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FEATURED Q&A

Are Mexico's Anti-Money Laundering Efforts Inadequate?



A recent report by the Financial Action Task Force said Mexico is not doing enough to fight money laundering. // Image: ccPixs.com

Q Mexican officials are failing to proactively and systematically investigate and prosecute cases of money laundering, the Financial Action Task Force said in a Jan. 3 report, which added that efforts to fight money laundering in Mexico are hindered by corruption within the country's law enforcement agencies. The report led Mexico's acting attorney general to defend the country's efforts, saying prosecutors were already working to improve investigations of the crime. How valid are the FATF's criticisms of Mexico's anti-money laundering efforts? How well are Mexico's banks and other financial services providers guarding against such crimes? What are the main ways that anti-money laundering efforts in Mexico should be improved?

A Richard Fogarty, managing director at Berkeley Research Group, and Juan David Leal, associate director for Mexico at Berkeley Research Group: "The FATF's criticisms of Mexico are tough but spot-on. The 2012 HSBC money-laundering scandal in Mexico prompted the country's banking industry to renovate its controls, widen the scope of its compliance and anti-money laundering departments, and invest a significant amount of resources in technology and systems. It is a reality that, six years later, banks and the local Financial Unit have stronger monitoring controls. However, when it comes to investigating and prosecuting these crimes, the country certainly lacks expertise and an adequate institutional framework, if not the will from officials. Even in the face of blatant AML violations, as has been the case with certain former governors who have been detained in the past

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TODAY'S NEWS

ECONOMIC

Brazilian Central Bank Cuts Rate to Historic Low

Brazil's central bank is taking advantage of lower inflation by cutting the benchmark Selic rate in an effort to boost the economy.

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ECONOMIC

Tillerson Praises Jamaica's Efforts Against Lottery Scams

The U.S. secretary of state made the comments in Kingston, the final stop on his five-country tour of the region.

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POLITICAL

Venezuela to Hold Presidential Vote on April 22

Venezuela's government scheduled the vote at a time when much of the opposition is banned from fielding candidates. President Nicolás Maduro is seeking another six-year term. Some 70 percent of Venezuelans view him negatively, according to a survey by polling firm Delphos.

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Maduro // File Photo: Venezuelan Government.

POLITICAL NEWS

Venezuela Schedules Presidential Vote for April 22

Venezuela's government on Wednesday set April 22 as the date for the country's presidential election, asking voters to decide whether to give unpopular President Nicolás Maduro another six-year term at a time when much of the opposition has been prohibited from running. The president of the country's

“The people have decided already: Nicolás Maduro is president of the republic for the 2019-2025 period.”

— Nicolás Maduro

electoral commission, Tibisay Lucena, made the announcement, saying that officials had chosen the date after government and opposition representatives had failed to reach an agreement on how to fairly conduct the election, The New York Times reported. “We are committed, as always, to our constitutional task, to guarantee the right conditions so that democratic differences are settled through an efficient, transparent and balanced vote,” said Lucena. She added that the election will allow Venezuelans to “freely decide their fate.” Just before Lucena made the announcement, Maduro danced and embraced supporters at a rally in a Caracas park. “The people have decided already: Nicolas Maduro is president of the republic for the 2019-2025 period,” he said, Reuters reported. Venezuela's ruling socialists had previously said that the election would be held before the end of April, and the opposition as well as several other countries have expressed concerns of potential fraud in a snap election. Several nations, including the United States and neighboring Colombia, have said they will not recognize the results of

the election, amid criticism about unfair use of state resources and the barring of opposition politicians. It is unclear which opposition parties will even participate in the election. Maduro's government sidelined the elected opposition-led National Assembly by creating the Constituent Assembly, a new legislature made up of Maduro's supporters. Three of the largest opposition parties last year boycotted local elections, saying they would not be fair, and Maduro's party went on to win them in a landslide. Then, the Constituent Assembly decreed in December that parties that failed to participate in previous elections would be barred from participation in future ones. Maduro's government also said Wednesday that campaigning ahead of the April 22 vote would only be allowed from April 2 to April 19, a period of less than three weeks, The New York Times reported. The top challenger to Maduro could be Henry Ramos Allup, 74, the former leader of the elected National Assembly, experts have said. His Democratic Action party is still qualified to field a candidate, though Ramos has not said whether he will run.

ECONOMIC NEWS

More LNG Tankers Expected to Transit Panama Canal

The number of liquefied natural gas (LNG) tankers traveling through the Panama Canal is expected to increase by 50 percent by September, due to an increase in exports of the commodity from the United States, the head of the Panama Canal Authority said, Reuters reported Wednesday. Jorge Quijano said that after adding a third set of locks in 2016, the canal is likely to see an increase in LNG tanker traffic, in line with growing global demand. “We are about to reach one [LNG tanker] per day,” said Quijano. Sixty tankers passed through the canal in the final quarter of last year, up from 43 tankers year-over-year. U.S. LNG exports via the Panama Canal fell slightly in September due to damages caused by Hurricane Harvey

NEWS BRIEFS

Colombia's ELN to Hold Three-Day Blockade

Colombia's National Liberation Army, or ELN, on Wednesday said it would hold a three-day national blockade in protest of the government's decision to suspend peace negotiations with the rebel group, Reuters reported. The ELN urged Colombians to avoid traveling during the blockade. It is set to begin at 6 a.m. on Saturday and end at 6 a.m. the following Tuesday. All units of the rebel group will comply with the order to hold the blockade, the ELN said. The government rejected the blockade and said it would continue military efforts against the group.

Brazil Lowers Benchmark Interest Rate to Historic Low of 6.75 Percent

Brazil's central bank on Wednesday lowered the country's benchmark Selic interest rate by a quarter point to 6.75 percent, a historic low, the Financial Times reported. The decision followed 10 other consecutive rate cuts and was widely expected, as the country's inflation remains low. Consumer prices eased in December with the annual inflation rate at the end 2017 at 2.95 percent.

Tillerson Praises Jamaica's Efforts Against Lottery Scams

U.S. Secretary of State Rex Tillerson on Wednesday praised Jamaica for its efforts in combating lottery scams, adding that the United States would continue to support the Caribbean country's security forces and criminal justice system, the Jamaica Information Service reported. During a joint press conference with Prime Minister Andrew Holness, Tillerson also said there were “many opportunities” to further collaboration between the two countries by strengthening cooperation on fighting narcotics trafficking and transnational crime.

to ports in Texas and Louisiana, but the ports have now regained capacity, Quijano said.

BUSINESS NEWS

Rabobank to Pay U.S. After Guilty Plea on Laundering Charge

Netherlands-based bank Rabobank has agreed to pay the U.S. government \$369 million after the California unit of the bank pleaded guilty to allowing Mexican drug gangs to exploit flaws in the bank's anti-money laundering system and then attempting to cover it up, the U.S. Department of Justice said Wednesday, the *Financial Times* reported. The Department of Justice said the California subsidiary pleaded guilty to charges of impairing, impeding and obstructing regulators by try to cover up weak spots in its anti-money laundering compliance program. The U.S. government said Rabobank allowed "hundreds of millions of dollars" in cash to be deposited into its rural bank branches in Imperial County, Calif., which was then transferred via wire, checks and withdrawals. "When Rabobank learned that substantial numbers of its customers' transactions were indicative of international narcotics trafficking, organized crime and money laundering activities, it chose to look the other way," said acting assistant attorney general John Cronan. One such signal was a pattern of cash withdrawals of \$9,500—slightly less than \$10,000, the amount at which the withdrawal would have needed to be reported—several times in the same day. "Worse still, Rabobank took steps to obstruct an examination by its regulator into those same deficiencies," Cronan said. Rabobank's Calexico branch, which is located about two blocks from the U.S.-Mexico border, was the bank's best-performing branch in the Imperial Valley region, due to its high volume of cash deposits and withdrawals, while the bank did not conduct basic checks on the source of the funds. On Wednesday, Wiebe Draijer, Rabobank's board chairman, called the violations "serious, regrettable and unacceptable."

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months, prosecuting agencies struggle to present compelling evidence and carry out solid investigations that can lead to convictions. One explanation is that the country's authorities are overwhelmed with the highest murder rate in its recorded history and growing crime in landmark tourist destinations in the country. Their focus primarily is on capturing ringleaders and reducing deaths, and less on attacking the financial capabilities of organized crime, or confiscating the proceeds of their illegal business activities. In a country where most housing landlords still require cash payments from tenants, rarely is an individual questioned by tax regulators for receiving unexplained money transfers or cash deposits, and many politicians leave office as millionaires. Anti-money laundering efforts need to be tackled as a real state policy, once and for all. An obvious starting point is to finally set the new National Anti-Corruption System in motion, which has been delayed inexplicably for a year."

A **Jan Smith, partner at Kore-Fusion in Mexico City:** "The Financial Action Task Force is correct in saying Mexico is reactive in investigating and prosecuting money laundering. It is also right in noting that Mexico's AML/KYC systems are mature on paper. The issue is not a gating issue, but rather one of verification, enforcement and prosecution, all of which are hindered by political corruption. Mexican banks are generally effective in applying AML/KYC filters, but they are not set-up to investigate sophisticated money laundering schemes. Mexican authorities need to aid the financial system and coordinate more with their U.S. counterparts, but President Trump's brashness hinders this. Furthermore, Mexico's legal system is obtusely set-up for the agile confiscation of assets and needs overhauling. Political infighting and corruption hinder the introduction of laws that cast more light on financial transactions and assets, and facilitate prosecution and confiscation.

Mexico's law enforcement agencies are deeply affected by this. Mexicans are also very frustrated with the slow investigations of multiple high-profile political money-laundering crimes, and they are exasperated with

“**Political infighting and corruption hinder the introduction of laws that cast more light on financial transactions and assets.”**

— Jan Smith

the dismal levels of prosecution. Twenty-two sitting and former PRI governors are under investigation or on the lam, accused of laundering, deviating or stealing more than \$14 billion in the last six years. They represent two-thirds of the states, and the totality of the governors under the PRI. The fight against money laundering requires two things to improve: the first is a transparent and democratic rule of law in Mexico; the second is a gradual decriminalizing of drug use and drug sales in the United States."

A **Marcela C. Blanco and Javier Coronado, associate attorneys at Diaz, Reus & Targ:** "The FATF's evaluation acknowledges that Mexico has a legal framework for combating money laundering that is particularly strong with regard to its criminalization, and that the Mexican financial sector has a good understanding of core risks and obligations regarding money laundering. Notably, it states that Mexican authorities—especially the Procuraduría General de la Nación (PGR) and Servicio de Administración Tributaria (SAT)—have comprehensive access to the Financial Intelligence Unit (FIU), which produces the strategic analyses and financial intelligence information needed to launch money laundering investigations. However,

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the FATF's report highlights that Mexico still faces three significant impediments to enforcing anti-money laundering laws. First, the FIU does not have access to accurate information regarding beneficial owners, and basic information regarding business entities in the commercial register is not always up-to-date. Second, if the shared information is obtained from financial institutions, the PGR cannot initiate a prosecution for money laundering unless the FIU files a complaint under the Federal Civil Code. Finally, even though Designated Non-Financial Businesses and Professions, such as public notaries, accountants and lawyers, are subject to AML requirements, they rarely file Suspicious Transactions Reports, or when they do, they fail to submit them on time. In short, Mexico should do more to improve the effectiveness of its AML regime. Specially, it should provide to the authorities the proper information and tools to effectively investigate and prosecute money laundering offenses."

A **Adalberto Palma, president of the Union of Mexican Financial Institutions (UNIFIMEX):** "Another way to look at the recent FATF report on Mexico is to conclude that authorities who work in the prevention of and fight against money laundering are advancing in a heterogeneous way. At the forefront is

the financial authorities' First National Risk Survey with information from the authorities and the financial institutions. The progress that has been shown in fighting money laundering has been significant. An improvement in the transparency of trusts; an increasing amount of information exchanged between Mexican financial institutions and their counterparts abroad; and supervision based on risks are among the acknowledgements of the report. Among the tasks that are still pending are improving the identification of final beneficiaries from clients' declarative processes, overcoming technical deficiencies in the cross-border declaration system and allocating more resources to strengthen financial research and refine the quality of suspicious operations reports. The prevention of asset-laundering in the digital financial market is the new goal of institutions associated with UNIFIMEX, over which I preside, and it is the essential theme of its ninth annual seminar on the prevention of money laundering and terrorist financing. At the seminar, international experiences on the subject will be discussed in order to identify best practices and assimilate them into a changing reality."

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

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