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

FEATURED Q&A

How Is FATCA Affecting Financial Institutions and Taxpayers?

Q The U.S. Foreign Account Tax Compliance Act took effect more than six months ago, on July 1. The law, which is designed to prevent U.S. taxpayers from hiding money abroad, imposes new reporting requirements on them and the foreign financial institutions that host their accounts. How effective has FATCA been since it came into force? What has been the impact on financial institutions in Latin America and the Caribbean? How has the law affected U.S. taxpayers abroad?

A José Antonio Muñoz, founding partner at Arias & Muñoz in San José, Costa Rica: "FATCA has not yet been fully implemented. Not even in Switzerland, which has been sharing information with the IRS for years. Information sharing between Latin American and Caribbean financial institutions has not commenced, and the IRS isn't expecting much reporting in 2015 because of the monumental compliance requirements imposed upon foreign financial institutions. We will thus address how effective the threat of FATCA implementation has been. If by effectiveness, one refers to a chilling effect—FATCA's threat to international investment—then FATCA has been incredibly effective. One of the lesser known aspects of the U.S. tax code is how protectionist it is. Foreign mutual funds, life insurance and corporations are subject to both much harsher tax treatment (sometimes including additional taxes) and more onerous compliance costs. Once a U.S. person does come into compliance because of FATCA, they realize the premium and risk on their foreign investments and begin looking to send investments back to the United States. Additionally, many non-U.S. banks simply close accounts of U.S. persons or refuse to do any business with them. So at protecting the U.S. domestic financial services industry, FATCA has been incredibly effec-

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Argentine Authorities Raid HSBC Unit's Headquarters

Argentine authorities on Jan. 7 conducted a court-ordered search of HSBC's headquarters in the South American country. The AFIP tax agency, led by Ricardo Echegaray, accused the bank last November of helping Argentines evade taxes, allegations HSBC has denied. See story on page 2.

File Photo: Argentine Government.

Inside This Issue

FINANCIAL SERVICES BRIEFS

Itaú Chile, CorpBanca Get Nod for Merger From Panama's Regulator

Panama's bank regulator has approved the merger of **Banco Itaú Chile** and **CorpBanca**, on the condition that the deal is also approved by Chile and Colombia's regulatory bodies, **Itaú Unibanco Holding** said Jan. 6, *La República* reported. The merger remains subject to approval from the shareholders of the two banks as well. "The merger is progressing according to plan, foreseeing materialization during the third quarter of 2015," the bank said.

World Bank's IFC Buys Bancamía's Entire Public Offering

The World Bank's International Finance Corp. has purchased the entire public offering of Colombia-based microlender **Bancamía**'s ordinary bonds for 100 billion pesos ($42 million), the IFC said Jan. 5 in a statement. Bancamía is part of Spain's BBVA Microfinance Foundation. The proceeds will allow Bancamía to expand its microfinance operations in the South American country. Bancamía serves 692,000 low-income customers in Colombia.

Souza Joins JP Morgan's Research Team in Brazil

Cristiano Souza, previously an economist at **Banco Santander Brasil**, will join **JP Morgan Chase & Co.**'s emerging-markets research team in Brazil and report to Cassiana Fernandez, who was named chief economist for Brazil in September, Bloomberg News reported Jan. 13 citing an internal memo. Souza will be based in São Paulo and has worked covering Brazil at banks for 13 years. Fabio Akira, the former chief economist for Brazil, was named to head public-sector coverage in September.

Financial Services News

Argentine Authorities Raid HSBC Office in Tax-Evasion Investigation

Argentine authorities on Jan. 7 raided the local headquarters of London-based **HSBC** in connection with allegations that the bank helped Argentines evade taxes by placing their money in Swiss bank accounts, EFE reported. The South American country's tax agency, AFIP, which is led by Ricardo Echegaray, accused HSBC in November of aiding 4,040 Argentines to evade taxes. The bank's subsidiaries in Argentina, the United States and Switzerland formed "shell companies to take money out of the country and evade taxes," AFIP alleged. Judge María Verónica Straccia ordered the search of HSBC's office in Buenos Aires, the *Buenos Aires Herald* reported. In a statement, HSBC said it had handed over "the documents that were available to judicial authorities, and additional requests are being processed," the newspaper reported. "We are committed to Argentina, one of our priority markets, and we will continue to contribute to the country's economic development," the bank added. When the charges were leveled against it in federal court in November, HSBC said it "emphatically rejects [the charges] of participation in any illicit association, including any organization allowing the transfer of capital in order to evade taxes," Agence France-Presse reported. Argentine authorities also conducted a search of HSBC's local headquarters last August as part of a separate investigation into tax evasion and money laundering allegations, EFE reported. On Jan. 12, Argentina's central bank announced that it was barring HSBC's Argentine unit from transfering money abroad for 30 days due to "irregularities in such transfers, Reuters reported. The unit said it would fix the irregularities, the central bank said, adding that it might reduce the suspension if the bank carried out the "necessary corrective measures."

“We are committed to Argentina, one of our priority markets, and we will continue to contribute to the country's economic development.”

— *HSBC*

Xoom Announces $30.8 Mn in Costs Tied to Suspected Fraud

San Francisco-based **Xoom Corp.** has announced $30.8 million in costs for the fourth quarter related to a suspected criminal fraud, the *Los Angeles Times* reported Jan. 6. "The incident involved employee impersonation and fraudulent requests targeting the company's finance department, resulting in the transfer of $30.8 million in corporate cash to overseas accounts," the company, which provides money-transfer services via the Internet, said in a regulatory statement Jan. 5. Xoom said that it does not believe that customers' money or data were involved in the breach, adding that it contacted federal authorities who have opened an investigation. "While this matter will result in some additional near-term expenses, the company does not expect this incident to otherwise have a material impact on its business," Xoom said. The company also announced that its chief financial officer, Matt Hibbard, had resigned. Hibbard's departure did not result from any disagreement with the company, Xoom said, adding that former finance chief Ryno Blignaut will fill the position on an interim basis.

Mexican Credit Unions Facing New Scrutiny

Mexican regulators are more closely scrutinizing credit unions in the wake of a large-scale fraud that resulted in losses for more than 6,000 savers, Bloomberg News reported Jan. 9. In November, regulators seized **Ficrea**, which had 5.8 billion pesos ($395 million) in outstanding loans, 98 percent of which were to a single company, which is now the target of an investigation. "It will be necessary to revise certain regulations, to make some changes in legal matters," Gabriel Díaz, vice president of financial regulator CNBV, told Bloomberg News in an interview. New regulations could include revised asset-concentration limits, said Díaz. Mexican credit unions are subject to different regulations than the country's banks and guarantee deposits up to 131,000 pesos, less than a tenth the amount that banks are required to guarantee. For the 12-month period through September, Mexican credit unions' assets rose 43 percent, fueled by savings interest rates of as much as 10 percent, more than three times the average rate offered by banks.

Brazil's Itaú May Boost Provisions Amid Petrobras Scandal

Brazil's **Itaú Unibanco** may increase its provisions for company loan defaults this year amid the scandal at state-run oil company **Petrobras**, Reuters reported Jan. 9, citing the bank's senior vice president for risk and compliance. "There could be a reinforcement of provisions, if needed," Marcelo Kopel, who is also Itaú's head of investor relations, told the wire service in an interview. "We are watching the possible consequences of this in the supply chain." Several major Brazilian construction firms have been implicated in the Petrobras scandal, in which company directors are accused of taking bribes from construction firms and funneling money to political parties. Concerns have been growing that Petrobras may cancel deals with contractors accused of defrauding the company. However, Kopel added that most of Itaú's loans to construction firms are connected to projects, with money being disbursed only as work proceeds. Itaú is expecting its loss-provision expenses to increase along with its expanding credit portfolio in the year ahead, Kopel added. He said the bank's lending to individuals has focused on lower-risk loans, such as mortgages and payroll loans. Itaú is planning to be conservative in granting loans this year due to the anemic outlook for Brazil's economy. "I wouldn't be surprised if our portfolio posted single-digit growth this year," he said.

Featured Q&A

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tive. If one defines effectiveness by how many more U.S. tax persons are coming into tax compliance and the closing of the alleged 'tax gap,' the answer is that FATCA has been somewhat effective. The initial offshore disclosure programs since 2009 have brought in additional tax revenues and fines that would pay for about one day of U.S. federal spending."

> "Many non-U.S. banks simply close accounts of U.S. persons or refuse to do any business with them."
>
> *— José Antonio Muñoz*

A **Denise Hintzke, global FATCA leader at Deloitte Tax, LLP:** "FATCA has been an effective tool for compliance with the IRS' financial reporting requirements. This is evidenced by several things. First, an increase in U.S. taxpayers coming forward under the IRS' Offshore Voluntary Disclosure Program (OVDP), the fact that the more than 147,000 entities have registered as foreign financial institutions (FFIs) and obtained global intermediary identification numbers (GIINs), and that more than 110 countries have entered into, or are in negotiations for, an intergovernmental agreement (IGA) with the United States. The introduction and adoption of the Common Reporting Standard—the OECD's global version of FATCA—also points to its success because of the validation it gives to financial transparency mandates on an international scale. There are still a number of challenges, however, around FATCA adoption and compliance. Topping the list is the need for further education about FATCA and more clarity about its financial implications on financial organizations and consumers. These are issues that resonate globally, and are not just specific to the Caribbean and Latin America. The response to FATCA in the Caribbean and Latin America has been varied. In the Caribbean, smaller financial institutions and regulatory agencies in some countries have been slower to react as they come to terms with how the regulations affect them. Additionally, many individuals who have resided in the Caribbean their entire lives have dual U.S. citizenship and require increased education and resources to better understand their U.S. tax compliance requirements. In Latin America, financial institutions and governments are struggling with its adoption because of political and privacy issues. Many global financial institutions are looking for clarity on how doing business in a country that doesn't have an IGA will affect their operations and customers through reporting and potential withholding. Many smaller financial institutions, are still taking a 'wait and see' approach by watching how larger organizations are handling implementation, reporting and customer interaction. That said, the ultimate success will probably be determined by what the IRS does with the additional information that they will receive about U.S. taxpayers beginning this year."

> "FATCA has been an effective tool for compliance with the IRS' financial reporting requirements."
>
> *— Denise Hintzke*

A **Kip Rabin, management consultant at DRT Global LLC, and Xingjian Zhao, associate attorney at Diaz Reus & Targ LLP:** "Consistent with its effects around the globe, FATCA's impact on Latin

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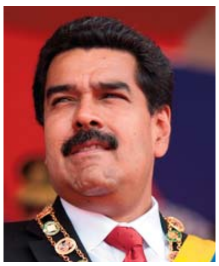
Economic News

Venezuela Restricting Shoppers' Visits to State Grocery Stores

The government of Venezuelan President Nicolás Maduro on Jan. 12 began restricting consumers to two shopping days per week at government-owned grocery stores in an effort to reduce the long lines at the supermarkets, Bloomberg News reported. Last week, thousands of people lined up at stores in attempts to purchase basic staples that have been in short supply due to the scarcity of foreign currency in the Andean country. The situation led the country's interior minister, Carmen Meléndez, to deploy security forces to maintain order. The new directive from Maduro's government restricts consumers' shopping days based on the last digits on their national identity cards. "The smuggling and long lines are over," Alejandro Milano, a coordinator of Venezuela's Food Mission, told Bloomberg News as he oversaw security at the government-operated **Bicentenario** store in Caracas. "This is a much fairer system." The country's food security regulator, Carlos Osorio, said 4,000 people received basic foods including rice, milk and pasta at a state-run market over the weekend in the capital. "If there were no food in Venezuela, there would not be these lines we see here," he said in an appearance on state television. "We wouldn't have so many people gathered at these installations. It's the best demonstration we can have." Shoppers at the state-run supermarkets bristled at the new restrictions. "An ID card to buy food?" José Gómez, a 32-year-old electrician, told Bloomberg News. "I guess I'll have to go hungry until Friday." Consumers continued to queue in long lines at privately run grocery stores, where access was not restricted. Maduro has blamed Venezuela's shortages and other economic problems, which include the world's highest rate of inflation, on his political opponents, whom he says are waging an economic war in an attempt to topple the government. Maduro's opponents, however, say mismanagement by Maduro and his predecessor, the late Hugo Chávez, are to blame.



Maduro

File Photo: Venezuelan Government.

China's Xi Sees Nearly Doubled Level of Trade With Region

Chinese President Xi Jinping on Jan. 8 vowed to use his country's economic influence to back billions of dollars worth of projects in Latin America and nearly double China's trade with the region to $500 billion over the next decade, the Associated Press reported. Xi made the comments at the opening of a two-day forum between China and member nations of the Community of Latin American and Caribbean States, or CELAC. "I am sure that this meeting will yield rich results, send to the world a strong message of our commitment to deepening cooperation for common

Advisor Q&A

What Will 2015 Bring to Latin America & the Caribbean?

Q **The past year in Latin America was marked by events including violent unrest surrounding the disappearance and suspected killings of 43 university students in Mexico, U.S. rapprochement with Cuba, the imprisonment of Venezuela's main opposition leader after deadly street marches, falling oil prices that have threatened Venezuela's already-shaky economy and a fight with bondholders that led Argentina to a technical default, among others. What countries are shaping up to be the hotspots in 2015? What is the outlook for political risk in the region in the coming year? What trends and developments could prove to be destabilizing for businesses invested in the region in the year ahead?**

A **Carlos Gutierrez, chair of Albright Stonebridge Group and former U.S. secretary of commerce:** "It is becoming increasingly difficult to talk about Latin America as a homogeneous region. With divergent economic and political conditions, the 'one-size-fits-all' approach to Latin American countries no longer works for international investors and businesses. 2015 will be essential, and each country will face its fair share of key developments (violence and corruption allegations in Mexico, elections in Argentina, peace process in Colombia, reforms in Brazil, etc.). We believe that Venezuela, in particular, will demand significant attention. With the plunge of oil prices and the consequent rise of bond prices, Venezuela will face growing difficulties to service its dollar-debt payments. With analysts estimating a 93 percent probability of a Venezuelan default, the country is relying on an oil price increase to replenish its diminishing foreign reserves and balance its budget. Some economists argue that Venezuela has already defaulted internally with its contractors and citizens. Without action, the product shortages, growing violence, increasing inflation and threat of reduced government subsidies could trigger significant public unrest in 2015. Moreover, a potential default would have a broader domino effect on some ALBA countries and players in the region. The deteriorating internal dynamics, as well as the added pressure of legislative elections later this year, may be the necessary triggers for Maduro's government to pursue the economic reforms that will improve domestic conditions and international confidence. By enacting market friendly policies, Maduro would send an important signal to international markets that he is willing to implement the changes necessary to maintain stability."

Editor's note: More commentary on this topic appears in the Dec. 24 issue of the Dialogue's daily Advisor.

development," said Xi. Two-way trade increased from $10 billion in 2000 to $257 billion in 2013. The rise was driven largely by China's appetite for commodities, including oil. China's slowing growth will mean less demand for those products, but the Chinese president said that both his country and Latin America will see benefits from forecasts that China will import $10 trillion worth of goods over the next five years, the AP added. Xi added that he wants to boost Chinese direct investment in Latin America to $250 billion during the next five years. Six months ago, China granted a $20 billion loan for infrastructure development in Latin America, in addition to $10 billion in preferential loans, $5 billion for a cooperation fund and $50 million for development of agriculture.

Xi

File Photo: Chinese Government.

Political News

Haitian Lawmakers Fail to Pass Emergency Electoral Law

Haiti's Parliament on Jan. 12 failed to approve any emergency legislation for new elections, which could lead Parliament to be dissolved and to President Michel Martelly ruling by decree, BBC News reported. Jan. 12 marked the deadline for such action and the expiration of Parliament's mandate. a day earlier, Martelly said that he had reached an agreement with opposition lawmakers in order to hold the long-delayed elections. However, the key Fanmi Lavalas party, which has been behind many anti-government protests, was not part of the deal, BBC News reported. Martelly's backers have said the opposition is to blame for its failure to approve an electoral law, while the president's opponents have accused him of stoking the standoff in order to rule by decree, Agence France-Presse reported. The country's prime minister, Laurent Lamothe, resigned on Dec. 14 amid anti-government protests. Martelly named former radio journalist Evans Paul his new prime minister on Dec. 26, but Paul has not been able to take office as a result of the stalemate. The political crisis played out as the impoverished country marked the five-year anniversary of its catastrophic 2010 earthquake. Death toll estimates from the 7.0 magnitude quake range from 100,000 to more than 300,000. Tens of thousands of Haitians made homeless by the earthquake still remain living in shanty towns. Martelly led the country's official tributes and urged unity in order to prepare for future challenges. He laid flowers at the Place St. Christophe in Port-au-Prince. "Five years later, are we ready to face other catastrophes that could strike Haiti?" Martelly asked, AFP reported.

Cuba Completes Release of 53 Political Prisoners: U.S.

U.S. officials said Jan. 12 that the government of Cuban President Raúl Castro has completed the freeing of 53 political prisoners whose release was part of last month's historic deal to re-establish diplomatic relations with the United States, BBC News reported. "We welcome this very positive development and are pleased that the Cuban government followed through on this commitment," said Marie Harf, a deputy spokeswoman at the State Department. The State Department added, however, that the United States would continue pressing for Cuba to respect human rights and that it would press for the release of other political prisoners who remain jailed in Cuba. "This list [of 53] is not to be seen as the end of our discussion on human rights with the government of Cuba," said State Department spokeswoman Jen Psaki. Dissident groups in Cuba disputed the U.S. announcement. The leader of the Ladies in White group, which protests regularly in Havana, said 12 of the 53 prisoners remain in jail. "We really don't know who these 53 freed people are," Berta Soler told Agence France-Presse. Another rights group, the Cuban Commission for Human Rights, said it did not know of any prisoner releases that had happened since Jan. 8.

POLITICAL & ECONOMIC BRIEFS

Relatives of Missing Students Try to Enter Mexican Army Base

Relatives and supporters of 43 Mexican students who went missing in September in the town of Iguala on Jan. 12 tried to gain access to an army base there, demanding to be let in to search for the students, BBC News reported. Local police forces have admitted they turned the students over to a local drug gang, but they have not been seen since, and families are still searching.

U.S. to Consider Lifting Restrictions on Mexican Truckers

The U.S. Department of Transportation will soon begin considering requests from Mexican trucking companies that they be allowed to operate throughout the United States, Mexico's Communications and Transport Ministry said Jan. 11, Reuters reported. U.S. restrictions on Mexican truckers have persisted despite NAFTA, and Mexican transport associations say the restrictions have hurt their ability to compete with U.S. truckers who have access to Mexico. A bilateral accord in 2011 set up a pilot program to phase out restrictions, which has now been completed.

Brazil Posts $3.9 Billion Trade Deficit for 2014

Though it ended December with a surplus of $293 million, Brazil in 2014 posted a $3.9 billion annual trade deficit, its first in 14 years, amid lower commodity prices and shrinking trade with Argentina, according to a trade ministry report published Jan. 5, Bloomberg News reported. Brazil's economy likely expanded at its slowest pace in five years last year as lower prices for mineral and farm products hurt exports, analysts told Bloomberg.

Featured Q&A

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American and Caribbean financial institutions has been substantial. Foreign financial institutions (FFIs) in this region have all felt the heavy costs of compliance, and undoubtedly, those in countries that have established intergovernmental agreements (IGAs) with the United States have lost accounts to those that have not. Unfortunately for such institutions, the costs of compliance will likely outweigh perceived benefits by a significant margin, due in part to an inherent imbalance in information exchange that strongly favors the U.S. side. For example, the U.S.-Mexico IGA requires Mexico to report the total amount of interest, dividends and other income generated and paid by the account assets, as well as total income from sales of possessions that are recorded in the account. Yet the United States is only obliged to inform Mexico of the total amount of interest paid on certain limited sources of income. Has FATCA been effective? No known cost/benefit analysis was done prior to FATCA's implementation, and the cost of compliance is now generally considered to be far greater than the additional tax revenues. While much of the cost of implementation will be the burden of the FFIs, there is also the added cost to the IRS for the increased staffing and systems to process the data being received. The effect on U.S. taxpayers living abroad has also been substantial. Many are facing large fines, and some American citizens living abroad have been unable to open local bank accounts, making it harder for them to live and work abroad. There has also been a rise in the number of Americans renouncing their citizenships, with FATCA being indicated as one of the primary reasons for the increase. In addition, some believe the numbers being reported are significantly understated. Due to its fairly recent implementation, it remains premature to definitely comment on FATCA's lasting impact on the region, or its financial institutions. Suffice it to say, FATCA has already had a taxing effect by substantially increasing the costs of doing U.S.-related business in the Western Hemisphere and beyond."

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

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