

Update: Josh Rubenstein, Katten Muchin Rosenman on Latin America

As the recent number of articles on the subject attests, Latin America has quietly spawned an enormous number of ultra high net worth individuals at a prodigious rate. This is attributable to a large number of factors, none of which has received the publicity it deserves. First, most Latin American countries have made enormous strides against money laundering, and are in increasingly significant compliance with the "40 Recommendations" of what the English speaking world refers to as "FATF", or the Financial Action Task Force, and what the Spanish speaking world refers to as "GAFI," or the Grupo de Acción Financiera Internacional, an inter-governmental body established at a G-7 meeting held in Paris in 1989. Second, local governments have taken important steps to make it more hospitable to do business there, including lowering tax rates and providing incentives for the repatriation of capital. Third, and perhaps most significant from a planning perspective, there are wonderful opportunities for the use of offshore trusts and trust equivalents in connection with cross-border work with Latin America. Even though Latin American countries are all civil

law based, some in fact have a law of trusts. Others recognize an entity that is largely a trust equivalent known as a "fiducia" or "fideicomiso," including Argentina, Bolivia, Brazil, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, Panama, Peru, Puerto Rico, Paraguay, Uruguay and Venezuela. In some cases this is statutory, and in other cases it is simply a part of what common lawyers would refer to as their "common" law. In some countries, even those that recognize fiducias or fideicomisos, the trust concept does not fit well, but a "foundation" fits quite well (witness Jersey's new foundation law, having nothing to do with the concept of charitable foundations with which common lawyers are traditionally familiar). Foundations will generally be regarded as trusts in common law countries. With proper planning, Latin Americans now have at their disposal all of the tools traditionally available to the rest of the world to do tax efficient and flexible cross bor-



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der planning, and an increasing amount of wealth which to do so.

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