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THEDIALOGUE


**FEATURED Q&A**

# How Are Stricter Rules Affecting Caribbean Banks?

The U.S. government's Financial Crimes Enforcement Network, or FinCEN, headed by Jennifer Shasky Calvery, analyzes information about financial transactions in order to fight money laundering and other financial crimes. // File Photo: sifma.org.

**Q Caribbean leaders, including the prime ministers of Trinidad & Tobago and the president of Guyana, met last 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, 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 around the region or negotiating non-bank

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**TODAY'S NEWS**

ECONOMIC

## Economists Expect Mexico to Grow 2.45% This Year

The latest central bank survey was more optimistic than the most recent one, following Mexico's stronger-than-expected economic performance in the first quarter. GDP grew 3.3 percent in the first three months of the year.

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BUSINESS

## Mossack Fonseca Closes Three Offices

The law firm at the center of the massive "Panama Papers" data leak shuttered offices in Jersey, Gibraltar and the Isle of Man.

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ECONOMIC

## Brazil's Economy Contracts for Fifth Straight Quarter

Latin America's largest economy shrank 5.4 percent year-on-year in the first quarter. Economists are hoping interim President Michel Temer's government will boost business and consumer confidence.

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Temer // File Photo: Brazilian Government.

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ECONOMIC NEWS

# Brazil's Economy Contracts for Fifth Consecutive Quarter

Brazil's economy, the largest in Latin America, contracted 5.4 percent year-on-year in the first quarter, marking the country's fifth consecutive quarter of contraction, according to official data released Wednesday, the Financial Times reported. The data, which showed a contraction of 0.3 percent in the first quarter as compared to the final three months of 2015, is further evidence that Brazil is headed for its worst recession on record, the newspaper reported. The contraction in the first three months of this year, however, was not as deep as analysts had expected. In a Reuters poll published before the data release, analysts had forecast a contraction of 6 percent year-on-year and a decline of 0.8 percent as compared to last year's fourth quarter. Brazil is likely to see further economic pain this year, analysts say. "Unfortunately I think the second quarter will be worse," Alex Agostini, chief economist at the Austin Rating credit-ratings firm in Brazil, told The Wall Street Journal. The unemployment benefits of workers who lost their jobs at the end of last year are just now beginning to run out, he said. Brazil's unemployment rate jumped to 11.2 percent between February and April, as compared to 9.5 percent for the previous three-month period, according to the Brazilian Institute of Geography and Statistics, or IGBE. Consumer spending declined 1.7 percent in the first quarter as compared to last year's fourth quarter, IGBE added. However, the country's trade balance was better than expected in the first quarter, and government spending increased 1.1 percent. Economists are hoping that business-friendly appointees of interim President Michel Temer will lead to a short-term rebound in business and consumer confidence. However, Temer will need political support to push austerity measures through Brazil's Congress. Temer also is seeking to close the government's budget gap as quickly as possible. "We will have sacrifices," Temer said in a speech Wednesday, The Wall Street Journal reported. "But I am convinced it is possible to reverse the situation, regarding confidence and growth."

> **"We will have sacrifices."**
>
> **— Michel Temer**

# Economists Expect Mexico to Grow 2.45% This Year

Mexico's economy is expected to grow by 2.45 percent this year, according to the median estimate of 35 analysts polled by the Mexican central bank in May, up from a predicted 2.4 percent in April, The Wall Street Journal reported. The bump in estimates followed stronger-than-expected economic performance in the first quarter. Though the adjustment is minor, it follows a series of downgrades of the growth outlook as the government cut spending and low oil prices continued to drag on Pemex. But GDP grew at a higher-than-expected rate of 3.3 percent in the first quarter, topping market expectations and up from 2.6 percent year-on-year. However, the Bank of Mexico said the unexpected performance was not enough to compel it to change its forecast of 2-3 percent growth this year. The central bank left its interest rates unchanged at its meeting on May 5, but is expected to match any upcoming rate increase by the U.S. Federal Reserve. Private economists have lowered their 2016 inflation forecast to 3.1 percent from 3.2 percent, closer to the central bank's 3 percent target. Annual inflation was at 2.5 percent as of mid-May. Analysts forecast a weaker Mexican peso by the end of the year after the currency depreciated 6.8 percent against the U.S. dollar in May. The survey shows analysts see the peso at 17.94 to the dollar by year-end, as compared to April's 17.60 estimate.

NEWS BRIEFS

## Mossack Fonseca Shutters Three Offices

Mossack Fonseca, the Panama-based law firm at the center of a massive data leak that showed how the firm helped wealthy and powerful clients keep money in offshore accounts, has closed its offices in Jersey, Gibraltar and the Isle of Man, the Toronto Star reported Wednesday. The future of the firm's U.S. presence is also in doubt as its Las Vegas-based agent resigned as the agent for the companies it administered.

## Colombia's ELN Frees Three Journalists

Members of the Colombian ELN rebel group have freed a Spanish journalist and two other journalists who went missing in a lawless region of Colombia, the Associated Press reported May 27. The rebels handed over Salud Hernández-Mora, a longtime correspondent for Spain's El Mundo newspaper, to a delegation led by Roman Catholic clergy in the Catatumbo region. Hours later, two other journalists from the Colombian network RCN were also freed by the rebels. The incident shook Colombia after the ELN in March had agreed to join the FARC rebel group in pursuing a peace deal with the Colombian government to end 50 years of conflict.

## Chilean Court Orders Fisheries to Disclose Details of Antibiotic

A Chilean appeals court has ordered the government's Sernapesca fisheries to disclose the details of antibiotic use by salmon producers operating in the country, court documents showed Wednesday, Reuters reported. The court upheld the claim filed by the Oceana environmental group after 37 salmon producers, and subsequently Sernapesca and Chile's transparency council, refused to disclose the details of antibiotic use in 2014.

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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."

**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."

**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 the big banks that are capable of facing this situation will remain. The extreme use

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**BUSINESS NEWS**

# Brazilian Lawmakers Approve Assistance for Power Firms

Brazilian senators on Tuesday approved legislation that provides financial assistance to several power distribution firms controlled by holding company Eletrobras, in a move that could cost the government and consumers billions of reais, Reuters reported. The bill, which awaits interim President Michel Temer's approval, would also benefit Petrobras, since it would assist power companies on late payments for fuel provided by the oil company for electricity generation. The legislation had first been proposed by now-suspended President

**Lobão** // File Photo: Brazilian Government.

Dilma Rousseff, with the objective of extending operating licenses for some power distributors in northern Brazil. However, the legislation received many additions before the final vote on Tuesday, including several that would improve the financial health of those companies. It is not clear if Temer will veto parts of the law. Many of the additions to the legislation were proposed by congressmen with ties to areas where the companies operate, such as former energy minister Edison Lobão of the PMDB party. The bill changes the way the government would calculate how much money it should transfer to these companies in subsidies linked to more expensive thermal generation, since many of the companies are not linked to the national grid and cannot use cheaper hydro generation. Subsidies may increase. Companies that rely on thermal generation have accumulated high bills from Petrobras.

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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."

**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 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."

> **"FinCEN's latest rules may have gone too far, making it easier to cease relations than to increase compliance."**
>
> **— Jan Smith**

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

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