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FEATURED Q&A

Can Panama Make Offshore Banking More Transparent?



Following the publication of the so-called "Panama Papers," President Juan Carlos Varela said his government would create a panel to study working practices and propose measures to improve financial system transparency. // Photo: Panamanian Government.

Q Panamanian President Juan Carlos Varela on April 6 announced that his government will create a panel of international experts in an effort to improve transparency in the country's offshore financial industry. The announcement came just days after the massive 'Panama Papers' data leak that detailed how law firm Mossack Fonseca reportedly helped clients conceal assets. What will be the consequences of the 'Panama Papers' leak for the financial and advisory services industry in Panama and for offshore banking practices more broadly? Does Panama need to change its laws to address criticisms over financial transparency? If so, which other countries also need to improve? Do people and businesses have a right to a degree of privacy in their legitimate financial transactions across borders?

A James M. Meyer, partner at Harper Meyer in Miami: "Much of the media coverage regarding the 'Panama Papers' has been either misinformed or has itself been misinforming regarding the international financial services industry. The press seems to have largely failed to mention the legitimate purposes of offshore planning, including security, country and political risk, which is something many who are safely tucked away in the United States have a hard time conceptualizing. Moreover, unless and until the sovereign nations of the world are able to agree on an internationally uniform tax system, offshore tax planning remains a common, legitimate and important part of any cross-border transaction or business plan. Of course, there is a great deal of social and political activism pushing for a borderless tax system and

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TODAY'S NEWS

BUSINESS

Brazilian Court Frees Esteves From House Arrest

André Esteves, the former CEO of BTG Pactual, had been on house arrest since December following his arrest on charges connected to the Petrobras graft scandal.

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BUSINESS

Walmex Reports 30% Rise in Profit for First Quarter

Walmart's Mexican division reported \$387 million in net profit for the first three months of the year, due to strong consumer spending.

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ECONOMIC

Venezuela Declares Two-Day Work Week for Public Sector

Venezuelan President Nicolás Maduro declared that public-sector workers would have to work only Mondays and Tuesdays. The move is the government's latest effort to save power amid an electricity supply crisis.

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Maduro // File Photo: Venezuelan Government.

ECONOMIC NEWS

Venezuela Decrees Two-Day Work Week for Public Sector

Venezuelan President Nicolás Maduro's government on Tuesday declared a two-day work week for public-sector workers in an effort to save energy in the country, which is grappling with a severe electricity crisis, The Wall Street Journal reported. Government workers, who make up more than a third of the country's formal labor force, will only work Mondays and

Under the decree, public-sector employees will work only Mondays and Tuesdays.

Tuesdays. In a previous decree, Maduro declared Fridays to be holidays for public-sector workers until June. "This is a necessary measure while we pass the critical weeks," Maduro said in a speech on state television. "I'm asking the citizens for all their support." The country's primary schools will also be closed on Fridays as part of the effort to save power. A year-long drought has caused water levels to drop at the country's El Guri dam, which provides 65 percent of Venezuela's power. The president's opponents blame the electricity crisis on underinvestment in the country's power grid by Maduro's government and that of his predecessor, the late Hugo Chávez. On Monday, water levels stood at just 67 inches above the level at which some turbines will have to be turned off. The two-day work week for public-sector workers adds to a range of other measures the government has taken in an effort to conserve electricity. In February, the government told shopping centers to shorten their hours and generate their own power. This month, Maduro's government also introduced power cuts for four hours a day in several areas and said it would consider putting clocks ahead by a half

hour in an effort to catch more sunlight during the day. The hours of the electricity rationing change every day without notice and have left restaurants unable to preserve food, gas stations unable to dispense gasoline and stores unable to operate cash registers, The Wall Street Journal reported. The power rationing and reduced work week come just months after Maduro launched a new effort to boost productivity in order to pull Venezuela out of its deepest-ever economic depression. This year, Maduro created a vice presidency of productive economy and other posts as part of that effort. [Editor's note: See [Q&A](#) on Venezuela's power crisis in last week's Energy Advisor.]

POLITICAL NEWS

Prosecutor Vows to Keep Petrobras Probe on Course

A member of the prosecutorial team leading Brazil's corruption probe into the Petrobras scandal said Tuesday he and his colleagues will continue to make sure the investigation stays on course, despite rising concerns that a new government coalition may try to shut down the proceedings, The Wall Street Journal reported. The future of the Operation Car Wash



Dallagnol // File Photo: Brazilian Government.

investigation, which uncovered an embezzlement ring centered on state-run oil company Petrobras is being called into question in the face of President Dilma Rousseff's potential removal from office. Deltan Dallagnol, one of the federal prosecutors assigned to the case, has reaffirmed that not only will he and his

NEWS BRIEFS

Walmex Reports 30% Rise in Profit for First Quarter

Wal-Mart de México on Tuesday reported a 30 percent increase in net profit for the year's first quarter due to strong consumer spending, The Wall Street Journal reported. Walmex reported 6.72 billion pesos (\$387 million) in net profit, along with a 13.2 percent increase in sales, to 125.5 billion pesos. The retailer's profitability and cash generation exceeded analysts' estimates. "Consumption continues to be favorable," said CEO Guilherme Loureiro. [Editor's note: See [Q&A](#) on retailing in Mexico in the March 31 issue of the Advisor.]

SunEdison Selling Two Chile Projects to Colbun

U.S.-based solar energy developer SunEdison, which filed for bankruptcy protection on April 21, has agreed to sell two of its energy projects in Chile to Chilean power company Colbun for an undisclosed amount, both companies said Tuesday, Reuters reported. SunEdison also signed a 15-year power-supply contract with Colbun to supply the Chilean energy company with 200 gigawatt hours per year. SunEdison said in a statement it would build a 100 megawatt solar plant in Chile in order to supply the energy.

Venezuela Proposes Non-OPEC Oil Producers Attend June Meeting

Venezuelan Oil Minister Eulogio Del Pino told Qatar's energy minister in a letter that Venezuela has proposed that non-OPEC oil producers attend the group's meeting scheduled to take place in Vienna in June, Reuters reported Tuesday. Plans to freeze oil output by OPEC and non-OPEC producers fell through in Doha this month. Del Pino has suggested that non-OPEC attendees could attend the Vienna conference as observers.

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total international transparency, but that is highly unlikely to occur during the span of any of our lifetimes. In the meantime, however, it seems to have made for a lot of journalism that offers much more sizzle than steak. It is as if the media just realized that bad guys are using bank accounts and they are writing stories about how nefarious bank accounts are.”

A **Jacqueline de Gramont, policy director at Transparency International – USA, and Natalie Baharav, communications**

coordinator for the Americas at Transparency International: “The Panama Papers have shone a stark light on how facilitators create anonymous companies that can enable the corrupt, money launderers and other criminals to hide and launder their illicit funds. While Panama has made an effort to adopt legislation to avoid illicit use of its financial sector in recent years, what the country now urgently needs is aggressive enforcement of existing laws. Yet this scandal is not just about Panama. Secret companies are a global issue; they need to be outlawed throughout the Americas and all around the world. The G20 committed to stopping them in 2014 but only five of the 20 rich countries have taken real steps to legally stop secret company ownership on their shores. In the United States, for example, one can incorporate a legal entity without having to disclose who controls the entity or derives economic benefits from it. The adoption of legislation at present pending in Congress that would require the collection, maintenance and updating of beneficial ownership information on legal entities for law enforcement purposes is crucial for changing the status quo. Further, financial institutions should be required to determine and verify the identity of the beneficial owners of their legal entity customers and gatekeepers, such as in the real estate industry, and should have due diligence requirements. Internationally, TI calls for immediate action by world leaders:

(1.) All countries should require much higher levels of transparency around who owns and controls companies registered in their territories. (2.) Professional enablers such as

“**All countries should require much higher levels of transparency around who owns and controls companies registered in their territories.”**

– Jacqueline de Gramont & Natalie Baharav

bankers, lawyers and tax professionals who are found to be complicit in corruption must be sanctioned. (3.) All countries should require any company bidding for public contracts or purchasing property to disclose on whose behalf they are operating.”

A **Michael Diaz, Jr., founding partner of Diaz Reus & Targ LLP in Miami:** “The recent fallout from the Panama Papers – Mossack Fonseca leak will have little impact on the financial and advisory services industries in Panama and other offshore locations unless enforcement is swift, substantial and memorable. The U.S. Department of Justice and its federal law enforcement agencies including the Department of Homeland Security wasted no time in seizing this opportunity for new evidentiary leads on their current and ongoing money laundering and corruption investigations including the FIFA and PDVSA bribery scandals. What remains to be seen is whether Attorney General Loretta Lynch and her Panamanian counterparts will be true to their promise to turn their focus on the unscrupulous banks and bankers without which these crimes cannot be completed. As the ‘Panama Papers’ show, names are obfuscated through layers of corporate

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colleagues press on in the investigation, but they will also expand the probe of politicians and companies linked to the scandal. “My concern is that, with impeachment, people will think we’ve already made it halfway in the fight against corruption, and we haven’t,” he said. Rousseff has not been implicated by prosecutors in the Petrobras scandal, but she faces impeachment on separate charges. Vice President Michel Temer, who would take over the presidency if Rousseff is forced to step down, has been linked to the scandal, though he has denied wrongdoing. However, Temer has insisted that the potential new government will not interfere in the corruption probe. “The executive leader shouldn’t position himself for or against the investigation,” he said. “It is in the judiciary branch’s realm.”

BUSINESS NEWS

Brazilian High Court Frees BTG’s Esteves From House Arrest

Brazil’s Supreme Court has lifted an order for the house arrest of billionaire financier André Esteves, the former CEO of Banco BTG Pactual, Latin America’s largest investment bank, Reuters reported, citing a report by Folha de S.Paulo published Monday. Supreme Court Justice Teori Zavascki ended mobility restrictions on Esteves, opening the door to his returning to BTG Pactual, should he decide to do so. Attempts by the wire service to seek comment from Esteves’ lawyer, Antonio Carlos de Almeida Castro, were unsuccessful. BTG Pactual declined to comment. Esteves was arrested in November on charges that he had obstructed the corruption probe into an embezzlement ring centered at state-run oil company Petrobras. He denied wrongdoing but stepped down as CEO and chairman of BTG Pactual after his detention, leaving control of the bank to seven partners. Esteves spent three weeks in prison and was later placed on house arrest in December.

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shells, trusts and powers of attorneys designed to disguise the ultimate beneficial owners of the entities, structures and bank accounts. Glaringly, even when inherent risks are exposed by the standard due diligence process, the Panama Papers demonstrate how offshore advisory services, Mossack Fonseca and others rationalize and ignore the compliance risks, but nevertheless service their clients with impunity. Surely, there are legitimate reasons for offshore structures (such as asset protection and tax planning). However, what the Mossack Fonseca leak now brings out in the open is what U.S. law enforcement has already known for quite some time—offshore banks and advisory services in Panama, Switzerland and elsewhere have been conspiring and assisting clients with dubious sources of funds to disguise their identity and the true beneficial ownership of those funds for a handsome fee.”

A **Matías Mora Simoes and Michael Malarkey, managing directors at Berkeley Research Group:** “The apparent leak of the ‘Panama Papers’ has caused significant reputational damage to Panama, especially to its financial and legal services sectors. This crisis could affect Panama’s foreign investment opportunities, and it could also generate stricter scrutiny of the commercial activities of law firms and banks on behalf of international regulators and correspondent banks. Additionally, the perceived risk of Panama has provoked drastic diplomatic

reactions, such as the inclusion of Panama in France’s list of tax havens. However, the current situation has motivated international organizations to strengthen their efforts to reduce tax evasion, a crime that is classified as money laundering in several jurisdictions; by utilizing offshore banking improperly. Due to this, and several other factors, additional and stricter measures will be taken by member countries of these organizations, regarding the taxation of offshore bank accounts. Panama is the headquarters for one of the world’s most important financial services centers, and as such, it has succeeded in complying with high transparency standards. However, due to the current situation, the Panamanian government has created an independent committee of experts, both national and international, with the purpose of evaluating and adopting measures to reinforce the transparency of the country’s legal and financial systems. More importantly, this is not a problem just for Panama, but for many countries including the United States. In fact, Delaware is the second smallest state in terms of territory, but it is one of the most popular offshore territories in the world, thanks to its taxation laws and financial secretiveness. People and companies have the right to maintain their privacy regarding their legitimate financial transactions, mostly due to security reasons. Financial confidentiality must not be confused with secret keeping, which can be utilized to cover illegitimate funds or to bypass illegal money through channels especially designed to dodge compliance systems.”

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