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FEATURED Q&A

How Are Stricter Rules Affecting Caribbean Banks?



U.S. policies have led several banks to sever correspondent relationships with banks in the Caribbean, Earl Jarrett says below. // File Photo: TastyCakes via Creative Commons.

Q Caribbean leaders, including the prime ministers of Trinidad & Tobago and the president of Guyana, met earlier this month in Washington with U.S. Vice President Joe Biden. Ahead of the meeting, the visitors expressed concerns that some U.S. banks were severing ties with banks in the Caribbean due to fears about fines and higher costs because of increased U.S. oversight of money laundering in the area. What effects are U.S. compliance regulations having on Caribbean banks? How has the de-risking trend affected non-banking financial institutions in the Caribbean basin? Are the U.S. regulations appropriate, or are they causing an undue burden on companies and their customers? How will new transparency rules, announced May 5 by the Obama administration requiring financial institutions to know the true owners of accounts, affect U.S. and Caribbean banking relationships?

A Earl Jarrett, member of the Financial Services Advisor board and general manager of the Jamaica National Building Society: "The U.S. Treasury's policies and tactics have had the unintended consequence of banks de-risking their operations by severing correspondent account relationships with several banks in the Caribbean region. Many of the region's banks are fearful that, should the trend continue, Caribbean countries could be locked out of the international payment system, as more than 37 financial institutions have had their accounts restricted or terminated. Remittance companies have also been severely affected, resulting in the closure of businesses or significant changes in business practices. This includes shipping U.S. currency

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Authorities Target Alleged Laundering Ring

Authorities arrested a prominent Panamanian businessman and dismantled a network of companies that was allegedly part of a major money-laundering ring.

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INSURANCE

Axa Predicting Double-Digit Growth in Brazil's Insurance Sector

The French insurer expects the industry to post strong growth in the years ahead despite the country's deep recession.

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FINANCIAL SERVICES

Itaú's Goldfajn Tapped to Head Brazilian Central Bank

Itaú Unibanco's chief economist, Ilan Goldfajn, was named head of the country's central bank. Goldfajn previously served as central bank chief under former President Fernando Henrique Cardoso.

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Goldfajn // File Photo: Brazilian Government.

REMITTANCES NEWS

Curbing Remittances Would Harm Anti-Laundering Efforts: Mexican Official

Any attempt by a new U.S. administration to curb the flow of remittances from the United States to Mexico would translate into a major setback in the countries' joint efforts to stop



Aportela // File Photo: Twitter.

money laundering and other illicit forms of finance, Mexico's deputy secretary of finance said May 12, the Los Angeles Times reported. Fernando Aportela also warned that any attempt to seize remittances would force Mexicans to hide and smuggle money, undermining the strides the two countries have made in making money flows more transparent. "We will end up getting less information" to work with instead of more, Aportela said at the Wilson Center in Washington. "It will create [new] challenges." U.S. presidential candidate and presumptive Republican nominee Donald Trump has vowed that if elected, he would force Mexico to pay for building a wall at the border between the two countries and would impound remittance payments if the Mexican government did not comply. Mexican officials have repeatedly rejected Trump's pledge, saying they have no intention of building or paying for a border wall. A Trump administration could potentially impose regulatory and logistical obstacles to sending remittances to Mexico, much in the way the United States has done to impede terrorism financing. However, doing so would likely be met with challenges in the courts and resistance from banks.

ANTI-MONEY LAUNDERING NEWS

Authorities Target Alleged Panama Laundering Ring

In a coordinated effort between the United States, Panama and Colombia, authorities have arrested a prominent Panamanian businessman and dismantled a network of companies that U.S. officials allege were part of a major money laundering ring for drug traffickers. In a statement May 5, the U.S. Treasury's Department of Foreign Assets Control, or OFAC, announced sanctions against Nidal Waked and his uncle Abdul Waked as well as six other associates of the men and 68 companies tied to what OFAC called a "drug money laundering network." The network "uses trade-based money laundering schemes, such as false commercial invoicing; bulk cash smuggling; and other money laundering methods, to launder drug proceeds on behalf of multiple international drug traffickers and their organizations," OFAC

The Treasury froze the U.S. assets of 68 companies involved in the case.

said. As part of the sanctions, the Treasury froze the U.S. assets of the 68 companies. Nidal Waked was arrested May 4 at an airport in Bogotá, just after clearing customs following his arrival on a Copa Airlines flight, the Associated Press reported. He and his uncle are accused of being the ringleaders of the organization, which is alleged to have used a bank—Balboa Bank & Trust—as well as a luxury mall and the duty-free zone at Panama City's international airport to launder drug profits. The family also owns the Estrella de Panama, the Central American country's largest newspaper. The family's holding company, Grupo Wisa, issued a statement Thursday calling the allegations "false and unfounded," the AP reported. The company added that it had instructed its

NEWS BRIEFS

Goldfajn Tapped to Head Brazil's Central Bank

Newly appointed Brazilian Finance Minister Henrique Meirelles on Tuesday nominated Ilan Goldfajn as the next president of Brazil's central bank, The Wall Street Journal reported. Goldfajn is currently the chief economist for Itaú Unibanco, Brazil's largest private-sector bank by assets. He was also the director of the central bank from 2000 to 2003 under President Fernando Henrique Cardoso. The Senate must confirm Goldfajn's nomination before he may take office.

Caixa Econômica Federal Won't Need Capital Increase: CFO

Brazil's largest mortgage lender, state-run bank Caixa Econômica Federal, will not need a capital injection, a senior executive told Reuters May 9 after the bank reported a 46 percent drop in net income as delinquency rates increased, Reuters reported. Caixa reported a quarterly profit of \$235 million, and its delinquency rose to 3.51 percent from 2.85 percent a year ago. The bank's return on equity fell to 10.3 percent from 13.7 percent a year earlier as well, causing some analysts to wonder if the bank will need fresh capital. Chief Financial Officer Márcio Percival said the 90-day delinquency rate could reach 3.8 percent by the end of the year, but added the bank would make up for losses by implementing higher interest rates on its credit portfolio.

Costa Rica Planning Tax on ATM Transactions

Costa Rica's government is planning to impose a new tax on ATM transactions of more than 100,000 colones (\$187), local newspaper El Mundo reported May 13. The tax would amount to 0.02 percent of the transaction amount, said legislator Otto Guevara, who opposes the tax.

lawyers to cooperate fully in an investigation that was announced by Panamanian Attorney General Kenia Porcell Díaz. “We are cooperating fully with U.S. authorities in this matter, and we will ensure justice is served by the people of Panama. This investigation further strengthens our efforts and resolve to vigorously attack criminal activity in Panama so that the rule of law prevails,” Porcell Díaz said in a statement. Panamanian officials also said they had seized Balboa Bank & Trust and brokerage Balboa Securities as part of the action. An unnamed law enforcement official told the AP that the Waked family is accused of laundering money on behalf of Mexican and Colombian drug cartels as well as independent drug traffickers. U.S. officials have requested Nidal Waked’s extradition, Colombian migration officials told the AP. He faces charges of money laundering and bank fraud in Florida, according to the Drug Enforcement Administration. The arrest and the investigation was announced just weeks after the release of the “Panama Papers” in which the leak of some 11.5 million documents showed how Panamanian law firm Mossack Fonseca helped clients conceal wealth. The leak has led to pressure on Panama to improve the transparency of its financial system. Soon after the leak, Panamanian President Juan Carlos Varela announced he was forming a commission of international experts in an effort to make the country’s offshore financial industry more transparent. [Editor’s note See related [Q&A](#) in the April 27 issue of the Latin America Advisor.]

INSURANCE NEWS

Axa Predicting Brazilian Insurance Sector Growth

French insurer Axa is predicting double-digit growth for Brazil’s insurance sector this year despite an ongoing recession, and the company would consider more acquisitions in South America’s largest economy, Bloomberg News reported May 6. A local currency that has

FEATURED Q&A / Continued from page 1

around the region or negotiating non-bank settlement options to facilitate remittance payments. These non-bank alternatives expose the region to greater risk of money laundering as the transparency offered by correspondent banking relationships is substituted for less formal payment and settlement arrangements. Non-bank entities are also inclined to conduct transactions in U.S. currency rather than domestic currency, thereby stimulating greater use of cash and the emergence of black market operations. Banks in the United States have expressed fear and fatigue in fully understanding the requirements of the law; and in avoidance of fines and custodial sentences, have taken the easiest and simplest route by severing banking relationships. The new customer due diligence rule announced on May 5 requires banks to identify and verify the beneficial owners who own and profit from companies. I anticipate that this rule will exacerbate the problems of correspondent banks as the cost of compliance and the risk of fines would increase. In a technologically, financially and politically integrated world, efforts should not be made to unilaterally build ‘financial walls’ and require countries such as those in Latin America and the Caribbean to pay the cost. Instead, we should utilize the well-established channels of bilateral discussion and cooperation to craft policies that will have the desired effect of combating money laundering and tax evasion, while pursuing options for countries in the region to continue to participate in the international payment system; thereby improving the economic conditions of these countries and strengthening relations with the United States and engagements in the region.”

A **Louis V. Martinez and Roland M. Potts, attorneys at Diaz, Reus & Targ LLP:** “As Robert Frost once wrote, ‘nothing gold can stay.’

With the release of the Panama Papers, a lot of investors, banks, financial institutions

and foreign countries are concerned that the traditional shell company may be that gold that is gone forever. The Panama Papers revealed what many already knew: that shell companies are used frequently for both legal and illegal purposes. Recently, the U.S. government set forth new ‘customer due diligence’ rules, requiring financial institutions to verify who actually owns and profits from a shell company when it opens an account with a financial institution. But does this new regulation truly eviscerate the use of shell companies? Maybe not. The term ‘beneficial owner’ has traditionally been defined in the international finance sector as the actual human being who gains from the company’s equity. However, President Obama’s new ‘customer due diligence’ rules redefine the meaning of ‘beneficial owner.’ Under the new rule, anyone who owns less than 25 percent of a company does not need to be reported as the beneficial owner, and, perhaps more interestingly, the appointed president of a shell company is allowed to be listed as the ‘beneficial owner.’ The fallout from the Panama Papers will continue. It is now more important than ever to proactively seek to avoid the traps meant to catch illegal activity. It is crucial in these times to have a trusted team of advisors, including legal counsel, to give certainty and security to your tomorrow. Maybe nothing gold can stay, but it is not yet gone.”

A **Matias Mora Simoes, managing director for the Central America region at Berkeley Research Group:** “As a result of stricter

U.S. compliance regulations, Caribbean banks are re-evaluating their compliance programs and banking practices. They are having to invest heavily in the adoption of best practices as well as the acquisition of tracking and monitoring tools. Small banks that do not have the economies of scale and economic strength to face a large penalty will not last long in the market, and only

Continued on page 6

fallen 30 percent since Axa entered the market in 2013 has made acquisitions attractive again, Philippe Jouvelot, president of the company's Brazilian unit, told the news service. "If we can trust that Brazil's economy can recover two

“Demographics in the region provide a positive outlook....”
— Philippe Jouvelot

to three years from now, then investing now is the best thing you can do," Jouvelot said. Brazil's insurance market, now valued at about \$100 billion, has room to grow, he added, with only 25 percent of Brazilians having health insurance and only 10 percent with homeowners insurance. Other industry executives are similarly bullish on the sector's outlook. "The regional income per capita is around \$10,000, which represents an inflexion point in terms of insurance growth," Pablo Barahona, the chief operating officer for Latin America and Continental Europe at Liberty International, told the Advisor in December. "Demographics in the region provide a positive outlook, as well... in most countries, the percentage of the adult population is increasing, providing a larger base of potential customers for the insurance sector," he added.

POLITICAL NEWS

Army Must Choose Whether to Follow Constitution or Maduro: Capriles

Following a declaration of a state of emergency by Venezuelan President Nicolás Maduro, the country's army must decide whether to adhere to the country's Constitution or follow Maduro, opposition leader Henrique Capriles said May 17. "I tell the armed forces: The hour of truth is coming, to decide whether you are with the

ADVISOR Q&A

Will Dilma Survive the Effort to Oust Her Permanently?

Q Following a marathon session that lasted more than 20 hours, Brazil's Senate voted May 12 to suspend President Dilma Rousseff from office and put her on trial for allegedly breaking the country's budget laws, an allegation she denies. What will result from the trial? What are the long-term effects of this situation on Brazil's democracy and economy? What policies must Acting President Michel Temer pursue now in order to stabilize a country that has faced economic and political upheaval? How is Brazil's political situation being viewed internationally?

A Gilberto M. A. Rodrigues, professor of international relations at the Federal University of ABC in Brazil and member of the *Coordinadora Regional de Investigaciones Economicas y Sociales (CRIES)*: "The Senate session confirmed the lower chamber's action. For the majority of the parliamentarians, the legal aspects of the process were secondary; the impeachment was clearly an opportunistic political movement to remove the Workers' Party from power. The fact that 55 senators voted to suspend the president, one vote more than needed to dismiss in the trial, is seen as a strong support for the

vice president. But this number represents a snapshot in time and could change with a lack of public support over the coming months. The new cabinet chosen by the vice president is a group of white, male, conservative, old-style politicians who represent the traditional way of doing politics—in the shadows, though back rooms and without transparency. It is a team with no diversity—no women, no businesspeople, no blacks, no social movement leaders and no minority groups represented in the cabinet. It is a powerful sign of the regression of democracy. How will that government deal with the demands of civil society? Probably by using outdated security measures. In the international arena, multilateral organizations critical of the impeachment, such as the OAS and Unasur, could become obstacles for the new government to burnish its image, which will try to strengthen its relationship with international investors and the private sector, not only to boost the economy, but also to divert attention from its troublesome lack of legitimacy."

EDITOR'S NOTE: More commentary on this topic appears in the May 13 issue of the Latin America Advisor.

constitution or with Maduro," Capriles told journalists, BBC News reported. "To impose this, he'd better start preparing to deploy the war tanks and military jets." The 60-day state of emergency that Maduro declared beginning last Monday suspends several constitutional protections, paves the way for expropriations and also gives the police and military wider powers to maintain public order. Venezuela's opposition-controlled National Assembly rejected the emergency decree in a vote, but

the Supreme Court may overrule that decision as it has with other actions by the legislature. Opposition leaders are planning nationwide protests for May 18 to demand that authorities accept petitions calling for a referendum to recall Maduro. The president on Tuesday said the petitions, which the opposition says contain some 1.8 million signatures in favor of a referendum, are riddled with fraud. [Editor's note: See Q&A about Venezuela in the May 17 issue of the Latin America Advisor.]

NEWS BRIEFS

Dominican Republic's Medina Claims Victory, Abinader Concedes

Dominican President Danilo Medina on May 17 claimed victory in Sunday's election, as partial results showed him winning by a wide margin, BBC News reported. Of the 67 percent of all votes counted, Medina had captured 62 percent, well ahead of the second-place finisher, Luis Abinader, who captured 35 percent of the votes tallied. Abinader conceded but accused the president of misappropriating state resources in order to win re-election. Medina's Dominican Liberation Party, or PLD, also appeared to have retained control of the Senate and Chamber of Deputies.

Mexican Teachers Call Indefinite National Strike

Members of the CNTE teachers union in Mexico began an indefinite strike on May 16, demanding that the government of President Enrique Peña Nieto scrap its education reforms, EFE reported. The reforms include mandatory teacher evaluations, which began last year and can lead to the dismissals of teachers who fail them. Teachers in several states were working, but there was a "high level" of teachers who were observing the strike in states including Michoacán and Guerrero, said Michoacán's CNTE secretary, Salvador Almanza.

House Misses Deadline for Puerto Rico Bill

U.S. House republicans on May 13 missed a self-imposed deadline for a plan to help Puerto Rico dig out from under \$70 billion in debt, the Associated Press reported. Lawmakers have gone through three versions of a bill that would create a control board to oversee some debt restructuring, but fiscal conservatives fear it would set a precedent for financially ailing states, while some Democrats have expressed concern the board would favor creditors.

Mexican President Proposes Legalizing Same-Sex Marriage

Mexican President Enrique Peña Nieto on May 17 proposed legalizing gay marriage nationwide, the Associated Press reported. The move would enshrine a ruling last June by the country's Supreme Court that it is unconstitutional for states to bar same-sex couples from getting married. The ruling did not overturn any state laws at the time. At an event on the International Day Against Homophobia, Peña Nieto said he had signed initiatives that would seek to add provisions to Mexico's Constitution and national civil code that would allow for same-sex marriage. The president said he would plan to reform Article 4 of the Constitution so that it would reflect the Supreme Court's opinion "to recognize as a human right that people can enter into marriage without any kind of discrimination." Peña Nieto's Twitter page was turned rainbow-colored on Tuesday when he made the announcement. Gay marriage is already legal in some parts of Mexico, including the capital, the northern state of Coahuila and Quintana Roo state.

ECONOMIC NEWS

Labor Unions File Complaint Over Colombia Trade Pact

Labor unions from the United States and Colombia on May 16 filed a complaint with the U.S. Department of Labor, saying the bilateral trade agreement between the two countries has failed to safeguard worker protections in the Andean nation as promised, Reuters reported. The unions, which have pointed out the massive 12-nation Trans-Pacific Partnership they generally oppose is subject to the same shortcomings they see in the Colombia-U.S. pact, said threats and acts of violence against trade unionists in Colombia were neither

properly investigated nor prosecuted. The AFL-CIO and four Colombian unions said in the complaint that since the U.S.-Colombian trade deal took effect in 2011, nearly 100 Colombian workers or their advocates were killed as they tried to exercise labor rights. The complaint said the oil and sugar sectors were among the businesses where workers remain oppressed. AFL-CIO President Richard Trumka called the labor provisions for the TPP a "near carbon copy" of those in the Colombian trade deal. Lawmakers will likely vote on the TPP, which was negotiated last year but still requires U.S. congressional approval, after the November presidential elections. A study by the Washington-based Peterson Institute for International Economics estimates the TPP will increase annual real incomes in the United States by \$131 billion and boost annual exports by \$357 billion by 2030.

Chile Expects Copper Prices to Rise Sharply

Chilean officials expect copper prices to increase by about a third over the long term because of rising demand from China, Bloomberg News reported Monday. Copper, the country's top export, may average \$6,330 per metric ton



We have a high level of confidence about the increasing prices."

— Sergio Hernández

after 2018, Sergio Hernández, executive vice president of the Chilean Copper Commission, or Cochilco, told reporters. Some producers, such as Rio Tinto Group and Freeport-McMoRan, have projected the copper market will be in deficit within several years, if not next year. "We have a high level of confidence about the increasing prices," Hernández said. The lull in global copper prices in recent years has brought labor tension in Chile as companies adjust to lower demand. Unionized workers at Freeport-McMoRan's El Abra mine accepted a wage contract offered by the company last month after a strike, Reuters reported.

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the big banks that are capable of facing this situation will remain. The extreme use of de-risking is increasing the closure of correspondent banking relationships in the region. This directly affects countries' commercial sectors because companies use these correspondent accounts to pay for many commercial transactions, transfers, purchases of imports and export sales. The U.S. regulations are considered strict, but they are actually appropriate, taking into account the objectives of the new AML compliance horizons. However, the extreme use of de-risking could affect companies and customers that are eliminated as clients without a proper investigation, just because they are perceived as a risk. Banks should generate and carry out adequate KYC programs that allow them to accurately determine the true risk profiles of their clients. New transparency rules demand that clients provide much more information about their business and/or assets to justify their banking activity, among other requirements. These requirements would be applied differently among the types of clients according to their risk profiles—the higher the risk, the more information required. If a client can't provide all the required information on the origin of funds, banks will be obliged to close their accounts. If Caribbean banks follow the new transparency rules by the book, this can only strengthen its relationship with their U.S. counterparts."

A **Jan Smith, partner at KoreFusion in Mexico City:** "De-risking has a severe impact on the Caribbean—a phenomenon also affecting countries in Asia, Africa and Latin America in a major way. Unfortunately, more terminations of correspondent accounts and the loss of banking services will worsen, leaving many businesses and individuals cut off from their money and making it difficult for new businesses to establish operations.

Belize is most affected, with more than half of its banking assets no longer having a correspondent banking relationship. In Jamaica, the number of money transfer businesses and foreign exchange traders has declined; Guyana, the Cayman Islands, the

“**FinCEN's latest rules may have gone too far, making it easier to cease relations than to increase compliance.**”

— Jan Smith

Bahamas and Barbados all have experienced terminations, and business has slowed. The terminations are not based on any wrongdoing, but rather a result of constricting cost of compliance set by Basel, FATCA and other bodies. Guidelines are often unclear or inconsistently applied. Regulators need to be more clear and must limit exposure to fines and penalties when there has been no proven illegal activity. The Caribbean region is vocal in expressing its concerns—most recently at the Financial Stability Board's meeting in Tokyo—but their plight seems to be falling on deaf ears. FinCEN's latest rules may have gone too far, making it easier to cease relations than to increase compliance. The risk is that countries and individuals who no longer have access to the services of international banks will conduct their financial and foreign exchange transactions outside of licensed institutions. This is a serious concern, because in most countries, more than 60 percent of payments are still made in cash."

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