

If resigned to die in Argentina, do as the Romans did? Testamentary *Fideicomiso* and Trusts

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Abstract

Several Latin American countries, in an attempt to develop a tool for financing and other business purposes, implanted an alien body into their aging civil law corpuses: the *fideicomiso*. This has recently been used for succession planning in Mexico, Peru, and Brazil. In Argentina, a new tax may be breathing new life into this legal institution, namely the Province of Buenos Aires' Inheritance and Gift Tax (IGT'). This new levy has led wealthy Argentines to focus their attention on the other unavoidable fact of life: death. Those not willing to give up control of their assets just yet but who want to solve family and/or business-related succession riddles, keeping valuable assets under unified ownership and management for a time after passing away and, last but not least, delaying IGT payments, seem to be finding something alluring in the testamentary *fideicomiso* (TF). This article will attempt to bring together certain doctrinal and practical aspects of the Argentine TF, as well as a comparative perspective with the common law trust.

Introduction

Like its ancestor Roman law, Argentina's Civil Code limits the power to dispose of property upon death. However, even for the Romans there was an exception: the *mortis causa fideicommissum* was used to transfer property to legally incapable persons (eg the unmarried, the childless, foreigners, slaves, and women), by conveying all or part of a potential inheritance to a legally capable beneficiary who had the duty to pass the inheritance to the incapable beneficiary upon the testator's death.

Many centuries later, several Latin American countries went back to the Roman law in an attempt to develop a tool for financing and other business purposes. They implanted an alien body into their ageing civil law corpuses: the *fideicomiso*, a direct descendant of the exceptional *mortis causa fideicommissum*. Argentina did this in the Housing and Construction Financing Act (No 24,441), passed by Congress in December 1994 and signed into law and published during January 1995 (*F Act*), which introduced a *sui generis* (so-called 'Latin-American') version of the Roman *fideicommissum*. As noted in a previous article

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(Ayuso, Lipovetzky and Cone [2010]¹), although *fideicomisa* have proved to be useful tools for a variety of business purposes, since their inception, they have failed to have any significant effect in wealth and succession planning. This is now changing in Latin America and the authors are aware of *fideicomisa* being recently used for succession planning in Mexico, Peru, and Brazil.

In Argentina, a new tax may be breathing new life into this legal institution, namely the Province of Buenos Aires' Inheritance and Gift Tax ('IGT'). This has been gaining momentum since the IGT came into full force and effect at the beginning of this year (see Ayuso, Lipovetzky and Vergara [2011]²). This new levy has led wealthy Argentines to focus their attention on the other unavoidable fact of life: death. Those not willing to give up control of their assets just yet (otherwise an *inter vivos fideicomiso* may be used under the same law), but who want to solve family and/or business-related succession riddles, keeping valuable assets under unified ownership and management for a time after passing away and, last but not least, delaying IGT payments, seem to be finding something alluring in the testamentary *fideicomiso* (TF).

This article will attempt to bring together certain doctrinal and practical aspects of the Argentine TF, as well as a comparative perspective with the common law trust.

If it quacks, then it's . . . what?

The *F* Act draughtsman was content to set the limits of a TF in a laconic provision:

[t]he *fideicomiso* may also be established by will, executed in any of the forms foreseen by the Civil Code, and shall set forth at least the contents required by Section 4. Should the fiduciary appointed in the will

not accept [the office], the provisions of Section 10 hereof shall apply (Section 3).

F Act section 4 imposes the following requirements for the *fideicomiso* contract (and, even with certain doubts as to the applicability of subparagraph 3 that we will address later, for the will settling a TF):

- a. *Individualization of the property subject matter of the contract. Were this individualization not to be possible upon the execution of the fideicomiso, it shall include a detailed description of the requirements and characteristics to be met by the property;*
- b. *Specification of the way other property may be incorporated to the fideicomiso;*
- c. *Term or condition the fiduciary ownership is subject to, which shall never exceed thirty (30) years as of the execution thereof, unless the beneficiary is an incapable person. In this event, it may last until the death of such person or the cessation of the incapacity;*
- d. *Destination of the property upon fideicomiso termination;*
- e. *Rights and duties of the trustee, and method for his substitution in the event of cessation [of office].*

As seen above, TFs must be established in a will. Under Argentine law, wills may be entirely handwritten by the testator, or recorded in a deed before a notary public and three witnesses, or delivered to a notary public in a closed envelope, or made following special formalities in exceptional circumstances (war, journeys by sea or air). Since it must be expressed as a will, a TF is revocable at any time until the testator's death, for according to the Argentine Civil Code (CC), a testator can not waive or restrict his/her right to revoke a will.

1. JE Ayuso, E Lipovetzky and G Cone, 'History of the Law of Trusts in Argentina' (Winter 2010) *Rothschild Trust Review* 22.

2. JE Ayuso, E Lipovetzky and EA Vergara, 'Death in the Soy Field Down Under: *Inheritance and Gift Tax in Argentina's Buenos Aires Province*' (Summer 2011)

14 *The Journal of Wealth Management* 93–100.

That a TF can only be settled through, and with the formalities of, a will is clear; whether this fact and its consequences entirely define the TF is a different matter altogether. Wills are unilateral dispositions, whereas *F Act fideicomisa* are essentially contractual. Thus, the TF is a mixed breed, unilateral by nature (testamentary), but with contractual aspects out of necessity (of a fiduciary that would not only accept the bequest, but also the office and its duties). To the common lawyer, this will seem strange. In common law countries, the creation of a will, which has certain required formalities, and which is activated on the creator's death to dispose of his property according to his wishes, as carried out by his executor, is commonplace. The interposition of a contractual aspect would have a common lawyer scratching his head, just as this mixed breed troubles the civil lawyer.

So, civil law scholars have been trying to make the TF fit into existing civil law testamentary schemes and, as the Romans did, they have noticed the similarities with the bequest of assets that—in this case—the testator makes in favour of the person that will receive the *fideicomiso* fund at the end of the *fideicomiso*'s lifespan (the *fideicomisario* in the *F Act*'s terminology).

As the beneficiaries of the TF, the person entitled to income distributions from the TF is designated by the *F Act* as *beneficiario* (beneficiary) and, as a result, is a creditor of the fiduciary. The income beneficiary or beneficiaries and the *fideicomisario* may, as at common law, be the same person.

The office of the fiduciary is the subject of debate between those who stress the TF's succession aspects, because, as with the Roman model, the fiduciary is also a legatee of assets charged by the testator with the duties to pay or deliver such assets to the beneficiaries and those who accentuate the fiduciary concept, for whom the testator's last wishes project themselves to heirs and legatees as beneficiaries, with the fiduciary as a trustee, and not as an inheritor.

A second issue shared with its other *fideicomiso* siblings, is that of the legal conception of the fiduciary.

In Argentina, fiduciary ownership of assets under the original (pre-*F Act*) text of CC section 2662 was

temporal and, therefore, labelled 'imperfect'. Argentine Courts made a conscious effort to discern fiduciary arrangements from shams:

The distinction will become clear once we point out that in the middleman's pact the acquisition by the interposed person . . . is a sham, while in the fiduciary transaction the acquisition by the trustee is real and the limitations on the acquired right or the obligation to transfer the asset in turn to a third party are the content of an in personam transaction -the fiduciary pact- that binds the trustee with the settlor (Section A of the National Court of Appeals in Civil matters sitting in the City of Buenos Aires *in re Saporiti de Vignale, Emma v. Saporiti, Gerardo*, 29 Aug 1995).

In this respect, the *F Act* followed other Latin American legislation in adhering to the views of the French jurist Pierre Lepaulle, by adopting the concept of 'ownerless patrimonies' for its creatures. Though not the only ones of this kind (Argentine foundations are also ownerless patrimonies, appropriated for a public benefit purpose defined by the founder), they have nonetheless caused headaches to civil law scholars, many of whom still have difficulties with exceptions to the 'no patrimony without an owner' principle. This may be compared to the common law system, which posits two forms of ownership; the trustee or executor's legal ownership, and the beneficiaries' beneficial or equitable right.

Meet the testator halfway between the Tiber and the Thames, and bring a calculator with you

How does this new beast lie with Argentina's well-known forced heirship rules? Again, Argentina's succession regime can be traced back to the Romans. That is, heirs step in the deceased person's shoes while the gun is still smoking, with a claim to the entire estate, whereas in the Anglo-Saxon legal tradition, heirs succeed in the assets transferred from the deceased to, and distributed net of debts by, the

executor. While the common law system proclaims the freedom to dispose by will or trust, Argentine law mistrusts both. The TF stands uncomfortably between the Tiber and the Thames: it clearly tends to grant freedom of succession in individual assets, but it does so in the midst of the constraints imposed by the rules of *legitime* (forced heirship) and marital community property.

Under Argentina's forced heirship regime, the deceased's issue is entitled to four-fifths of the deceased's estate (comprising his or her assets at death and those that have been donated or otherwise disposed of without consideration during his or her lifetime) and the surviving spouse to one-half of the marital property (in this case, pursuant to the marital property regime) and a share of the deceased's own assets equal to that of the descendants.

Some—not all—commentators believe that the TF can only be settled over discrete assets (either identified in the will or identifiable later) and not over the entire testator's patrimony, or an indivisible portion thereof. Be it as it may, the calculations of the *legitime* quotas—should there exist forced heirs—will include the value of the TF fund at the time of testators' death along with other assets (including those left at death outside the TF and those gifted by the testator while alive). The value of income bequeathed to a beneficiary (heir or not) would also have to be assessed and incorporated to the calculation of the *legitime*. If the computation shows a breach of the forced heirship regime, the TF's rights to distributions would then (not later, at the time of distribution) be altered, starting with the income and re-distributing rights to the settled assets after that.

If the testator is married, the disposal of assets may be the testator's own assets or part of the community property formed with the spouse. While there is no doubt that a spouse can create a *post-mortem* undivided estate through a TF with his/her own assets, it is debatable whether he or she can do the same with marital property, in particular over the other spouse's share in it. To our knowledge, only one precedent is cited in favour of authorizing a spouse to create an undivided estate over marital property; CC section

1277 provides that the testator's spouse should expressly consent to the transfer into a TF of marital property (or in the event that the transferred assets include the family home, even if it is testator's personal property, only while the children are underage or incapacitated).

How low should the succession system bend to actually break?

In the previous section, we have seen the 'inner' or 'hard' core of the CC succession system, the *legitime*. There is, however, an 'outer' or 'soft' shell: heirs are entitled to freely dispose and manage the assets they inherit. Legal fiction requires that they step in the shoes of the deceased and acquire title to the latter's assets on the date of his/her death, and the administrator of the decedent's estate manages them on heirs' behalf. Reality will prevail, though, and they will only get title to the inherited assets under each heir's name and separate management thereof, once they shall have been acknowledged as heirs by the court, estate debts shall have been paid, and the remaining estate partitioned and distributed.

Section 51 of the Homestead Act number 14,394 passed in 1954 (Homestead Act) allows for the imposition upon heirs of a prohibition to divide the decedent's estate for a term not to exceed 10 years or, in the case of a single asset or a commercial, industrial, farming, cattle-raising or mining establishment or any other business unit, until all heirs shall have reached the age of majority.

On the other hand, as noted, *F* Act section 4 (c) provides that the *fideicomiso* agreement shall contain (among other mandatory provisions) the term or condition to which the *fideicomiso* property is subject, never to exceed 30 years as of execution (unless the beneficiary is a person suffering an incapacity, in which case it may last until the death of such person or the cessation of the incapacity).

The question is: does the 30-year maximum term apply to all *fideicomiso*? Law commentators disagree. Those in favour of giving testators as much leeway with their assets as legally possible, equate the TF

with an *inter vivos fideicomiso* and apply section 4 § (c) to both. Others, who prioritize the succession regime and believe that a 30-year maximum term would denaturalize it to an unbearable extreme, resort to the Homestead Act maximum term (10 years) for post-mortem undivided estates and apply it to the TF.

Should the more restrictive position prevail, it would lead to the paradox that anyone who, feeling the final hour approaching, settles an *inter vivos fideicomiso* (through an agreement with the fiduciary for immediate transfer of the assets to the latter) could make it last for up to 30 years from the date of execution (and in any case, if the death hunch was correct, for a period well in excess of 10 years), whereas if he/she settles a TF, 10 years would be its maximum duration.

As to the conditions subsequent that would put an end to the TF and trigger final distribution, they can never consist in the fiduciary's death, for it risks violating the CC prohibition of fiduciary substitutions (in simple terms, designating a heir to one own's heir).

Under the common law, the freedom to legislate from the grave was mitigated by the imposition of a perpetuities rule, which compelled a distribution of the trust fund within a life plus 21 years, to prevent the indefinite accumulation and control of trust assets. Argentina adopts a stricter system on both counts, retaining to a degree the *legitime* and limiting the time for which a TF can exist.

Learning to move bequested assets through fiduciary telekinesis

Most analysts tend to see TFs as conveyance tools. Bequested assets are thought to move seamlessly from point D1 (death of the testator) to points D2x (distributions to income beneficiaries) and D2y (distribution to *fideicomisarios*). What happens in the meantime is of little or no concern to them.

Reality, once more, defeats such a line of thinking, in particular where the *fideicomiso* fund consists of complex assets. The common law trust system

provides some assistance here as well as the provisions of the *F Act*.

A safe box full of jewelry settled to pay for graduate education of the testator's heirs may not require much activity on the part of the fiduciary. A business facility, a productive farm in the Pampas, or a controlling stake in a group of companies may give the fiduciary a lot to do; couple that with several unruly heirs named as beneficiaries and/or *fideicomisarios*, and the fiduciary will most likely suffer from endless headaches. Whether the TF can be developed so it resembles a common law complex trust, holding a variety of valuable and active investments, remains to be seen. However, the solution would seem to be to adopt in the TFs terms explicit and extensive provisions of the kind found in a complex trust, with an eye on the constraints imposed by the succession regime.

Family dynamics and governance

Unruly descendants may not be disinherited other than for, basically, injuring, committing attempts on the life of, or bringing a lawsuit for certain criminal offenses against the ascendant (section 3747 CC). A will settling a TF cannot deprive them of their *legitime* quota for other causes, as fair and just as they may seem. This would represent a serious limit on the testator's (and, later, on the fiduciary's) ability to handle exasperating and even litigation-prone heirs-beneficiaries/*fideicomisarios*.

However, the application of this succession rule to the entire TF's life seems unwarranted. Excluding heirs entitled to a *legitime* quota from the estate (including TF assets) from the outset, for reasons other than those enunciated in the CC, will, in all likelihood, be deemed null and void. But TF *in terrorem* clauses that would be triggered by events that would occur after the TF passes the forced heirship test and becomes operative should not be voidable on such ground, provided that they are not devised to have the same effect as an outright exclusion. In any case, this is uncharted territory for Argentine courts.

Further, the testator may still not want to have family fights or even litigation at the level that holds title to valuable assets, in particular given the little comfort that the scholars and jurisprudence supply in this regard. It, therefore, may be worth exploring the organization of a family company or Private Trust Company (PTC), which is well known in some Anglo-Saxon jurisdictions, to act as TF fiduciary, leaving the TF itself as a pure holding and conveyance instrument, while reserving governance and management issues for the company. The fiduciary could be a local or a foreign entity (the *F* Act does not restrict or condition this in the case of TFs, although other regulations may limit the use of foreign PTCs), and, in both types, there is enough supply of corporate structures and strong case law to accommodate dissension and, if necessary, exclude one or two troublemakers from decision making. At the same time, it would serve the purpose of training the heirs in the management of the bequeathed assets, an activity they will have to perform on their own after the *fideicomiso* disappears and the assets are conveyed to them.

Given that the *legitime* test will be taken and passed (or not) upon testator's death, it is possible to let the testator allow the beneficiaries/*fideicomisarios* to trade their rights under the TF among themselves under certain conditions. This may call for the inclusion in the TF of provisions that are standard in shareholders agreements. It does not depart substantially from the succession rules that permit heirs to assign their rights to the estate... If a family PTC shall act as TF fiduciary and management and governance vehicle, a proper shareholders agreement may need to be put in place at the PTC level to govern such matters.

Disloyal fiduciary, *infamis est!* Powers of the fiduciary

In order to fulfill the testator's wishes, the fiduciary, as 'owner' (although in others' interest) of the settled property, has the broadest management and disposition powers over the assets, which is a substantial difference with other CC institutions such as the agency. The fiduciary may dispose of, or encumber

the *fideicomiso* property for such purpose, without any need of obtaining the beneficiary's consent, unless otherwise provided in the will. *F* Act section 17 subjects the exercise of powers to dispose and encumber the settled assets to the *fideicomiso*'s purpose, which consists, in the TF's case, basically the testator's wishes expressed in the will, which should be clearly set forth to avoid misinterpretation and doubts as to the extent of such fiduciary's powers. Once more, certain scholars have not failed to object the granting of such powers in the will as contrary to the *legitime* and, conversely, only accept TFs in which such powers are restricted to the narrow limits of their interpretation of forced heirship. Notwithstanding this, it can quickly be seen how the common law complex trust system of carefully defining trustees' rights and duties in the absence of a complete code to define such matters can, to the extent compatible, be brought to aid to supplement and strengthen the provisions of the *F* Act and the CC.

The fiduciary's main duty is to have the settled assets and their fruits and income preserved, maintained, managed, and ultimately conveyed in accordance with the testator's wishes. They should be managed and applied for the benefit of the beneficiaries and preserved and, ultimately, conveyed to the *fideicomisarios*. *F* Act section 6 sets forth that the fiduciary must carry out these and other obligations imposed by law or the agreement (in this case, the will) prudently and with the diligence of a good businessman, who acts on the basis of the trust bestowed upon him/her. The fiduciary may not acquire the settled assets for his/her own account.

A question arises in circumstances in which the testator's express wishes conflict with what a diligent and prudent businessman would do in similar situations, which is likely to coincide with the interest of the beneficiaries and/or those of the *fideicomisarios*. Theoretically, in TFs—in which the testator is king (within the limits set by succession law)—the testator's wishes should prevail and the fiduciary's compliance by the testator's express wishes should serve as sufficient excuse against liability for breach of *F* Act section 6. But the interplay of the testator's wishes

with the fiduciary's conduct standard may become muddy in practice, which again will be repaid by careful drafting.

The fiduciary must, unavoidably, render accounts of its performance at least once a year to the beneficiaries (*F Act* section 7). Although the *fideicomisarios* have been interpreted to also have the same right (even if not expressly provided in the *F Act*), section 7 seems to adapt poorly to TFs, for while in *inter vivos fideicomisa*, the beneficiaries' interest prevails over that of the *fideicomisarios*, TFs are substantially seen as conveyance vehicles in which the *fideicomisarios'* interest dominate.

According to *F Act* section 14, the fiduciary's liability for damage caused by (not with) a settled asset shall be limited to the value of the trust property in the event of damages resulting from the inherent risk or defect thereof, if the trustee was not reasonably able to take out appropriate insurance coverage. This limitation of liability does not protect the fiduciary that acts negligently or recklessly. If the damage is caused by one or various assets that form part of the TF fund as a result of their inherent risk or defects, the fiduciary's liability is limited to such assets and not to the entire fund.

The fiduciary may be removed by court order for breach of duties, at the beneficiary's petition. The right to petition the removal of the fiduciary should also be granted to the *fideicomisario*. It would cease upon death, incapacitation or dissolution, bankruptcy or liquidation, or resignation if such cause has been expressly admitted in the trust agreement. Resignation shall become effective after the trust property shall have been transferred to the new fiduciary. Should there be no such substitute trustee named in the will or designated in accordance with its provisions, or should the trustee not accept the appointment, one shall be appointed by court.

Finally, according to Argentina's Criminal Code section 173 § 12, any fiduciary who, for its own benefit or that of a third party, disposes, encumbers, or damages the settled assets and, thus, betrays the other *fideicomiso* parties' interest, shall be punished with

one month's to six year's jail term. Courts have interpreted that the *fideicomiso*:

is essentially a trust-based transaction, as the etymology of the word suggests, [and] entails, as is obvious and has been affirmed by civil law scholars, a risk-bearing situation that may arise from abusive behavior. All of which means that the legislator wanted to sanction with punishment the violation of such trust even in the cases of an imperfect form of ownership (Section IV of the National Court of Appeals in Criminal matters sitting in the City of Buenos Aires *in re Martini*, Angel Jose s/indictment, 12 Nov 2004).

Render to Caesar what is Caesar's

The levy that is currently breathing life into the TF and driving the attention of a new constituency towards this—until now—dormant succession planning tool, that is, the IGT, deserves the pole position in the tax analysis.

Pursuant to the IGT Act, its taxpayers comprise individuals and legal entities domiciled in the Province of Buenos Aires (and those located outside it but profiting directly or indirectly from wealth located in it) that benefit from an asset transfer for nil consideration. TFs are neither. It is a more or less consolidated construction principle of Argentine tax laws that, where not included expressly as taxpayers, *fideicomisa* should not be deemed to be levied with this tax.

As a result, IGT should not be charged at the time in which the settled assets are actually transferred into the TF or while they stay in there, but only upon distributions. Until then, neither the beneficiaries nor the *fideicomisarios* enjoy any benefit taxable with IGT. In addition, IGT Act taxation of certain distributions may be challenged on constitutional grounds (see Ayuso, Lipovetzky and Vergara [2011]).

The following table summarizes the taxes applicable to TFs and common law will trusts from the moment of execution of the will, transfer of the settled assets, recurrently during their lifespan, and at the time distributions are made.

	TFs	Will trusts
Will execution	Stamp Tax (ST): not levied ^a	Not levied ^a
	IGT: not levied	Not levied
Asset transfer	ST: not levied	Not levied
	Income Tax (IT): not levied	Not levied
	IGT: not levied	Not levied
Recurrent taxes	Personal Assets Tax (PAT): 0.5% of assets' value	Not levied (assuming no Argentine assets settled)
	IT: levied at 35% tax rate in the event the TF conducts business activities.	Not levied (assuming no business activities in Argentina)
	Minimum Presumptive Income Tax: 1% of assets' value ^b	Not levied (assuming no Argentine assets settled)
Distribution of income generated by settled assets	IT: not levied (with the exception of the application of the Equalization Tax ^c)	Taxed upon distributions to the beneficiaries.
	IGT: applies in case beneficiaries reside, or distributions comprise directly or indirectly assets located in the PBA, at a rate determined based on the value of assets being distributed ^d	Applies in the event that beneficiaries reside, or distributions comprise directly or indirectly assets located in the PBA, at a rate determined based on the value of assets being distributed ^d
Distribution of settled assets and additions to the TF/will trust fund	IT: not levied ^e	Distributions of: <ul style="list-style-type: none"> i. settled assets, exempted ii. additions to the trust fund (other than settled assets) or gains retained at the trust level, taxed
	ST: not levied	Not levied
	IGT: applies in case beneficiaries reside, or distributions comprise directly or indirectly assets located in the PBA, at a rate determined based on the assets' value ^d	Applies in the event that beneficiaries reside, or distributions comprise directly or indirectly assets located in the PBA, at a rate determined based on assets' value ^d

^aConclusion based on the absence of consideration. If the fiduciary is assigned remuneration in the will, the ST would apply to such amount. If the fiduciary's services are to be performed for no consideration, it is advisable to express such fact in the will, in order to avoid any risk of ST application on a 'deemed consideration'-basis.

^bIn its leading case 'Hermitage', Argentina's Supreme Court has objected the application of this tax in cases in which the taxpayer has demonstrated that the instant asset could not produce taxable income at the presumed level.

^cEqualization Tax: benefits distributed by Argentine entities (which, for tax purposes, include TFs), whoever the beneficiary thereof, will not be subject to withholding tax unless such benefit distributed is higher than the net accumulated taxable income of the previous year. In such cases, the Argentine entities shall withhold 35% of the amount of benefits that are paid in excess of the net accumulated taxable income. The applicable withholding tax may be lower under certain tax treaty provisions.

^dSee Ayuso, Lipovetzky and Vergara [2011].

^eThere exists an interpretive risk that the tax authority may attempt to equate final assets' distributions with a final distribution of remnant assets by a company undergoing winding-up to its shareholders, which is levied with IT.

Certain settled assets may be levied with specific taxes and would require further examination.

Getting to know Argentina's new praetor fideicommissarius

The recently enacted Anti-Money Laundering Amendment Act (No. 26,683) has included, among the new reporting parties, entities or individuals acting as fiduciaries in any type of *fideicomisa* and those who own or are related—directly or indirectly—to fiduciary accounts, settlors and fiduciaries

under *fideicomiso* agreements, all of which makes for quite a broad universe (the 'Fiduciary Parties').

The persons acting as an entity's organ or executor and the entity itself, or the individual (as the case may be), including those within the legal definition of Fiduciary Parties, that breach the obligations (reporting duties among them) imposed vis-à-vis the AML watchdog would be sanctioned with severity.

Even before its enactment, the then amendment bill was already attracting attention. The express inclusion of tax evasion among the list of predicate criminal offenses and that of new reporting parties allegedly associated with tax saving schemes reinforced the suspicion that Argentina's policy-makers may be more

interested in enforcing the amended AML legislation against those who may be involved in tax evasion, rather than against organized crime. It has been reported, also, that the majority of UIF's past investigations have been connected with tax evasion cases.