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THEDIALOGUE

FEATURED Q&A

How Will a Return to the 'Gray List' Affect Panama?

Panama, whose capital is pictured above, was returned in June to the Financial Action Task Force's "Gray List." // File Photo: U.S State Department.

Q The Financial Action Task Force (FATF) earlier this year placed Panama back on its international money laundering watchlist. The Central American nation was put on the so-called "gray list" in 2014 over flaws in the country's financial practices. It was removed in 2016 after changes to its legal and regulatory framework, but the FATF has now reversed that decision despite heavy lobbying from officials in Panama. Why has Panama been placed back on the FATF's gray list? What are the consequences of the decision for its business sector and economy? What needs to happen for Panama to be removed from the list?

A Richard Fogarty and Larry Iwanski, managing directors at Alvarez & Marsal: "Panama continues its off-again, on-again status with the FATF's lists as the country is named to the list of jurisdictions with strategic anti-money laundering/combating the financing of terrorism deficiencies. In its decision, FATF cited four areas (abbreviated here) in which Panama needs to improve: 1) assessing and understanding the money laundering/terrorist financing risks and mitigating those risks through national policy; 2) identifying unlicensed money remitters, applying a risk-based approach to supervision and taking action against violations; 3) verifying, monitoring, updating and granting timely access to beneficial ownership information; and 4) demonstrating the ability to investigate and prosecute foreign tax crimes, cooperating with foreign jurisdictions in the process and continuing its focus on money laundering investigations in high-risk geographies. The major impacts of this distinction may be felt in the financial services, trade finance and

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TODAY'S NEWS

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Mexico's Economy Posts Small Rise in Second Quarter

Mexico's economy grew 0.1 percent in seasonally adjusted terms in the April-June period, as compared to a contraction of 0.2 percent in the first quarter.

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BUSINESS

Brazil's Vale Posts Second Straight Quarterly Loss

The mining giant posted a $133 million loss in the second quarter as it continues to struggle in the aftermath of the deadly Brumadinho dam disaster in January.

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U.S. DHS Chief Meets With Guatemalan Officials

Acting U.S. Department of Homeland Security Secretary Kevin McAleenan met with Guatemalan officials to discuss the controversial "safe third country" agreement that the two countries signed.

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McAleenan // File Photo: U.S. State Department.

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POLITICAL NEWS

U.S. DHS Chief Meets With Guatemalan Officials

The acting secretary of the U.S. Department of Homeland Security met Wednesday with Guatemalan officials to discuss the details of the "safe third country" agreement that representatives from the two nations signed last week, the Associated Press reported. According to the Guatemalan government, the agenda for Acting Secretary Kevin McAleenan's visit to Guatemala City included a meeting with the Central American country's interior minister, Enrique Degenhart, who signed the controversial deal last Friday at the White House. "Looking forward to working to expand the partnership between Guatemala and the U.S. to stem the flow of illegal migration and disrupt human smuggling and transnational criminal organizations," McAleenan said in a tweet. The meetings in Guatemala came a week and a half ahead of the second round of the country's presidential election. Presidential candidate Sandra Torres and her opponent, Alejandro Giammattei, were also reportedly scheduled to meet separately with McAleenan. Guatemala's Constitutional Court last month barred President Jimmy Morales' government from signing the "safe third country" deal with the United States, but Morales' government ignored the ruling and signed it anyway. The deal would require many of the Central American immigrants passing through Guatemala to apply for asylum there instead of continuing to the United States. Torres has said Morales' government should not have agreed to the deal, since the current president is due to leave office in January. Additionally, Torres said Guatemala lacks the resources to care for its own people, "much less to have foreigners here and attend to them." For his part, Giammattei said the deal will be difficult for Guatemala to fulfill, adding that Guatemala's Congress should have been consulted about it. However, U.S. Ambassador to Guatemala Luis E. Arreaga called the agreement "a bold new approach to reduce irregular immigration." He added, "The status quo is not sustainable. Guatemalan children and families have fallen victim to a dangerous cycle of human smuggling that puts the most vulnerable populations at risk. This, in turn, is tearing at the fabric of local Guatemalan communities." Contingent on Trump's approval, with the deal going forward, Guatemala could see "increased overseas private investment, U.S. development assistance and additional U.S. investment," said Arreaga. Morales' government signed the deal after U.S. President Donald Trump accused Guatemalan officials of going back on their word to agree to it and threatened to impose tariffs and other penalties on the Central American nation. Economic analyst Hugo Maúl attended one of the meetings with McAleenan Wednesday in Guatemala City and said the discussion included the scope of the deal. "In general terms, Guatemala's institutional weakness was recognized, as well as the problems we already have with corruption, drug trafficking and economic stagnation," said Maúl, the AP reported.

ECONOMIC NEWS

Mexico's Economy Ekes Out Small Gain in Second Quarter

Mexico's economy grew modestly in the second quarter, as compared to a contraction in the previous three-month period, with a gain in services offsetting stagnant industrial production and lower agricultural output, the National Statistics Institute said Wednesday, The Wall Street Journal reported. GDP rose 0.1 percent in seasonally adjusted terms in the April-June period, as compared to a 0.2 percent contraction in the previous quarter. Services increased 0.2 percent, while industrial production was flat and agricultural production dropped 3.4 percent from the first quarter. While it avoided falling into a technical recession, which is defined as two consecutive quarters of economic contraction, Mexico's economy increased just 0.2 percent in the first six months of this year,

NEWS BRIEFS

Brazil, U.S. in Talks Over Trade Deal: Economy Minister

Negotiations over a trade deal between Brazil and the United States, the two largest economies in the Americas, are officially underway, Brazilian Economy Minister Paulo Guedes said Wednesday following a meeting in Brasília with U.S. Commerce Secretary Wilbur Ross, The Wall Street Journal reported. Ross also met with Brazilian President Jair Bolsonaro, whose administration is reversing policies that have traditionally kept Brazil's economy closed. Guedes said many sticking points remain to be discussed regarding a potential bilateral agreement with the United States, including on products such as ethanol.

Amazon Eyes Argentina as Possible Site for Data Hub: Former U.S. Ambassador

Amazon is considering the construction of a huge data center in Argentina, its largest in Latin America, former U.S. Ambassador to Argentina Noah Mamet told the Buenos Aires Times in an interview published Wednesday. The U.S. tech giant will be making a decision in the next six months to a year, Mamet said, adding that he has been collaborating with several U.S. firms, including Amazon, to explore investment opportunities in the South American country. Amazon is also reportedly considering Chile for its data hub.

Brazil's Central Bank Cuts Interest Rates for First Time Since Last Year

Brazil's central bank on Wednesday cut the country's benchmark Selic interest rate by a half percentage point, to 6 percent, the Financial Times reported. The reduction was the first since March 2018. Economists have repeatedly lowered their economic growth forecasts for Brazil.

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as compared with the first half of last year. "We know the economy is going well, and that the country is well," President Andrés Manuel López Obrador said after the figures were made public, El Universal reported. But many economists don't share such a rosy outlook. "Over the last weeks, that's all the market has been talking about," Goldman Sachs' Latin America economist Alberto Ramos told The Wall Street Journal, referring to recession forecasts. "But whether the number is slightly negative or slightly positive, it's the same broad picture of economic stagnation." The economy was growing at about 2 percent, and now it's not growing, Ramos added. Many analysts have lowered their forecasts for Mexico's economic growth this year, down to less than 1 percent from 2 percent in 2018, according to the report. [Editor's note: See related **Q&A** in Monday's issue of the Advisor.]

BUSINESS NEWS

Brazil's Vale Reports Second Consecutive Quarterly Loss

Brazilian mining giant Vale on Wednesday reported a second consecutive quarterly loss as the company continues to struggle with the aftermath of a deadly dam disaster that killed more than 200 people earlier this year, the Financial Times reported. Vale posted a $133 million loss in the April-June period, as compared to a $76 million net income gain a year ago. "Additional provisions," amounting to $2.1 billion, in relation with January's tailings dam collapse in the town of Brumadinho in Minas Gerais State were the main drivers of the quarterly loss. In the first three months of the year, Vale posted a loss of $1.6 billion. The miner's revenue increased to $9.2 billion in the second quarter, up from $8.6 billion in the same period a year earlier, thanks mostly to an increase in the price of iron ore, The Wall Street Journal reported. Adjusted earnings before interest, tax, depreciation and amortization, or EBITDA, was $3.1 billion.

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the shipping industries. Most immediately, financial institutions will feel direct pressure from its correspondent banking relationships and potentially face de-risking actions. This seems obvious. Less obvious may be the increased scrutiny from other regulators that are responsible for business passing by, with or through Panama. Once again, Panama becomes an extraterritorial focal point for criminal activity. Removal from the list may take Panama several years as it strives to implement changes in the law, remediate documentation supporting the law and demonstrate to FATF complete compliance. The differentiator will be the willingness and the commitment of the government, people and businesses (including the legal community) of Panama to repair the country's anti-money laundering and counterterrorism financing program."

Carlos Berguido, executive president of the Panama Banking Association: "Panama exited the previous version of the FATF list in record time because of the strong commitment of the government, regulators and the financial services sector to promote the adoption of laws and regulation aimed at improving the country's capacity to fight money laundering. However, during the last three years, a political stalemate between the executive and legislative branches of government made it very difficult to adopt in a timely way certain key pieces of legislation, such as the criminalization of tax fraud and making tax crime a predicative of money laundering. The National Assembly passed this very important legislation in January, and it took effect in March, making it almost impossible to show evidence of enforcement in such a short time. However, supervision of the vast regulated nonfinancial sector came under scrutiny. The newly created intendency is tasked with anti-money laundering/anti-terrorist financing supervision and law enforcement of very diverse activities, from casinos to attorneys to accountants and used car dealers. This needs some time and resources to evolve and build the necessary institutional capacity in order to develop the risk-based approach to effectively supervise and enforce the law. During the last review, which focused on enforcement of the existing legal framework, the FATF recognized the enormous efforts Panama has carried out to achieve technical compliance, but the enforcement component will require more time. Though there was no direct mention of any deficiencies in the banking or financial sectors, the Banking Association has pledged to support the government in its efforts to get the country out of this list and remain out of it."

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> **— Carlos Berguido**

José Montaño, vice president and senior analyst at Moody's Investors Service: "The Financial Action Task Force (FATF) returned Panama to its list of countries with deficiencies in anti-money laundering and combating-terrorist-financing regimes. Panama's placement back on FATF's list is a negative development for offshore Panamanian banks funded mainly by foreign investors. These banks are more exposed to repricing and refinancing risk than banks with domestic operations that are funded by local clients. Panama's return to the list will increase scrutiny from the international financial community and its interactions with Panamanian financial institutions. The most affected will be the relationships these

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banks have with their correspondent banks, and the resulting increase in pressure on banks' operational costs. The FATF placed Panama back on the list after concluding that despite the country's recent efforts, more regulatory advances are necessary. In addition to increasing negative pressure on banks' profitability, Panama returning to the FATF list has the potential to eventually limit banks' business development efforts as some international financial institutions curtail their interactions with Panamanian banks and other financial companies. Because the Panamanian financial system is totally dollarized, a deterioration in banks' relationships with international financial institutions would have significant negative consequences on Panamanian banks' funding activities, particularly offshore institutions. Since 2014, Panamanian authorities have taken measures to strengthen the country's regulatory framework, particularly as it relates to financial and fiscal matters. Panama recently approved a new fiscal law and has improved the country's financial reporting standards. The country also works with international financial supervisors in an effort to avoid having a reputation of a country with weak regulatory standards."

Marco Gandásegui Jr., professor at the University of Panama and research associate at the Center of Latin American Studies (CELA): "Top Panamanian officials were surprised—if not shocked—by the move to place the country back on the 'gray list.' One high-ranking officer at the Ministry of Economy and Finance said it was unfair and that the FATF was acting in vengeance. Others concluded that Panama was not complying with one key element. While the financial system and nonfinancial enterprises were acting as requested, the problem was placed at the doorsteps of law firms that were still doing business as usual. Panama has an outstanding system that shares information with all other countries."

Matías Mora, managing director for Central America at Berkeley Research Group: "Despite the efforts on a regulatory and normative level, in regards to the preservation and implementation of a culture of preventing money laundering on a national level, we could observe that the weaknesses found are related to the design and implementation of controls in the nonfinancial sector (which has more than 25 industries). Part of the weaknesses found are based in the acculturation of each and every nonfinancial sector involved, as well as the lack of effective execution in the sanctions regime for these sectors. In the financial sector, consequences are more imminent because correspondent accounts and contingency lines at credit level could be lost. It is important to mention that the practice of de-risking could recover popularity between correspondents and the different local and international entities. At the state level, there should be publications or international-level sessions regarding models, controls, methodologies and procedures that have been effectively implemented and the effectiveness of the controls regarding the prevention of money laundering."

> **"The weaknesses found are related to the design and implementation of controls in the nonfinancial sector."**
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> **— Matías Mora**

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

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