INTER-AMERICAN DIALOGUE'S
LATIN AMERICA ADVISOR ▸ FINANCIAL SERVICES

FEATURED Q&A

Will New U.S. Reporting Requirements Hinder Foreign Banks?

Q Banks and financial services companies outside the United States have just over a year to grapple with compliance and other risks resulting from the Foreign Account Tax Compliance Act (FATCA), which takes effect Jan. 1, 2013. The new U.S. law requires foreign banks to report their U.S. clients to the Internal Revenue Service and imposes sanctions if they fail to comply. How will the FATCA affect the way banks operate in Latin America and the Caribbean, where many Americans and green card holders live? What new compliance measures or 'know your customer' procedures could best help the banks comply? How could the new U.S. regulations be improved?

A Earl Jarrett, member of the *Financial Services Advisor* board and general manager of the Jamaica National Building Society: "The implementation of the Foreign Account Tax Compliance Act in 2013 will have significant implications for the operation of financial institutions in Latin America and the Caribbean. FATCA will require that these institutions engage in an extensive overhaul of their banking platforms at considerable costs to ensure that the operating systems are configured to extract the required data for the Internal Revenue Service. Other implications include a realignment of interconnectivity among separate financial platforms to extract aggregate information from customers' business relationships in order to meet the reporting requirements. The legal regulations which govern financial institutions in some countries prohibit the disclosure of customer information to third parties without customer consent, court approval or legislation. This legislative difference in the various jurisdictions of these financial institutions that do business in the United States has not been taken into account by FATCA, or what legal implications could result if such breaches occur.

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U.S. Treasury Proposes Prepaid Card Reporting Requirements

The U.S. Treasury has proposed new requirements for anyone crossing U.S. borders with more than $10,000 in prepaid cards. Sen. Dianne Feinstein (D-Calif.) applauded the move, saying it would help authorities crack down on money launderers. See story on page 2.

File Photo: U.S. Congress

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FINANCIAL SERVICES BRIEFS

Western Union Launches Bank, Foreign Exchange in Brazil

U.S.-based **Western Union** announced Oct. 10 that it is launching a commercial bank and a foreign exchange brokerage in Brazil, Dow Jones reported.Previously, Western Union operated in Brazil through local agents. "To meet the growing opportunities that the Brazilian market offers, Western Union will continue to work closely with its bank, exchange broker and retail agents in Brazil to bring a diversified range of reliable and convenient financial services that complement our money transfer business," the company said.

Colombian Bank Denies Report of Takeover by Scotiabank

Colombia's **Banco Colpatria - Red Multibanca Colpatria** has denied a report that it agreed to sell a 51 percent stake in itself to **Bank of Nova Scotia** for $1 billion, the *Edmonton Journal* reported Oct. 13. Eduardo Pacheco, Colpatria's president, said the bank is in discussions with investors about acquiring a stake, but has not reached any agreement. Colombia's *Semana* magazine on Oct. 1 reported Scotiabank had agreed to purchase the stake.

Dominican Banks, Government at Odds Over Tax Regulations

The Dominican Republic's Commercial Banks Association on Oct. 9 denied a government agency's allegation that its member banks have been dodging taxes, *Dominican Today* reported. The Caribbean nation's tax authority, the Internal Taxes Directorate, had announced Oct. 7 that banks in the country have evaded 4.6 billion pesos ($12 million) in income taxes.

Financial Services News

Brazilian Bank Employees Union Accepts Wage Deal, Ends Strike

A bank employees' union in Brazil announced Oct. 18 that it had accepted a proposal for higher wages from a banking federation and added it was ending a strike that had lasted 21 days, Dow Jones reported. Over the weekend, banks boosted their wage offer to a 9 percent increase from the previous 8.4 percent offer. The banks made the offers through the National Federation of Banks. Union representatives had been demanding an increase of 12.8 percent, but they accepted the latest offer. The strike forced almost half of the country's 20,000 bank branches to close their doors, according to the union. Despite the closures, representatives at the country's main banks have said the strike has not had a large impact on operations because most customers make transactions through the Internet and ATMs. Last year, bank workers demanding higher wages staged a 15-day strike, but the work stoppage had little impact on bank operations and no effect on profits, Dow Jones reported.

Union representatives had been demanding an increase of 12.8 percent, but they accepted the latest offer.

U.S. Treasury Proposes Making Prepaid Cards Subject to Reporting

The U.S. Treasury has proposed requiring that travelers entering or exiting the United States be required to file reports if they are carrying prepaid cards containing large amounts of money, Reuters reported Oct. 13. The new measure is intended to fight money laundering by drug traffickers, militant groups and others. "The proposal is intended to address certain devices that can be used as a substitute for currency, as they provide access to funds by any bearer of the device. This product attribute ... may enable the anonymous transfer or concealed transport of illicit funds across the U.S. border," the Treasury's Financial Crimes Enforcement Network, known as FinCEN, said in a statement. Sen. Dianne Feinstein (D-Calif.) applauded the proposal. "In March, I chaired a hearing where witnesses testified that drug traffickers no longer simply smuggle bulk cash across the U.S.-Mexico border in hidden compartments. Instead, many load money onto prepaid cards that fit easily in their wallets and simply walk across the border," Feinstein said in a statement. Currently, travelers crossing the U.S. border must file a report with the Treasury Department if they are carrying more than $10,000 in cash or traveler's checks. The new proposal would add the prepaid cards, including gift cards and possibly cell phones, to the reporting requirements. If the total, including cash, traveler's checks and prepaid cards, exceeds that amount for any one traveler, the traveler would need to file a Currency and Monetary Instrument Report under the Bank Secrecy Act, Reuters reported. Credit cards and debit cards are not included in the new proposal because they are considered more visible to authorities. It is unclear to authorities the extent to which prepaid cards are currently used in money laundering. Last year, the Government Accountability Office said in a report that, "The nature and extent of the use of stored value for cross-border currency smuggling and other illegal activities remains unknown, but federal law enforcement agencies are concerned about its use." A U.S. Drug Enforcement Administration official told Reuters on condition of anonymity that he is aware of drug traffickers loading money onto prepaid cards in the United States and then taking them to Colombia, where the money is withdrawn. Also, he said in some instances, drug traffickers have bought gift cards in bulk and then sent them outside the country to be exchanged for cash. Documented examples of such activities are rare, however, he said. It is not clear how U.S. Customs and Border Protection would enforce the proposed rules because technology capable of

> "The proposal is intended to address certain devices that can be used as a substitute for currency, as they provide access to funds by any bearer of the device."
>
> — *Financial Crimes Enforcement Network*

reading all prepaid cards to determine their value does not yet exist. Critics of the proposed rules have said they are unnecessary because the industry has imposed limits on the amount of money that can be placed onto prepaid cards and then withdrawn overseas. That, opponents of the proposed rules say, make widespread use of prepaid cards for money laundering unlikely. [Editor's note: See related Q&A in the June 2-15 issue of the *Financial Services Advisor*.]

Citi, América Móvil Launch Joint Mobile Banking Venture

Citigroup and **América Móvil** are launching a joint venture to provide mobile banking services to customers throughout Latin America, the *Financial Times* reported Oct. 8. The $50 million venture, called "Transfer," will begin in Mexico and will allow customers to use basic cell phones to establish bank accounts, transfer money, make purchases at stores, receive payments, pay bills and withdraw money from automated teller machines, the companies said. "We are putting your bank branch in your pocket," said Manuel Medina-Mora, the chairman and CEO for Citi Latin America and Mexico, the newspaper reported. The services would be offered in Mexico by next year's first quarter, said Medina-Mora. Governments also could use the alliance to distribute subsidies to poor residents as well as salaries to government employees, Medina-Mora added. He also said customers would have to pay one to two pesos for each transfer or other transaction, and Citi and América Móvil would split the revenues from the transactions. Last month, central bank officials and regulators from 81 developing countries making up the Alliance for Financial Inclusion met in Cancún to discuss ways to help increase access to financial services for the poor. In much of Latin America, difficulties in building more bank branches have hampered efforts to bring residents of remote and poor areas into the banking system. Only a third of América Móvil's 65 million customers in Mexico have bank accounts, but the use of mobile phones has soared across the region.

Medina-Mora

File Photo: Citigroup.

The Dialogue Continues

Why Is It So Hard for Banks to Lend to Central American SMEs?

Q The Inter-American Development Bank earlier this year announced the approval of a $30 million medium-term financing facility for Banco Atlántida in Honduras to support the bank's loans to environmentally sustainable projects. The bank is developing a portfolio of loans to small- and medium-sized businesses in biofuels and other sustainable sectors. How important is lending to small- and medium-sized businesses to banks in Central America as they seek to grow their loan portfolios and profits? What challenges do banks face in Central America, in terms of regulatory measures or political uncertainty, as they seek to tap the SME market and emerging-industry businesses such as clean energy?

A Maria Eugenia Brizuela de Avila, regional director of corporate sustainability for Latin America at HSBC in San Salvador: "Small- and medium-sized enterprises are key to Central America's development because they contribute a large percentage of the region's employment as well as the dynamism of the regional and local economies. Small- and medium-sized businesses more and more are taking on sustainable projects, perceiving that such projects help them increase profitability, competitiveness and allow them to improve their processes. Many of the region's banks are already working on special credit lines for this segment, in consideration of the rapid return that many of these projects give to small- and medium-sized enterprises. There is currently a large range of energy efficiency projects in the region. I believe, however, that at the Central American level there is still much to be done, but we are seeing interest from banks and from small- and medium-sized enterprises in such projects and an awareness for creating environmentally sustainable businesses and a necessity for advancing toward innovative projects with components of sustainability. Banks are facing the challenge of continuing to expand support for sustainable projects and businesses. Without a doubt, countries' legal and political stability are very important in driving banks and small- and medium-sized enterprises to support these projects."

Editor's note: The above is a continuation of a Q&A published in the Sept. 22-Oct. 5 issue of the Financial Services Advisor.

Remittances News

Wells Fargo Expanding Remittance Network in Central, South America

Wells Fargo is expanding its network of remittance payout distribution locations in several countries in Central America and South America through a new partnership with **UniTeller Financial Services**, the U.S. money transfer company of Mexico's **Grupo Financiero Banorte**, Wells Fargo announced Oct. 11. Through the agreement, San Francisco-based Wells Fargo will expand its ExpressSend remittance network to nine additional financial institutions and other alternative financial services providers in Guatemala, Colombia, Ecuador, Honduras and Peru as well as in the Philippines and Vietnam. "The diversity of Latino and Asian customers and growing demand for our service as a result of the **Wachovia** store conversions on the East Coast is driving our remittance network expansion efforts," Daniel Ayala, Wells Fargo's executive vice president and head of global remittance services, said in a statement. "By expanding our remittance network, we are enhancing our customers' beneficiaries' experience through a more diverse set of remittance payout channels and expanded hours of operation."

Political News

Venezuela's Leopoldo López Vows to Seek Presidency

Leopoldo López, a former mayor of the Chacao municipality of Caracas and a main opponent of President Hugo Chávez vowed Oct. 18 to seek election to the presidency in next year's vote, Venezuelan daily newspaper *El Universal* reported. "We have not come to ask for permission. We have come to ask the Venezuelan people to join us with hope, strength, and faith," said López. "Those who think that they are going to force us to kneel down while they try to snatch our rights are wrong. Dignity will wear the presidential sash in 2012. Rights are not negotiable." López's statements came a day after Venezuela's Supreme Court ruled that a demand last month by the

López

File Photo: López campaign.

Featured Q&A

Continued from page 1

Implementation of FATCA would also result in the removal of saving investments from Latin America and the Caribbean, which will negatively impact the region's economic strength and may become a deterrent to attracting direct diaspora investment in the region. It is recommended that the Internal Revenue Service engage in bilateral agreements with governments instead of individual financial institutions in this effort to coalesce support for its tax compliance regulations. Financial institutions in the region are also expectant that within the next year, as requirements for becoming compliant with the act are more closely scrutinized, there will be avenues for continued dialogue and possible amendments to the act."

A **Carlos F. Gonzalez, partner, and Sumeet H. Chugani, associate, at Diaz Reus & Targ, LLP:** "Amid the recent tax-fraud investigations of Credit Suisse and HSBC, the IRS has implemented FATCA as a new net to catch tax evaders. However, the short deadline and cost of compliance for banks and foreign financial institutions ('FFIs') are overly burdensome and onerous. In Latin America and the Caribbean, where many Americans and green card holders live and where tax havens exist in abundance, the FATCA's impact will be magnified. Banks and FFIs in this region have already closed accounts of U.S. clients rather than comply with the administrative burden of FATCA. For example, HSBC Private Bank Bermuda will no longer support accounts owned by Americans or green card holders. Banks and FFIs continuing to break bread with U.S. clients must revamp their 'know your customer' and anti-money laundering procedures to include additional detection for U.S. accounts, the beneficiaries of those accounts, and cross-border financial activities. They must also establish new exit strategies for individual clients who do not agree to the banks' new procedures. The nature and extent of FATCA's new obligations will likely bring Latin American and Caribbean FFIs into direct conflict with local privacy laws. Unless institutions have a specific agreement with their existing clients, they may not proactively hand over customer information to the IRS. The IRS hopes that nations will change their privacy laws to fall in line with FATCA. However, this would call for Latin American and Caribbean banks and FFIs to perform significant operational changes which may require reducing 'tax haven' and privacy advantages. These changes would effectively cut off foreign capital to many of these nations with a lax tax enforcement culture. Nonetheless, banks and FFIs that plan to maintain U.S. client relationships must immediately undertake good faith efforts to tailor their operational systems to comply with FATCA—or they may find themselves a target in the next U.S. tax evasion probe."

> "The short deadline and cost of compliance for banks and foreign financial institutions are overly burdensome and onerous."
>
> *— Carlos F. Gonzalez & Sumeet H. Chugani*

A **Kevin E. Packman, chair of the Offshore Compliance Team and Tom Morante, member of the *Financial Services Advisor* board and co-chair of the Insurance Team, both at Holland & Knight LLP:** "FATCA adds a withholding system which is designed to prevent U.S. persons from evading taxes by holding assets through foreign accounts. These provisions are applicable to payments

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Costa Rica-based Inter-American Court of Human Rights that López be allowed to run was "unenforceable." Still, Supreme Court President Luisa Estrella Morales told reporters that López "can freely sign up and participate in elections." She left unanswered whether he would be allowed to take office if elected, the Associated Press reported. If López wins, "undoubtedly we would have to give a response and an interpretation, but at this time it would be to pass judgment uncertain events," Venezuela's acting comptroller general, Adelina González said after the Supreme Court ruled that López cannot hold public office, *El Universal* reported. The comptroller general's office has accused López of multiple instances of corruption. Among them is the allegation that a nonprofit organization that López belonged to received money from the state oil company, **PDVSA**, where he and his mother were employed at the time. López has said the allegations are aimed at keeping him from threatening Chávez's hold on power. "Mr. President, I ask myself: ... Are you afraid of me?" Lopez said last month, the AP reported.

Economic News

U.S. Congress Approves FTAs With Colombia, Panama, South Korea

After five years of wrangling that stretched across two presidential administrations, the U.S. Congress on Oct. 12 approved free-trade agreements with Colombia, Panama and South Korea. The accords are expected to generate approximately $13 billion in new exports for the United States, including $11 billion to South Korea, *The Wall Street Journal* reported. The White House sent the accords to Congress last week amid staunch opposition from many of President Barack Obama's allies. Democratic leaders in Congress including Senate Majority Leader Harry Reid of Nevada remained opposed to the accords. Rep. Jan. Shakowsky (D-Ill.) before the House vote on Wednesday called the pact with Korea a "bad deal for American workers." However, Republicans and business groups were almost completely united in their support of the trade deals. "Today, the House passed on a bipartisan basis some of the most important job-creating legislation in the last several years by approving our trade agreements," said Rep. Dave Camp (R-Mich.), chairman of the House Ways and Means Committee. Amid concerns about the pacts causing lost jobs in the United States, Obama sent the agreements to Congress also demanding that lawmakers approve Trade Adjustment Assistance, a program to help U.S. workers displaced by foreign competition. The House passed the assistance program Wednesday after earlier such action by the Senate. The free-trade agreements are "a major win for American workers and businesses," Obama said Wednesday in a statement. "I've fought to make sure that these trade agreements with South Korea, Colombia and Panama deliver the best possible deal for our country, and I've insisted that we do more to help American workers who have been affected by global competition." The House approved the pact with Colombia, the most controversial of the three because of concerns about conditions for labor unions in the South American country, on a vote of 262-167, *The New York Times* reported. The House passed the Panama accord 300-129 and the South Korea pact 278-151. Then, the Senate approved the Colombia free-trade agreement 66-33, the Panama deal 77-22 and the South Korea accord 83-15. The trade pacts are the first such agreements to win approval in Congress since lawmakers approved a trade accord with Peru in 2007.

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> *— Rep. Dave Camp*

POLITICAL & ECONOMIC BRIEFS

Death Toll From Central America Rains Rises to 84, Nine Missing

Officials in Central America said Oct. 17 that the death toll after a week of torrential rains across the region has risen to 84, the Associated Press reported. Nine others remain missing. The rains have caused numerous landslides and also have washed away homes and bridges. El Salvador and Guatemala appear to be the hardest hit, with 32 and 31 confirmed deaths, respectively. The amount of rain that has fallen on Central America is greater than the cumulative record of Hurricane Mitch, which devastated the area in 1998, said Jorge Meléndez, El Salvador's civil protection director.

Cuban Civil Rights Leader Laura Pollan Dies

Laura Pollan, a founder of the Cuban opposition group Ladies in White, died Oct. 14 as a result of a respiratory virus that caused a cardiorespiratory attack, the Associated Press reported. Pollan became a civil rights leader after her husband was arrested in a crackdown on dissidents in 2003, organizing protests that are credited with helping to win the jailed dissidents' freedom. The Ladies in White have continued to protest against the government even after the prisoners' release.

Peru Mining Investments Up 70 Percent Through August

Mining companies in Peru have invested $4.44 billion in the first eight months of 2011, an increase of 70 percent from the same period last year, state news agency Andina reported Oct. 12. In the January-to-August period, mining companies invested $679 million in infrastructure and $597 million on mining equipment.

Featured Q&A

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from U.S. payors to foreign financial institutions and foreign nonfinancial institutions provided the payments are made after Dec. 31, 2012. If a foreign financial (FFI) or nonfinancial institution (NFFE) invests in the United States and fails to enter into an agreement with the Department of the Treasury through which it agrees to disclose information on its U.S. accountholders, there will be an automatic 30 percent withholding on withholdable payments. The withholding extends to virtually all foreign institutions with U.S. investments (banks, brokerages, custody agents, mutual funds, hedge funds, private equity funds and life insurance providers). The withholding applies to income that is traditionally excluded, such as bank interest and capital gains income, as well as income that is normally subject to U.S. taxation such as dividends. Applicable treaty provisions do not reduce or eliminate the obligation for such withholdings. Financial institutions investing in the United States must implement procedures that will assist them in identifying U.S. account holders. Such procedures will not only apply to the opening of new accounts, but also extend to all existing accounts."

A **Ken Werner and Jeff Lehtman, partners at Richards Kibbe & Orbe, LLP:** "Non-U.S. financial institutions generally will want to become participating foreign financial institutions ('FFIs') to avoid withholding tax on certain U.S. source income under FATCA. While FATCA takes effect on Jan. 1, 2013, the IRS has issued a notice stating that withholding obligations will not begin until Jan. 1, 2014. Procedures to comply with the rules for opening new accounts will have to be put in place by the effective date of the agreement with the IRS, with procedures for due diligence on existing accounts by various dates thereafter (the earliest of which is one year following execution of the IRS agreement). The IRS has committed to issuing proposed regulations on compliance by the end of 2011, and final regulations in the summer of 2012. While it is not possible to finalize compliance procedures prior to the issuance of final regulations, financial institutions should look to the notices published to date by the IRS for guidance. FFIs should also view implementation of FATCA as an opportunity to review and enhance their 'know your customer' procedures from an anti-money laundering perspective, which continues to be a focus of enforcement efforts by both U.S. and local authorities in the region."

The Advisor *welcomes reactions to the Q&A above. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org with comments.*

Advisor Video

Click here to watch to the Oct. 14 Inter-American Dialogue discussion on

The Mexican Diaspora Investment Partnership

with Manuel Orozco, director of the Inter-American Dialogue's Remittances and Development Program,

and consultant Katherine Scaife

with comments by Lázaro Cárdenas Batel, former governor of Michoacán

Financial Services Advisor
is published biweekly by the Inter-American Dialogue, Copyright © 2011

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The Inter-American Dialogue's **Financial Services Advisor** is published biweekly, with the exception of major holidays, from
1211 Connecticut Avenue, Suite 510
Washington, DC 20036
Phone: 202-822-9002 Fax: 202-822-9553
www.thedialogue.org ISSN 2163-7962

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