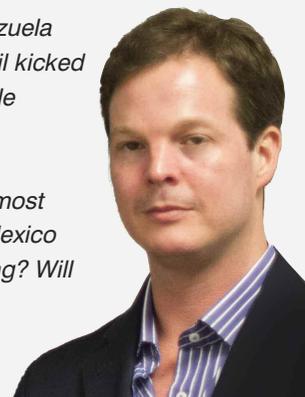
Now, there's no money. Again, Venezuela provides a great example just because the pendulum shift is so strong. Venezuela went from producing pretty much everything they needed to import everything now. The fact that there is limited food staples in the supermarkets is something that Venezuelans have never lived before. So, even if they say, "Long live Chavez", they know that this government is responsible for creating such scarcities and are already voting against it.

Back to Argentina, if Macri wants to capitalize on the current situation, all he needs to do is remind them of the incredible amount of corruption that the Kirchner governments represented.

So the fact that Macri got elected with 53% doesn't worry me. He is the president and he's pushing his agenda. And in politics it's about compromise. I'm sure Macri would like his agenda to be very liberal, but the reality is that it will be a bit more to the center, because it's the only way you can govern. That happens not only in Latin-America, but everywhere in the world. Politics in the end is always about compromises.

*Now, we can witness some very good examples of capitalism in Latin-America. During the '80s, Venezuela was the place where investors were focused. During the '90s, it was Argentina, and in the 2000s Brazil kicked in and everyone wanted to be invested in Brazil. I actually moved to Brazil and worked there for a while because that was where the hotspot was.*

*In the meantime, we also had Colombia and Peru shifting back to a market oriented economy and almost doubling their outputs of oil and mining respectively in less than a decade. Going forward, will it be Mexico with all the reforms that they have done? Or, will it be Argentina with all the reforms that it is making? Will Venezuela have a comeback? One of these regions will dominate the next 10 years.*



**Julie Neitzel:** Coming back to the investment opportunities, every country in the region has gone through its economic and political cycles. Andres just discussed the '80s, the '90s and the first two decades of 2000, and clearly these cycles are just an integral aspect of the region.

Many of you at this discussion are very focused on investment opportunities in the various countries in the region. So the question that I would pose is what are the specific attributes of potential opportunities you are looking for right now that really merit consideration for an investment you are undertaking? And how are you going about underwriting them? I certainly am not the person on the ground that can evaluate and really identify those investment opportunities as you and your teams can, given my local Miami presence.



What are the attributes that you're looking for in an environment when at the same time the regional currencies are under pressure and depreciating? Many of the countries are in economic environments where while their GDPs are mostly positive but slowing. Brazil is estimated to have a negative GDP of 3% this year. The region on average is estimated to have a GDP growth of about 3%. It's still better than most of the developed world but half of what it was if we look a couple years back, Mexico maybe being one of the highest GDP producing countries, based on 2016 estimates. So you've got **depreciating currencies, falling economic output, increasing inflation that seems to be consistent across most of the countries in the region, and challenges with the legal systems.** Given this, how do you go about identifying the investment opportunities that you think an investor can accept with conviction ?

**Stephan de Sabrit:** The first thing that comes to my mind is to try to be as best as you can in the rule of law. I think that is the first aspect needed for you to go into an investment in such a volatile region like LatAm, because as we have discussed, nowadays some places are doing well but history has shown ourselves that things can go "south" really quick.

You also need to have the local knowledge, you have to know with whom you're dealing with, right? Because although rule of law is the number-one priority, you have to add to that by making sure that you're dealing with people who actually obey those rules, right?



**Julie Neitzel**

I would venture to say that probably the most important decision is picking your partner, because ultimately it's your local partner who's going to help you navigate the rule of law issues and defend one's (investors) interests.

**Stephan de Sabrit:** We are also believers that you need to find local partners with skin in the game.



In our case, we make sure to our partners and potential investors that our own money is on the line. We all know it's much easier when you are dealing with other people's money. If you win, then it's: "Oh, yeah, we won!" If you lose, then it's really "Sorry, but you lost...." We don't like that way of thinking, that type of mindset. I guess that is also a very important aspect.

When we selected Miami as our non Brazilian location, it wasn't only because of the obvious link to Latin America, but also because myself and my partners have been coming here and having had business events throughout the last 20 years, giving us the capacity to choose the right local partners.

**Martin Litwak:** I think that has to do exactly what both of you said before, the rule of law. **As an Argentinian, I know the risk I am assuming by investing in Argentina. Maybe Brazil has less risks, but I don't know them.** That's really what's behind that geographical bias. I know Argentina and my feeling is that of there is a problem, I will sort it out, I have the resources. I have my family, my friends, my lawyers. I know the language, and there is no cultural gap at all. When I go to Peru, I may know the language but there is a cultural gap, and in Brazil even a certain language barrier.

So I think it all comes down to the rule of law. And that's why when you invest in an economy which is not yours, you need to think about, first of all, not how do I go into the country, but how I get out of the country. So your exit strategy will be very important. For example, how do I structure the investment when I will have a Bolivian judge making a decision? Maybe he's a great Bolivian judge, but I don't know. So if I go to BVI or the UK or the U.S., I know who is going to rule.

And the other important aspect you need to know is the network of international treaties. For example say you are investing in Brazil and Brazil has a treaty with say Denmark that protects the Danish investments in Brazil, so I may structure my investment through Denmark so that if something goes wrong I have the protection of that treaty. That's one of the first things that you look at when you're looking into foreign investments.



**Andres Baez**

That's probably a good point, but in reality I would love to hear what ExxonMobil and ConocoPhillips have to say about their investments in Venezuela that were expropriated 12 years ago. They are still fighting to get paid in the U.S. courts.

**Martin Litwak**

And Repsol in Argentina as well.

**Andres Baez:** But Repsol was able to get paid. Well, I'm pretty sure they are happy that they got \$5 billion right before the downturn of oil prices. And I'm pretty sure that shareholders are very sad that they reinvested it in Talisman Energy Inc., but that's history.

Going back to your question, Julie, at our firm we always look for three things. The first thing we look out for is triggers. What really makes investments outperform are **triggers**. We saw that in Argentina almost three years ago when the Supreme Court ruled that Christina Kirchner could not get re-elected, and that's when we invested heavily in Argentina. We went up to 30% of our portfolio in Argentinean corporate and sovereign debt.

The second is the **rule of law**. The rule of law is tricky in Latin America. The important thing is, especially when dealing with less-liquid investments that we often do, is that you **don't compromise in the structure you want around your investment**. If you cannot get the structure you want for your investment, you're out.

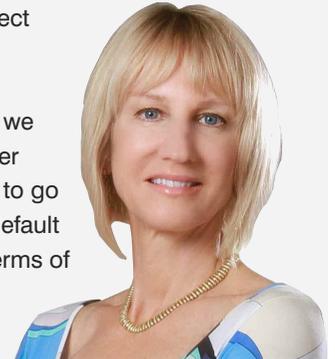
And the third aspect is **pricing**. I talked a while ago about Venezuela, and looking at the rule of law there, I don't know how to even describe it. I would say it's tricky in Brazil, but in Venezuela it is essentially nonexistent. But if you can grab an asset that has a potential revaluation of 10 to 15 times in just three or four year's time, we believe that's something that you need to consider in your portfolio. I am not suggesting investing a large part of your portfolio in such investments, but the risk-reward formula is there. Those are the three things we look for.



**Julie Neitzel:** I had somebody visit me this morning who has invested regularly in Brazil, some real estate and more structured type of investments. We were talking about the current market environment and that he's evaluating opportunities. I was curious to learn more about his approach, so I asked, "How would you structure your investments, given everything that's happening in the current environment?" His focus was more on direct lending which is something that everybody has talked about here as well. If you notice, there has been a theme that **lending – private and otherwise** – seems to be an area of opportunity in the region just because of the scarcity or the dislocation for traditional sources of capital.

He shared, "Julie, the way we would structure this investment opportunity would be to protect us in two ways. The first is to protect that we are actually collecting our interest return on this particular direct loan." They would structure and fund into escrow an interest reserve. For example, if the borrower is looking for a \$10-million loan, \$2 million would be funded into an interest escrow reserve. In that way, one does not have to chase the borrower to collect interest payments.

His second point also speaks to the structural point Andres raised. He shared, "The other thing that we would do at the onset is to document a collateralized loan." This means you would have the borrower basically sign over ownership papers to you so that in the event there was a default, you don't have to go through a lengthy legal process to basically enforce your ownership rights due to non-payment or default under the loan structure. And so, I agree that the point you raised about structure is paramount in terms of effectively investing whether it's in Brazil or anywhere across the region.



**Stephan de Sabrit:** Yes, Julie, that is very common. But people also need to be aware that although the rule of law is there that you can now actually execute a real estate asset collateralizing a loan, it's still a lengthy process. At my former firm, I was involved with the first product in Brazil where I actually "pre-executed" a loan. The way we did this was by purchasing the entire inventory of a real estate company at a very deep discount and gave them a couple of years to resell that to the market.

In every sale, our fund would be the first one to receive the money, because we created a senior structure. And as soon as we got our money back with interest, the company would get back their difference towards the selling price. And basically after two years, if they haven't sold certain parts of the inventory, I would get that almost at zero cost and I could sell it on my own and thus make it an even better result for the fund.



Again, the traditional structure we typically used in business was there as well, but the reason why we did the deal that way was basically a governance issue. This firm was a publicly traded company, and they could not leverage themselves anymore. The structure I described was a legal way of leveraging without taking it on their balance sheet. As they were selling an asset at that discount, it showed on their balance sheet a loss, but through the sale to the end client they could get the full asking price back throughout the next couple of years. So also here, the right structure for the right purpose worked well for all.

**Andres Baez:** Let me add a few thoughts to that. In general, *the more secured you are, the more you complicate the structure in order to guarantee that you will get paid, the more illiquid it becomes.* That's something to bear in mind. And also, this strategy only works if you are also willing roll-up your sleeves and operate the company if needs be. We hear a lot of people say, "This is great, I have actual collateral, real assets guaranteed in my loan." But if the borrower will default, you have to be prepared to go down to Colombia or to Brazil to sell the assets or to operate the company. Many lenders of course have no idea how to go about these things, so this is once more why it is so important to either have operational experience or have the right partners that will have such experience to deal with this. The structure can be good, but you also need to be able and willing to execute it.





**Julie Neitzel:** I think we have to differentiate between assets which one can exit through standard channels, say real estate, and operating businesses which require more complex sales processes.

So you are certainly right that investors really have to identify what type of risk they wish to assume. Do you want to take the risk of controlling a hard asset which could be sold in the secondary market should the transaction not go as planned or do you want to assume more complex risk which is operating a business? These considerations are really important when it comes to private credit.

**Matthias Knab**

Let's look now at the broader development and evolution of the Latin American alternative investment industry. What do you see happening, where is the growth? What trends do you observe, and what is your outlook on alternative investments?

**Alicia Green:** The Latin American region is of importance to the BVI business. As I stated previously, we are already popular for corporate structures and we are growing in more sophisticated areas such as investment funds, trusts and captive insurance business.

The BVI's reputation is grounded in its robust, modern and yet flexible regulatory framework. The Territory continues to actively develop and enhance its legislation to provide an environment that is conducive to conduct financial services business.

As an example of this, the BVI recently launched two new products, the **Incubator and the Approved Fund**. These are products that have been established taking into account the specific needs of emerging markets such as LatAm. I will let Martin tell you some more about those because he has the technical experience and can break down the details for their practical implications.

We've been also engaging with agencies, law firms and government bodies to make sure that, as a jurisdiction, we remain compliant with all the new regulations applicable to exchange of information. International compliance is something that the BVI is highly noted for. As the goal post shifts, we always find the right balance to maintain or exceed the standard of doing business. We continue to expand our treaty network by negotiating and signing bilateral tax information exchange agreements (TIEAs) but also committing to automatic exchange of information.

In terms of the trends and opportunities, we believe that as this region continues to grow and develop, the BVI will benefit from this trend. It is just a matter of being proactive and trying to come up with the products and services the region requires. For this is very important to have people on the ground who at the same time understands the need of the region and what the BVI can offer. This is one of the reasons why we have put together a special force (called Team BVI LatAm) headed by Martin. We have been building strong relations in Brazil, Argentina, Chile and Uruguay and will continue this trend as we engage in our first road show in May to Brazil, Uruguay and Chile. Further plane will include Peru all with the objective of educating and invoking awareness to alternative investment solutions and BVI structures.



**Stephan de Sabrit:** I can share some more insights about Brazil. Brazil has generated a huge number of money managers throughout the last 15 years which was a phenomenon on the back of the super commodity cycle and the IPO cycle that generated a significant amount of wealth. So it's mostly a fairly new industry there, having started really in the end of the '90s and the beginning of the 2000s. A lot of people left banks and set up their own shop, but still, the amount of money managed by the big banks is absurdly high compared to the independent money managers.

Not only that, the bar has been raised in terms of the cost of compliance, I think everywhere in the world. Now the Brazilian Securities & Exchange Commission CVM is asking that every single money manager has its internal CCO and internal CRO. These are costly structures, so my guess is that going forward we will see some consolidation of a lot of these smaller firms.



I also firmly believe **the beta play has ended in Latin America**. Right now is a great time to really find out who has put up their sleeves and who can actually generate results in alpha from markets that are either on a downturn or just simply go sideways. You need to make sure you don't end up just buying the country kit and it just moves up, if you are lucky. Summing up, I believe we will see some consolidation of money managers in the Brazilian market, together with a need for more specific money managers with deep knowledge of some niche sectors where they can extract value for their investors.

**Carlos Chaves:** We see good opportunities in the inflows and outflows, mainly in Brazil. It can influence the trends of futures markets, such as currency, interest rates and stock indexes. Chinese investments should continue to expand rapidly in the region, mostly in Argentina and Brazil. Being able to capitalize on both up and down trends, we try to capture the various opportunities in these cycles on Latin America that we have been talking about today.

A major factor we haven't mentioned yet is that foreign bankers and asset managers tend to display a cyclical behavior in the region. They come and go, causing, or at least amplifying, waves of expansion and contraction in the economy. Clearly, global investment banks go through a contraction wave at the moment, which is also contributing to create new opportunity sets for private equities and boutique asset managers.



**Andres Baez:** Another very noticeable trend over the past 20 years has been the **growth of the private pension fund system in Latin America** which has created a market for companies to seek debt to finance their projects. These debt markets are natural play grounds for alpha and beta driven asset managers, so as these money managers and the pension funds become more and more sophisticated, they have created the alternative sector of the asset management industry. That is why Brazil and Chile have such large industries and why Mexico is now starting to grow such an industry, because their pension funds are having that need as well.



**Matthias Knab**

So the LatAm countries that have or are strategically developing their domestic pension systems are Brazil, Argentina, and Mexico? How about the others?

**Andres Baez:** In my view, Chile and Brazil have the more robust pension funds in the region. Coincidentally, they are also the ones that have a larger alternative asset management base. That's starting to grow in Mexico, but it is still limited in Colombia, Peru, or Dominican Republic. That's mainly because of regulations. Over the past six years, the Mexican regulators have created the CKDs [Certificados de Capital de Desarrollo] which serves as a private equity platform for pension funds to allocate money to alternative asset managers who then invest the money. They have also created the FIBRAS [basically a REIT structure] to invest in real estate, and they are now creating the FIBRA-E so that they can invest in oil related projects. So as the pensions or the investors themselves grow, they start having those needs to diversify and go into alternative investments and alpha generating vehicles as well.

Compare that now the private pension system in the Dominican Republic, for example. They have basically three investments: They invest in government debt, they invest in debt of the Central Bank of Dominican Republic and they invest in debt of Banco de Reservas, which is a government-owned bank. That's it. Now, they already have seven billion dollars and it's growing fast. Eventually, they will create a platform for alternative asset managers to come in and do private equity and do direct lending strategies for example to infrastructure investments in the private sector, but funded by the pension funds, which are the natural long-term investors.



**Matthias Knab**

Martin, what do you see as a lawyer?

**Martin Litwak:** In terms of regulatory trends, one of the most important trends relates to transparency and exchange of information which is happening globally. Even offshore jurisdictions are signing into OECD standards and try to show that they cannot be used to hide money. They can certainly be used to create a good structure for investments and other things, but not to hide money or avoid taxes.

But in terms of capital market and funds regulation, I would say there are two trends. You see the onshore trend which is also reflected in the growth of the supervision agencies. Some of them have grown a lot. As we have mentioned, there is a huge requirement in terms of internal lawyers and compliance. I would say that most onshore jurisdictions are over-regulating the capital markets. Maybe there are a few exceptions, but most of them are just regulated too much.

For example, the Central Bank of Uruguay's rules about financial advisory, brokerage houses, etc., are just too complicated. There are areas of the industry where people just don't go because of the over regulation. So let's take for example the Investment Funds Act in Uruguay. Now, if you ask how many funds are actually active, the answer is not 50 or 10, it's 0. They are none, because it's just too complicated.

**The trend offshore actually is the opposite.** Leading offshore centers try to create flexible products that can bring rule of law at low cost. BVI in particular has created two new type of funds: the approved fund and the incubator fund, have now been added to the traditional offer of funds in the BVI, which are the private, professional and public fund.

The **Incubator Fund** allows you to build up a track record essentially with no third party functionaries. So, you just started your business, you have your company, you have your PPM or term sheet, and have a build time of two up to three years to see if your business works out or not. If it has worked, you have to convert it into a traditional fund, and if it hasn't worked, you wind up.

This fund is also referred to as the 20-20-20 fund as it allows for a maximum of 20 investors, each of whom needs to invest at least US\$ 20,000 and the total amount under management cannot be higher than US\$ 20m.

Then you have the **Approved Fund**, which is more flexible than the private fund but a little bit more complex than the Incubator Fund.



It is an option if you have less than a hundred million dollars under management and less than 20 investors who invest a minimum of \$20,000 each. You need an administrator, which is something you do not need in an Incubator Fund, but you don't need, for example, auditors, custodian or a compliance officer.

A lot of emerging managers are choosing to start with these structures to see if their funds or their business works out or not. So, just to make that point again, from an overall perspective there are two very different trends going on at the same time, one in the offshore jurisdictions and another one in the onshore world; and managers and investors need to be aware of them.

**Julie Neitzel**

In terms of these less complex structures that are being created in offshore jurisdictions, how are those dealing with the issues regarding money laundering and determining that the source of capital is bona fide? This area certainly has a global focus.

**Martin Litwak:** I think that *the idea was always to simplify the fund governance, but not to be more flexible in terms of anti-money laundering*. Actually, **the first countries to actually pass anti-money laundering legislation were the offshore centers**, simply because they are aware they have to comply and need to protect their business. A jurisdiction like BVI or Cayman cannot bear the risk of having a money laundering scandal because that would in a way destroy the jurisdiction.

Therefore, the point with these new structures BVI has launched is that they allow you to operate with less third-party providers, or more efficiently. For example, a private fund traditionally will need to have an auditor approved by the BVI government. With an Approved Fund, the auditor is not mandatory. Now, it's difficult to raise money from third party without auditors, but what you can do is get an auditor which is not listed and approved by the government of the BVI, probably in a cheaper jurisdiction.

The key thing regarding anti money laundering really is the **bank account**. I mean, all structures end up with a bank account. You cannot open a bank account if you don't have proper compliance. So in the case of the Approved Funds, the only function which is mandatory is the administrator, and one of the roles of an administrator is dealing with compliance; subscription, redemptions, anti-money laundering. So there it is, you are covered.

The other one structure, the Incubator Fund doesn't need to have a compliance or an administrator. But now, when we go to a bank and say, "Hey, guys, we have this beautiful new venture. It has been structured as an Incubator Fund. This is the term sheet. This is the certificate from the Financial Services Commission that allows us trade." The bank will say, "Okay, that's fine. Let's do the compliance on you now. Who on your end is dealing with the compliance function? Do you have a compliance manual?"

So they will do the compliance at the board of directors' level. Compliance is key in any collective investment scheme and this is something we always tell the clients that they need to pay attention because otherwise, they will have a beautiful structure in paper, but they will not get any bank opening a bank account.



**Matthias Knab**

The what is the maximum size limit of the Incubator Fund?

**Martin Litwak**

If it goes over 20 million for a month and then goes back, then it's not a problem. But if the NAV is for three consecutive months over \$20 million, then the Incubator Fund has to reconvert into one of the other fund category.

**Alicia Green**

If I can interject here and boost the confidence of the BVI to everyone around the table, we are very confident with the launch of this new and modern piece of legislation. The Incubator Fund and the Approved Fund are very good products and will definitely be embraced. They offer the flexibility necessary for a quick and easy startup and are easily transferable into other investment strategies.

In terms of anti-money laundering legislation, we have a very strong AML regime and continue to strive as a well-regulated jurisdiction. We take our international regulatory and compliance obligations very serious, but at the same time remain flexible enough to engage and sustain our business friendly environment.

**Martin Litwak**

In some places, there is a whole list of negativity towards offshore centers, which really doesn't have a lot of logic. If you analyze this, you will find that offshore jurisdictions have been most of the time used by certain governments to point somebody and make somebody responsible for internal problems they have created.

If we go into the largest terrorist attack in the last 30 years, which was 9/11, that attack was not funded offshore; it was all U.S. internal funding. If you go to the biggest financial scandal which was Madoff, and again, here is an U.S. guy dealing with U.S. auditors, regulated and supervised by the U.S., and *ironically, all that was used to increase the pressure over offshore jurisdiction.*

*The funny thing with Madoff is that had he been in the BVI, for example, his work or his activity would have been qualified as a fund and as such he would have been required to appoint an administrator – even in the legal framework of 2008 – which ultimately would have found out that he wasn't trading at all pretty quickly. So, if he had structured his fraud offshore, he would be probably caught much earlier.*

**Julie Neitzel**

We spoke about trends in LatAm, and wondered given the economic challenges of the region if the countries would be more apt to provide incentives to encourage foreign investment and foreign capital to enter their markets. I'd be curious if any of you have a perspective on the region's appetite for encouraging **foreign investment**.

**Stephan de Sabrit:** You're absolutely right. As Andres has been saying, the countries are out of money, and all of them need to keep going. Again, speaking about Brazil, although it has a leftist and populist government, the country needs capital to actually get things moving and try to calm down the population of its unhappiness with them.

So very recently, Brazil has started to work on changing and improving certain rules. One recent example of that would be the **airline industry**. Because of such a high devaluation in the currency, Latin-American airlines, mostly the Brazilians, are suffering tremendously. Their debt is mostly dollar dominated because of their airplanes and bonds issued abroad, while their revenues are in local currencies.

Even though these airlines were getting badly hit in their balance sheet, and possibly needing capital injection, there was a rule in which foreigners couldn't own more than 20% of the voting shares of any airline in Brazil. So a discussion started to change that to 49% of the voting shares, and just yesterday, it came out in the news that it's now under discussion between congress, the legislative and then the executive to possibly open this participation for up to 100% of voting shares from foreigners.



So this is exactly what you referred to, Julie. Those are the sort of things that now the government is starting to think, "We might need to change this!" It's the same thing with infrastructure sector. So they need capital that the treasury doesn't have, the local capital market doesn't have, so why not ease up a little bit on those restrictions for outside investors?

You can see that it's exactly as Andres was mentioning before, that if governments come under stress like now, those are actually good times in the sense that structural changes can really happen and have the potential for long term positive benefits for the region.

**Andres Baez:** Your example of the Brazilian airline sector also is a great example of what I mentioned before when I said “*don’t compromise the structure if you want to run with a certain investment.*” The Brazilian Government has been lately trying to sell certain airports concessions, but no one came to buy them. Airports are generally a great business, but the government has tried to regulate them so much that the potential acquirers passed on the opportunity because they perceived they would end up in a straightjacket and preferred to invest elsewhere.

I think one of the reasons also why the government in Brazil is considering opening up the airline sector is because LAN took over TAM, despite the restrictions. They bought the maximum allowed of the voting shares, and the rest in non-voting shares, and agreed on a private deal with the controllers about how to move forward. So, I think there are more ways around it than many realize.



**Stephan de Sabrit**

This was between two Latin-American countries and companies, LAN from Chile, TAM from Brazil. Imagine an American airlines getting involved, or Delta, whatever.

In a situation like that, nobody could do a side-deal or a side-letter like that because, again, they would be entitled to U.S. laws and rules where you just can’t start doing shady things on the side since you’ll be liable here in the U.S. for that.

**Andres Baez**

Yes, but my point is the Brazilian Government was very wary of internationals coming in to control the airline industry, and LAN came in and nothing has changed since then. I guess they are realizing that if GOL goes bankrupt, like Varig did some eight years ago, they are going to have one airline dominating the whole industry, and that’s not going to be good.

So it might be just better to have Delta buy out GOL or a substantial stake in the company and keep the two main airlines flying to maintain a more competitive market. This is at the end of the day what the government should worry about. If the government wants to further deregulate, they should think about how they allocate the slots in the airports because that’s what ultimately gives control to this airlines and that’s what prevented Azul from growing further into the country.

**Martin Litwak:** I referred before to tax amnesties, which are another way for governments to get money. **We have now tax amnesties in Chile, Colombia, soon in Brazil, and in Argentina** there are couple of projects out there.



That is a clear and increasingly efficient way to get money, and, in the case of Argentina, it’s a lot of money that is currently sitting out of the system. The good thing for the government in this period of time is that they don’t really have to use their own credibility to bring in this money. They just need to make reference to the fact that the world has changed and that it’s going to be probably the last amnesty before the automatic exchange of information will kick off.

So it’s really important for governments to do this, and it’s a very good opportunity to bring a lot of money. In a country like like Argentina, once you have the money in, governments will get taxes not only out of the income they generate (income tax) but also on the assets themselves (wealth tax).

**Julie Neitzel**

I've been reading about the various tax amnesty programs, but I'm curious to know the practical utilization of them as it seems there's a fear factor I would believe associated with individuals or businesses who attempt to use them. Many wonder if they are really effective?

**Martin Litwak:** It's a tough question. We see different trends in different countries. For example, in the case of Chile, the tax amnesty started slow but towards the end of the year, I can share anecdotal evidence from my own and my colleagues' observations – so this is not any official data – that most people have accepted the amnesty and have declared what they have, and actually have declared 100% of what they have. The tax amnesty in Chile was very well structured, both in terms of the payment that was requested, which was 8%, and also in the way it described the different structures you may have. So it referenced, for example, the trust you have which you may have to change or not to participate in the amnesty, so it was a very professionally managed tax amnesty.

In the case of Colombia, I think it will be slower because it has sort of a three-year timeline to accept it, and the percentages over that period change very little, so I don't think anybody will actually enter now.

The case of Argentina is very different because of the country risk, therefore some people are saying, "Yeah, I might enter into that, but not with everything I have." Argentina is number one in the country in the world of non-declared assets. It's estimated at \$400 billion, so it is a lot of money. So I don't expect Argentineans will fully comply, and I can't blame them to be honest, taking into account the history of the country.

These tax amnesties are of course more a hot topic for the wealthy families than the fund industry. But we are also starting to see a certain **cultural change** in families. Like everywhere else, there will be a grandpa or the father who have made the money, and they tend to be very cautious or against bringing the money back, but already the son or the other children, they understood that the world has changed and that when you set up plans around your net worth, you can ensure certain degree of confidentiality toward third parties but not so much with governments.

**So you can plan for succession, you can do tax optimization or deferral, you can do asset protection, but you can't plan outside the reach of governments.** This is something that we always tell clients, whether they like it or not, they need to change because the world has changed and that's the way it is, and to have undeclared money now is complicated, and in reality you are taking the bigger risks. Maybe it will work out for someone, but for that the person you will have to do a whole bunch of things and may possibly end up with a beautiful bank account that he or she cannot touch.



**Julie Neitzel**

On the wealth management side, today many financial institutions require clients when they are opening new accounts to provide a certification that they are in compliance with home country fiscal requirements. This will be a challenge for undeclared monies, as they have to stay put and it will not be possible to open new accounts. But eventually those same institutions holding undeclared money accounts will be requiring annual certifications of their jurisdictional tax compliance.

**Martin Litwak:** Absolutely, this is an ongoing exercise. It's not that you comply with everything today and then you have ten years of relaxation. Rather, every year they will ask something else. This trend started with the question, "Where is your tax domicile?" Then they ask you for a certification that you are compliant. Now you have even small banks asking for a copy of your tax declaration.

So there is no way you will be able to have money abroad without being declared and without being in a proper structure. What we are saying to our clients in this specific area of practice is that the first rule is making sure that everything you have is declared, and that you pay taxes on that.

Second, if you don't like the taxes you have to pay in your country, then move, but move for real. Don't get a passport in a remote island, but take your things and go to Portugal, go to the U.S., or go to Spain. Move for real. We call this the ultimate tax planning.

Third, if you don't want to pay taxes in your country and also you don't want to move, the only thing you could do is to structure a way to pay as many taxes as legally possible and get as much protection as legally possible. There's no way to be around the law. But let me also add that for the largest fortunes that can pay high bills for structuring, there are still some complex structures that allow you to navigate this time. For example, if you have a family fund, where the shareholding is segregated into more than 10 persons, individuals from the family, you can go to a bank and say, "Hey, there's no beneficial owner here. Nobody has more than 9% of the voting shares. There's no control. The control has an independent asset manager." So this is a structure that the bank allows you not to provide information on the family to the bank. The bank doesn't have the information for the information exchange. That is difficult on two levels. First of all regarding the size. If each of the family members has \$100 million, it's going to be very difficult. The second issue is that even though you might have big families, maybe parts of the family don't want to give out shares now. They may want to hand over the shares when they are not anymore.



The other thing you could do, for example, if you have a family fund which doesn't comply with this, say with a fund that has four members or shareholders, so clearly in that case, the bank will have the information. If you have that fund listed publicly, you must disclose the beneficial owner to the bank but, at the same time, you can also ensure that the bank will not exchange the information because one of the exceptions to the automatic information exchange relates to publicly traded companies. So the bank will know you are the owner, but the government won't. So there are a few little things you can do, but that's about it.

**Andres Baez:** I am not a lawyer, so I am not dedicated to structuring in any ways to minimize your tax payments. But let me still add three aspects that I believe are important.

One is, the simpler the structure of a family trust, the easier it is to make investments. Two, you are going to pay taxes. That's a reality and even more so in Latin America where countries are desperately looking for the money. So you are going to pay taxes, deal with it, get your structure in order and do it. And third, maybe instead of dedicating so much time to finding ways and vehicles not to pay taxes, dedicate that time to make sure that the governments are making good use of your taxes, because that's the price you pay for being in a country.



**Martin Litwak:** I totally agree with you on the three issues. I think that when we structure families or projects, tax optimization is one of the factors that we take into account. The other things are estate planning and asset protection. So regarding the taxation, clients have to pay a certain degree of taxes, it's just a matter of finding the structure that will minimize those taxes within the legal framework without incurring any risk.

And let me underline here again your first point about the simplicity of a family trust. I absolutely agree with you, and this is something I've been telling my clients the whole time: "You need to keep it simple." A complex structure, first of all, will not pass compliance. It's difficult. If a structure doesn't have sense, compliance will not like it.



Secondly, now, with all the exchange of information, you are suddenly subject to a whole bunch of reporting rules in different countries. Ten years ago, people who wanted to have the highest level of asset protection would have used a second passport and structures in say ten jurisdictions and five bank accounts with the idea that with that it would be very difficult for the government to find your assets. But, again, in the current age, these people have to be aware of the risks associated with the sharing of information. This means if you can have all your assets in one structure, with one passport in one jurisdiction, and with one manager, you know who has your information and you can manage your risk.

If instead someone comes to a bank and says “I will open an account with you and I will give you my Italian passport. I will give you a phone I have in the U.S. and I will ask you to send the statements to Uruguay,” then he will have these three countries involved and in the end lose a proper management of all this information.

### Stephan de Sabrit

We have heard from Martin the amount of money that the Argentineans have, and if part of that is used in the amnesty, then it's already a lot of money, and in Brazil the case is basically the same. So we at Leste have been obviously looking at this as a great opportunity for money managers and family offices located in good jurisdictions like we have set up, with offices in Brazil and Miami. **Once the money is declared, most likely the owner will want it to be better managed.** So, I really believe these tax amnesties will be good for the entire industry.

**Julie Neitzel:** As a concluding comment based on what we have been discussing today, despite the many challenges, there may be tremendous opportunities.

It is critical to understand the risk, and understand the proper way to structure and mitigate those risks. It's critical to secure proper legal advice and guidance to make sure that you're appropriately addressing the rule of law issues that need to be addressed in the investment structures. While it may not be appropriate for all investors, but it appears that compelling opportunities may surface as the region works through its economic challenges.



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