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FEATURED Q&A

Will Bank Regulation Be Less Stringent Under Trump?



In his first weeks in office, U.S. President Donald Trump has made moves to begin rolling back Obama-era regulations enacted in the wake of the 2008 financial crisis. // File Photo: White House.

Q During his campaign, now-U.S. President Donald Trump repeatedly said he wanted to reduce regulations on businesses, including those on banks. In 2012, he specifically mentioned the Foreign Corrupt Practices Act, calling it a "horrible law" and saying that its enforcement has been "absolutely crazy." What does Trump's presidency mean for the FCPA and for banks and companies that do business in Latin America and the Caribbean? Is enforcement of the FCPA likely to become less of a priority under Trump than it was under his predecessor, Barack Obama? What will Trump's presidency mean for the de-risking practices that banks have conducted through terminating relationships with some clients, over fears of U.S. fines and other enforcement consequences?

A Kai Schmitz, leader of FinTech Investment for Latin America at the IFC Global FinTech Investment Group: "The FCPA, like much of the financial services regulation put in place after 2008, is a case of the old adage, 'The road to hell is paved with good intentions.' The story of these regulations' creation a few years ago and their scrapping now is also a sad example of the dysfunction of a polarized political system. While everyone agrees that there was a lack of ethics and accountability that led to excessive risk-taking in financial services, lawmakers of both sides refused to work together to address these challenges, so that regulation was created by one side and pushed through Congress. As a result, we have Dodd-Frank, the Consumer Financial Protection Bureau, the FCPA and other regulations that try to address existing problems with more rules, more government oversight and more

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TOP NEWS

BANKING

Scotiabank to Invest \$1 Billion in Technology

Bank of Nova Scotia said it would invest \$1 billion on technology over the next three years. The Canadian bank plans to deploy nearly half of that investment in its key Latin American markets.

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INSURANCE

Decline in Latin America Earnings Drags Down Metife's Earnings

The insurer's fourth-quarter profit fell short of analysts' estimates due in part to a fall in the company's Latin America earnings.

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REMITTANCES

Technology Driving Down Remittance Costs: Jamaican Exec

Technologies such as card-based transactions and Internet transfers are driving down the cost of sending remittances, said Horace Hines, the general manager of JN Money Services.

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Hines // File Photo: Jamaica National

BANKING NEWS

Scotiabank to Invest \$1 Bn in Technology

Bank of Nova Scotia, or Scotiabank, said Thursday that it would invest \$1 billion over the next three years on technology that will benefit customers, Reuters reported Feb. 2. The Toronto-based bank said 45 percent of its investments will be made in its key Latin



Porter // File Photo: Bank of Nova Scotia.

American markets. "Our customers want to do more of their banking through digital channels," said Scotiabank's CEO, Brian Porter. We intend to be a digital leader in the financial services industry not only here in Canada, but also in our key Pacific Alliance markets of Mexico, Peru, Colombia and Chile." The new investments will be used for projects including new facilities to set up technologies such as blockchain and artificial intelligence. The Toronto-headquartered bank has set medium-term targets for at least half of its products to be sold online, less than 10 percent of its products to be sold in branches and for seven in 10 customers to conduct online banking.

Banco Santander Chile Reports Q4 Profit of \$163 Million

Banco Santander Chile announced Jan. 31 that its return on equity rose 17.1 percent in 2016 despite lower inflation than expected and a higher corporate tax rate. The bank, the second-largest in Chile, cited healthy loan growth, expanding fees and controlled costs for the results, which were in line with market expecta-

tations. However, revenue in the fourth quarter was offset by lower inflation, with net income at about \$108.6 billion Chilean pesos (\$163 million). Total loans in the fourth quarter increased 1.3 percent, compared to the previous quarter, while rising 7.5 percent year-over-year. The bank said it is focusing on expanding its loan portfolio for middle and high-income individuals, but an acceleration of growth among middle-income individuals made consumer loans its fastest growing product in the quarter, up 7.1 percent year-over-year. Santander Chile's market share in deposits rose 30 basis points to 18.7 percent between December 2015 and November 2016, the latest figure available. Meanwhile, competitor Banco de Chile on Jan. 31 reported fourth-quarter earnings of \$185 million, the Associated Press reported. Banco de Chile shares have increased 2 percent since the beginning of the year, with the stock climbing 22 percent in the last 12 months, according to the Associated Press.

REMITTANCES NEWS

Jamaica Targeting Remittance Firms in Anti-Scam Efforts

The head of Jamaica's Anti-Lottery Scam Task Force said the task force has successfully brought several major figures in the illegal scheme to justice, the Jamaica Gleaner reported Feb. 6. The unit is now focusing its efforts more on the staff of remittance companies who are supporting the lottery scammers, Sergeant Kevin Watson added. He said that since January, more than 10 people have been arrested and charged for their involvement in illicit lottery scamming as a result of the task force's efforts. "We have also been making arrests of persons who work as agents in the remittance services for facilitating lottery scammers," said Watson. "Remittance services have been working with the police. They want to see these persons removed from their institutions because it is creating problems and causing their business to look bad," he said. Jamaica

NEWS BRIEFS

MetLife's Operating Profit Falls Short Due in Part to Latin America Results

The fourth-quarter operating profit of insurer MetLife fell short on analysts' estimates due in part to a decline in its Latin America earnings, Reuters reported Feb. 2. On an operating basis, the company earned \$1.28 per share, an increase year-on-year, but lower than analysts' average estimate of \$1.34. Operating earnings for Latin America declined 22 percent year-on-year to \$122 million due to higher expenses and a one-time tax benefit in the same quarter a year earlier.

Bradesco Expecting Slow Lending Growth, High Provisions

Brazil's Banco Bradesco said it is expecting slow growth in lending and high loan-loss provisions this year amid caution about the pace of Brazil's economic recovery, Reuters reported Feb. 2. The bank said it is expecting loan book growth of between 1 percent and 5 percent this year, a similar growth rate as last year. The bank hiked its provisions 43 percent last year, but nudged them down for this year. For the fourth quarter, and excluding one-off items, the bank reported net income of 4.39 billion reais (\$1.4 billion), a 1.7 percent decline from the previous quarter. The bank's profit missed analysts' consensus estimate of 4.58 billion reais.

Itaú Unibanco Expects to Cut Provisions This Year

Itaú Unibanco Holding, Brazil's largest bank by market value, is expecting to cut its loan-loss provisions by at least a quarter this year, Reuters reported Feb. 7. The bank projected loan portfolio growth of as much as 4 percent this year, despite declining interest income. The bank reported recurring net income of 5.82 billion reais (\$1.86 billion), beating estimates.

has been seen as the hub of lottery scams, and Watson said the unit has been working not only to charge suspected scammers, but also to deter former scammers and new individuals from getting involved. Between September and December of last year, more than 20 people were arrested and charged with involvement in lottery scamming in the police's Area One division, which includes Trelawny, St. James, Westmoreland and Hanover. Among those convicted is a United States national, who is currently serving 15 months after being found guilty on two charges.

Remittances to Mexico Hit Record Level of \$27 Billion

Mexicans living abroad sent a record-high amount of remittances home in 2016, taking advantage of a strong U.S. labor market and a weak Mexican peso, amid concerns that U.S. President Donald Trump may take action against immigrants or remittances, The Wall Street Journal reported Feb. 1. Mexicans sent home \$27 billion in remittances, the Bank of Mexico said, amounting to an 8.8 percent increase year-over-year, and more than the previous record-high of \$26.1 billion in 2007. It is common for migrant workers to send home more money when the peso is weaker as compared to the U.S. dollar, giving recipients more local currency. In peso terms, remittances in 2016 rose by about 28 percent from the year before. The peso hit new lows compared to the dollar amid anti-Mexico and anti-immigrant rhetoric from then-President-elect Donald Trump. During his campaign, Trump said he would put restrictions on remittances to Mexico as a way of pressuring the country to pay for the wall he has promised to build along the U.S.-Mexico border. Since his election, however, Trump has not publicly mentioned the threat of restricting remittances as a means of funding the wall's construction. Remittances to Mexico, 95 percent of which come from workers in the United States, have surpassed oil as the primary source of foreign currency in recent years.

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bureaucracy. Some of it is surely justified and maybe necessary, but it only represents one way to address the underlying issues favored by one side of the political spectrum. The other side has no ownership of the solution, no interest in making it work and benefits only if it fails. Repealing regulations and replacing them with another solution that again pleases only one side of the argument will lead to the same results—hell reached on a different path. For financial institutions, the past years have been horrible: all attention and efforts were focused on de-risking and compliance rather than on rebuilding a better business. Maybe banks have become better, but customers certainly do not have better choices: consolidation in the United States and in the region has accelerated, and the customer experience has certainly worsened. The sector needs to be able to go back to running its business better, taking risks that are consummate with their business and focusing on providing good solutions to clients while making money. Repealing one set of unbalanced regulations and replacing it with another one-sided set (or none at all) every four or eight years is arguably worse than stability based on poorly crafted rules. It also makes the United States a bad place to do business.”

A **Louis V. Martinez, of counsel, and Roland M. Potts, associate attorney, at Diaz, Reus & Targ LLP:** “To date, many commentators have reached the conclusion that the Trump administration will take a more lax approach to the enforcement of the Foreign Corrupt Practices Act (FCPA). In turn, many have opined that this will allow banks to maintain relationships that would otherwise be purged through de-risking practices. At first glance, there is support for these opinions. After all, President Trump's first few days in office have been filled with a multitude of executive orders aimed at fulfilling several of his campaign promises. As part of his initial salvo, President Trump met with

many business executives and has stated that his office intends to reduce regulation of businesses by as much as 75 percent. To support him in that goal, he nominated Jeff Sessions for attorney general and Jay Clayton as chairman of the U.S. Securities and Exchange Commission, both of whom

“**Any executive order limiting prosecution of FCPA claims can be just as easily washed away with a new administration.”**

— Louis V. Martinez & Roland M. Potts

appear in favor of reducing FCPA enforcement. We would caution companies and individuals that assume as fait accompli that President Trump's desire to reduce regulation will result in actual less enforcement of the FCPA. Those who make that assumption may suffer severe consequences if they are wrong. While it seems President Trump is determined to bring his new form of politics to the fore, he will still have to go through Congress to pass legislation that would have any lasting effect on the FCPA. Indeed, absent a change in law, any executive order limiting prosecution of FCPA claims can be just as easily washed away with a new administration. Additionally, with many FCPA investigations taking three to five years to investigate and settle, those entities currently under investigation are unlikely to see an immediate reprieve. Finally, at this stage, it is too early to tell whether President Trump will use the FCPA as a way to even the playing field for American businesses. Without a change in the law itself, banks and companies that do business in Latin America and in the Caribbean must take a very conservative approach when considering changes to their current policies.”

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Technology Driving Down Remittance Costs: Jamaican Exec

New technologies, such as card-based transactions and Internet-based transfers, are driving down the cost of sending remittances, the general manager of JN Money Services told the Jamaica Gleaner in an interview published Feb. 7. The average cost of sending money from the United States to Jamaica declined from about 11.75 percent in 2002 to 6.76 percent last year, said the executive, Horace Hines, citing studies by the Inter-American Development Bank and the World Bank. A trend toward greater use of online platforms for sending remittances is pushing down those costs even further, he said. "The overall cut in costs result in more than \$100 million in the pockets of Jamaican recipients, as the country records more than \$2 billion in remittances, annually," said Hines. "The U.S.A. is our largest source for remittances, and there is a general trend for transaction costs to fall." New technologies have reduced JN Money's costs, Hines added. "Moving funds online is far more cost-effective. And, we are now using this online technology to further reduce our costs at JN Money Transfer to some \$1.99 per transaction from Canada to Jamaica, and a similar service will be available from the U.S.A. and the U.K. later this year. This is a game-changer," said Hines. "This process will influence further growth in the remittance sector."

POLITICAL NEWS

Colombia Opening Peace Talks With ELN Rebels

The Colombian government and the National Liberation Army, or ELN, rebel group are opening peace talks Feb. 7 in an effort to replicate the success of the peace negotiations with the Revolutionary Armed Forces of Colombia,

Subscriber Notice

Remittances to Latin America and the Caribbean in 2016

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NEWS BRIEFS

Mexico Could Benefit From U.S. Assistance in Fighting Cartels: Trump

U.S. President Donald Trump in an interview with Fox News broadcast on Feb. 6 said Mexican President Enrique Peña Nieto “has got a problem” with drug cartels and could benefit from U.S. assistance. Trump in the interview responded to reports that he told Peña Nieto in a phone call last week that the United States would send troops to Mexico to address the issue of drug gangs. Trump in the interview confirmed that he “did talk to him about it,” and that he wants to help the Mexican president with the issue. He added that Peña Nieto is “a very good man” and said the two leaders have “a very good relationship.” [Editor’s note: See [Q&A](#) about U.S.-Mexico relations in the Feb. 6 issue of the Advisor.]

Brazil’s Temer Sends Troops to Espírito Santo Amid Wave of Violence

Brazilian President Michel Temer has sent 200 troops to southeastern Espírito Santo state to control a wave of violence and perhaps dozens of murders following a police strike, Reuters reported Feb. 6. The crime surge began over the weekend after police began striking on Feb. 3 over a pay dispute.

Worst of Chile Forest Fires Under Control: Bachelet

President Michelle Bachelet on Feb. 4 said the worst of the country’s wildfires are now mostly under control, the Associated Press reported. Bachelet said that as of Feb. 4, no new fires had been reported, “and the rest are mostly controlled.” “This doesn’t mean, however, that we are letting down our guard,” she added. The country’s forestry agency said the fires burned more than 1 million acres during the current fire season, which began on July 1.

or FARC, rebel group after 53 years of conflict, Agence France-Presse reported. Experts warn, however, that an accord will likely not be reached before President Juan Manuel Santos, who last year was awarded the Nobel Peace Prize, leaves office in 2018. Frederic Masse, an expert on the conflict at the Universidad Externado in Bogotá, told AFP that, “The ELN has more fundamentalist demands than the FARC” and wants “much deeper social change.” Santos, however, remained optimistic when giving opening remarks at a summit of Nobel Peace laureates in Bogotá on Thursday. “This conflict is over,” he said. “The public phase of negotiations between the Colombian government and the ELN ... will enable us to achieve complete peace.” The conflict between the Colombian government and rebel groups, which began during the Cold War, has caused the deaths of more than 260,000 people and has left another 60,000 missing. It is the last major armed conflict in the Americas. The ELN is the last remaining guerrilla insurgency in Colombia, now that the government has reached a peace accord with the FARC. The ELN has an estimated 1,500 guerrilla fighters, mostly located in the north and west.

Peru’s Toledo Denies Receiving Bribes Following Raid

Former Peruvian President Alejandro Toledo on Feb. 4 denied receiving bribes from Brazilian construction conglomerate Odebrecht, following a search that authorities conducted of his home. “Look into my accounts,” Toledo told local newspaper *El Comercio*, adding that he “absolutely” didn’t receive money from the construction firm. Toledo’s statements were in response to his being told of media reports alleging that the company paid him \$20 million in exchange for contracts that his administration awarded the company for the construction of a highway running from Peru’s southern Andean region to the Brazilian border, *The Wall Street Journal* reported. Some of the money in question had been deposited into the account of a close associate of Toledo, according to local

media reports. The five-hour search of Toledo’s home, which authorities conducted Saturday, turned up documents that will be examined, *The Wall Street Journal* reported, citing the attorney general’s office. Peruvian President Pedro Pablo Kuczynski, who was prime minister and finance minister in Toledo’s administration, said he ordered his government to cooperate with authorities in the investigation. “Justice should be the same for everyone. If someone committed corrupt acts, they should be punished,” Kuczynski said in a posting Saturday in Twitter. “Corruption never again.” Kuczynski has also denied committing any illegal acts during his time in Toledo’s cabinet. Toledo, who was Peru’s president from 2001 to 2006, is a visiting scholar at Stanford University. In December, Odebrecht signed an anti-corruption settlement with authorities in the United States, acknowledging that it paid almost \$800 million in bribes in 12 countries, in connection to more than 100 projects, mainly in Latin America. The company admitted to paying \$29 million in bribes to officials in Peru between 2005 and 2014. That period also included the presidencies of Alan García and Ollanta Humala, both of whom have denied wrongdoing.

ECONOMIC NEWS

Brazil’s Temer Names Cabinet Members in Economic Efforts

Brazilian President Michel Temer on Feb. 3 named two new cabinet members as part of his economic agenda, Reuters reported. Temer swore in close aide Wellington Moreira Franco as minister with a special role in continuing to seek investments from abroad in order to update the country’s infrastructure. Moreira Franco has been implicated for allegedly accepting a bribe in connection with the Petrobras corruption scandal, but has denied wrongdoing. Temer also named lawmaker Antonio Imbassahy as a cabinet member in charge of maintaining smooth relations with Congress in order to win approval for pension system changes.

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A **Gene Smith, president and CEO of Smith Brandon International:** "Corruption and bribery are bad for business: they add a line-item expense, though they might be concealed in the cost of the goods sold. Bribes are not subject to any quality control or judicial recourse; they can lead to continued requests for more bribes; projects without cost controls; and projects serving only government officials and the

“ We will likely see a less-stringent interpretation of the FCPA.”

— **Bernard V. Higgins**

contractor, not actual local need. The United States is closely linked to countries in the Americas, with trade between it and its trade partners in this hemisphere in 2014 reaching nearly \$2 trillion, including both exports and imports. Our largest export markets in the Americas, predictably, have been Canada, Mexico, Brazil, Colombia and Chile. Our major sources of imports, with one major surprise, have been Canada, Mexico, Brazil, Venezuela and Colombia. Our NAFTA partners, Canada and Mexico, are our strongest trade partners. Trade in the Americas serves us well. The more corruption-free that trade is, the more efficient and the more profitable it can be. Compliance programs intended to fight corruption, as mandated under the Foreign Corrupt Practices Act (FCPA), are not cheap. They affect boards of directors, human resources, and corporate counsel; training alone is a major expense. FCPA enforcement is a highly regulated area, and the new administration has expressed its strong desire to reduce regulations. However, the Trump administration ran on a platform of an improved business environment. At its heart,

that points to more business and better business. Reduced FCPA enforcement is not a good business decision."

A **Bernard V. Higgins, São Paulo-based business consultant and coach:** "If we take Donald Trump's campaign promises at his word, I believe we will see significant deregulation with the weakening of Dodd-Frank and Volcker rules and possibly a more flexible interpretation of the Foreign Corrupt Practices Act. To what extent, remains to be seen. Some deregulation, however, would probably be welcomed, since excessive regulation is costly and inhibits even reasonable risk-taking and thus growth and profits. The reaction to the 2008 crisis probably generated a bit of overregulation and in turn a reluctance to deal with some players in emerging markets. Along with deregulation, there is a real possibility that a reduction in de-risking practices brought about in some of these markets will enable more access to financial markets. We will likely see a less stringent interpretation of the FCPA, especially in relation to the application of the law regarding violations committed by foreign firms prior to their acquisition by U.S. companies, as well as responsibility for violations committed by third parties engaged by them. This will probably increase the appetite of players engaging in mergers and acquisitions to participate more actively in high Corruption Perception Index markets. Short term, on the positive side, there will probably be an increase in financing activity with a greater appetite for risk in these markets. However, the message sent with regard to corruption, especially these days when there is a concentrated effort to fight endemic corruption in countries like Brazil (law 12.846/13 issued August 2013), is questionable."

The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org.

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