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FEATURED Q&A

How Will a Court Ruling Affect Bank Privacy in Mexico?



A Mexican Supreme Court ruling confirmed last month that tax authorities could access account holders' banking information without a warrant. The country's tax agency, SAT, is pictured. // File Photo: Mexican Government.

Q Mexico's Supreme Court on May 11 confirmed that tax and finance authorities could access citizens' and companies' banking information without a warrant. In the ruling, justices said efforts to fight money laundering and tax fraud took precedence over privacy concerns. What are the main reasons behind the ruling, and how will it affect citizens and businesses? Will the ruling change anything about the current practices of Mexican tax authorities as they pursue cases of tax fraud, evasion and money laundering? Are Mexican tax authorities taking the right actions to fight fraud and money laundering, or are their efforts overzealous?

A Eugenio Grageda, partner at Holland & Knight: "Financial institutions in Mexico may only disclose information under very limited exceptions, including in cases where the information is solicited by taxing authorities for a fiscal purpose and when authorities request information through a warrant, such as in criminal cases. There is also a requirement that any action from authorities must expressly mention the reasons and legal grounds to support an intrusion. Considering these three requirements, the Supreme Court determined, as it has done previously, that the unwarranted request from tax authorities for bank statements derived from the tax audit process is constitutional. Its reasoning was mainly twofold: first, although privacy is subject to constitutional protection, such a right is limited by the legitimate interests of other citizens (for example, the benefits of tax collections); second, the legal grounds for the intrusion are satisfied because the law obliges the tax authorities to provide legal grounds to Mexico's banking authority. So,

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TOP NEWS

FINANCIAL TECHNOLOGY

Brazil's Ebanx Lays Off 20% of Work Force

Brazilian payments fintech Ebanx announced June 21 that it was laying off 20 percent of its work force, or 340 employees. Other Brazilian start-ups have also announced layoffs in recent weeks.

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FINANCIAL TECHNOLOGY

Revolut Launching in Chile, Ecuador

Digital banking platform Revolut, which is based in London, is launching a streamlined version of its app in five new countries including Chile and Ecuador. The platform was launched in 2015 and has more than 18 million customers worldwide.

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BANKING

Santander Taps Mexico Head as Chief Executive

Spain's Banco Santander on June 17 named Héctor Grisi, the head of its operations in Mexico and North America, as its new chief executive officer. He is to take up the position in January.

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Grisi // File Photo: Santander.

BANKING NEWS

Santander Taps Mexico Head as New Chief Executive

Banco Santander on June 17 named Héctor Grisi, the head of the Spanish bank's operations in Mexico and North America, as its new chief executive officer, The Wall Street Journal reported. Grisi, who joined the bank in 2015, is to begin in the position next January. During his role as Santander's Mexico lead, Grisi improved earnings in the country and has been in charge of Santander's effort to acquire Citigroup's Mexico retail operations, the Financial Times reported. Grisi also was credited with helping

Santander's chief executive now reports directly to the bank's board of directors.

to improve Santander's operations in the United States and returning the unit to profitability. He will be replacing CEO José Antonio Álvarez, marking the first chief executive transition since 2014. Santander in 2018 appointed Andrea Orcel as its new CEO, but it revoked the offer a few months later, resulting in a legal battle that ended with Santander paying Orcel more than \$50 million, The Wall Street Journal reported. Álvarez will remain a member of Santander's board. "Héctor will be an outstanding successor to José Antonio," said Santander executive chair Ana Botín, the Financial Times reported. "He brings decades of experience and a deep understanding of our markets and business ... his track record as CEO of Santander Mexico and head of North America speaks for itself," she added. Earlier this year, Botín relinquished some responsibilities under pressure from European regulators aiming to strengthen corporate governance, the Financial Times reported. The bank's chief executive now reports directly to its board of directors.

"Héctor Grisi is a seasoned expert who knows our business and is the right person to lead the bank with Ana," said Bruce Carnegie-Brown, the bank's lead independent director.

FINANCIAL TECHNOLOGY NEWS

Colombia-Based Rappi to Offer Digital Banking Services

Colombia-based delivery app Rappi has received approval from Colombia's financial regulator to offer digital banking services, the company said June 16, Reuters reported. "Now, deposit and savings products will be offered by the financial entity RappiPay via its own platform," Rappi, which has backing from SoftBank, said in a statement. RappiPay is a joint venture between Rappi and Banco Davivienda, Reuters reported. Until the regulator's approval, RappiPay had offered an online deposit account and a credit card in Colombia, Mexico, Brazil, Peru and Chile, depending on local regulations, the wire service reported. However, the regulator's approval was needed for it to offer full online banking services. In Colombia, RappiPay currently has approximately 800,000 users, and it has issued around 200,000 credit cards. Rappi and Banco Davivienda have agreed to invest \$100 million in the online banking platform, RappiPay's head, Gabriel Migowski, told Reuters last November.

Brazilian Fintech Ebanx Lays Off 20% of Work Force

Ebanx, a Brazilian payments fintech, laid off 340 employees—approximately 20 percent of its staff—the company said on June 21, Reuters reported. The company is the most recent of billion-dollar Brazilian technology companies that are preparing for a difficult economic climate, particularly due to rising interest rates, high inflation and diminishing capital pools.

NEWS BRIEFS

Brazil's Antitrust Agency Reaches Deal With Units of Citibank, SocGen

Brazil's antitrust agency on June 22 said it had reached a deal with the local units of Citibank and Société Générale to settle a case related to the manipulation of exchange rates, Reuters reported. In the settlement, Citibank's local unit agreed to pay 71.6 million reais (\$13.78 million), and the Société Générale unit will pay 5.57 million reais, said the Cade antitrust watchdog. The agency has alleged there was evidence stemming from as far back as 2016 of the banks fixing currency spreads and coordinating currency sales and purchases. Citibank said in a statement that the settlement is not a fine and that it has not acknowledged any wrongdoing.

Uruguay's Advise Wealth Management Launches Argentina Brokerage

Uruguay-based Advise Wealth Management has launched a new brokerage business in Argentina, Citywire Americas reported June 24. The new brokerage, AWM Valores, will offer services including asset management, investment banking and trading services to corporate and institutional investors.

Brazil's Health Insurance Costs Increases Push Inflation Up in June

Consumer prices in Brazil rose more than expected in the first half of June despite increases in interest rates, state statistics agency IBGE said June 24, Dow Jones reported. Consumer prices rose 0.69 percent from May 16 through June 15 and rose 12.04 percent from a year earlier. The price of health insurance, which accounted for much of the increase, rose 15.5 percent after regulators permitted insurers to raise costs. The pace of food-price increases slowed considerably, however.

“The decision was made based on the current scenario of the technology market as a whole, impacted in a profound and fast way by the macroeconomic environment,” the company said in a statement, Valor Econômico reported. “Ebanx remains committed to its sustainability and growth, following the mission of generating access between global consumers and companies,” it added. Ebanx processes payments in 15 countries in Latin America and has a \$1 billion valuation. The company is reviewing its current operations and will continue to focus on its primary business: international payments, Reuters reported. Brazilian e-commerce company Facily also recently laid off about 30 percent of its work force. Investment platform Empiricus and cryptocurrency exchange Mercador Bitcoin have also cut their staffs, the wire service reported. João Del Valle, Ebanx’s chief executive and founder, said in March that the company had postponed its fundraising efforts until later this year, citing investor sentiment.

Revolut Launching in Countries Including Chile, Ecuador

London-based Revolut, a digital banking platform, is launching a streamlined version of its app in five new countries, including Chile and Ecuador, which will allow customers to transfer money using more than 30 currencies to more than 50 countries, Reuters reported June 15. Customers transferring money to other Revolut customers will not incur any fees, while transfers to non-Revolut accounts will have a fee of \$1 or 1 percent, whichever is greater, in the five new countries where the app is launching. In addition to Chile and Ecuador, the app will also be available in Sri Lanka, Azerbaijan and Oman, the wire service reported. The platform, which launched in 2015, has more than 18 million customers worldwide and upwards of 500,000 businesses using its products, the wire service reported. The company’s products include crypto trading, payments services, stock trading and savings accounts. In April, the company’s CEO, Nik Storonsky, said Revolut aims to

FEATURED Q&A / Continued from page 1

if within the tax audit process tax authorities have reason to suspect tax fraud, they can remit the case for prosecution without a warrant. The case confirms indirectly that criminally, a warrant is required. However, if tax authorities request the information for fiscal purposes, SAT’s access would be deemed generally as legal, even if it is later used for criminal prosecution. Authorities’ rulings and actions are understandable. However, what raises concern is the fact that the constitutional obligation can be deemed as fulfilled by expressing such legal grounds to another authority as opposed to the individual—the actual owner of the constitutional right.”

Alejandro Garcia Garcia, managing director and regional group head for Latin American banks and nonbank financial institutions at Fitch Ratings:

“The prevention of money laundering, tax evasion and other illegal activities by the Mexican financial authorities is a more than laudable goal, but this Supreme Court ruling could potentially lead to a situation in which the ultimate costs exceed the benefits of such measures. Having access to further information on individuals and businesses’ bank accounts could certainly lead to larger tax collections, which very likely is the main objective of the financial authorities. However, the magnitude of such collections is yet to be determined, and the potential negative implications are yet uncertain. On the downside, there is a risk of arbitrary reviews of bank accounts that might make bank customers skeptical and more hesitant about keeping or opening bank accounts. There is still a high degree of informality in the Mexican economy, but concerns about the scope of the financial authorities’ access to bank account information could make individuals and businesses hesitate about the convenience of accessing formal financial services. The level of financial intermediation and inclusion in Mexico is low, and there is a risk of these measures further jeopardizing

achievements in that regard. Bank customers could also claim valid concerns about personal data privacy and security issues as a reason to stay or move away from formal bank services and products.”

Tapen Sinha, professor of risk management at the Instituto Tecnológico Autónomo de México and professor at the University of Nottingham Business School:

“The decision by Mexico’s Supreme Court has drawn two sets of protests. First, the advocates of privacy have condemned this ruling. Second, some big businesspeople have condemned it. Court rulings bring the strongest negative reactions from those who are directly affected. Therefore, the reac-

“There is a deeper concern among businesspeople around the world about tax authorities.”

— Tapen Sinha

tions from privacy advocates are not surprising. Reactions from particular businessmen are also expected. In particular, Ricardo Salinas Pliego has complained very vocally. Since he owns a large segment of television and radio networks in Mexico, his voice has been amplified, and he has a lot at stake. In April, his appeal against paying more than \$100 million was rejected by the Federal Court of Fiscal and Administrative Justice (TFJA). He has eight such cases pending against his flagship company Elektra. There is a deeper concern among businesspeople around the world about tax authorities. Tax authorities are handmaidens of the ruling party. They always lean against businesses if their expectations about ‘donations’ are not met. That is why we always see governments going after businesses aligned with the opposition. They also use tax authorities

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become a “superapp,” Reuters reported. “We’re delighted to launch the Revolut app in five countries as we continue to expand access to Revolut’s fast, secure and easy money transfers to countries around the world,” said Vlad Yatsenko, Revolut’s chief technology officer, IBS Intelligence reported.

POLITICAL NEWS

Ecuadorean Gov’t, Indigenous Group Begin Discussions

The Indigenous organization that has been leading an anti-government strike in Ecuador for two weeks on June 27 began talks with the Ecuadorean government to discuss possible solutions to end the protests, Reuters reported. The Confederation of Indigenous Nationalities of Ecuador, or Conaie, has been spearheading the protests that have resulted in at least seven deaths and numerous injuries, the wire service reported. Earlier in the day, Conaie rejected the Lasso administration’s 10-cent reduction in fuel prices—a decision he made to attempt to comply with the organization’s demand for a gasoline price cut—calling it insufficient and “insensitive,” Agence France-Presse reported. Conaie argues that the cut does not correspond to the state of poverty that millions of Ecuadoreans experience. Conaie’s tax cut demand includes the reduction of the price of gasoline from \$2.55 to \$2.10 per gallon and the price of diesel from \$1.90 to \$1.50 per gallon, the Associated Press reported.

Petro, Maduro Discuss Full Reopening of Border

Colombian President-elect Gustavo Petro and Venezuelan President Nicolás Maduro said June 22 that they had spoken about fully reopening their countries’ shared border, Reuters reported. The border has been partially closed

ADVISOR Q&A

How Will Currency Fluctuations Affect Regional Recovery?

Q **The Colombian and Chilean pesos are among the most vulnerable to depreciation this year among emerging-market currencies, Wells Fargo economists told clients in a research note on June 13. Mexico’s peso and Brazil’s real are also under pressure, the economists said. What factors are weighing on Latin American currencies, and what will the rest of this year bring for them? How are currency pressures affecting Latin America’s economic recovery? Which industries in the region will be most affected this year by currency fluctuations?**

A **Daniel Velandia O., head of research and chief economist at Credicorp Capital in Bogotá:** “In recent months, Latin American currencies have been affected by global developments, particularly the more accelerated withdrawal of monetary stimulus from the U.S. Federal Reserve, which has led to widespread strengthening of the U.S. dollar. This, jointly with increasing fears of an economic recession due to higher borrowing costs and the Russia-Ukraine conflict, has increased risk aversion in capital markets, which in turn has meant outflows from emerging economies as investors seek the greenback as a safe haven. Under this backdrop, it is common to see a greater depreciation of those currencies that have a higher beta

(that is, are more sensitive to variations in global conditions), which may incorporate structural challenges on the economic side (for example, large twin deficits) as well as political uncertainty. Thus, it is not a surprise that the Brazilian real and both the Chilean and the Colombian pesos have been the most affected currencies in the last month. Importantly, these three countries are going through significant political changes that pose risks to fiscal accounts in the next years: Chile is changing its constitution, Colombia has just elected an anti-establishment president and it is likely that Lula da Silva will be elected president in Brazil this October. The fading of both global risks and the internal uncertainty will be key factors for Latin American currencies going forward. Of course, their recent underperformance puts further pressure on inflation and thus, on social conditions. The silver lining is that elevated commodity prices continue to provide support to economies, meaning that it is the only region that has not observed downward revisions to 2022 growth forecasts.”

EDITOR’S NOTE: More commentary on this topic appears in the June 24 issue of the daily Latin America Advisor.

in recent years amid diplomatic tensions between the two countries and restrictions related to the Covid-19 pandemic. The countries took steps last year to reopen the land border, but it is currently open mainly to pedestrian traffic, Reuters reported. “I have reached out to the Venezuelan government to open the borders and restore the full exercise of human rights on the border,” Petro, who was elected

Colombia’s president on June 19 and takes office in August, said June 22 in a tweet. In a separate posting on Twitter, Maduro said he congratulated Petro on his election victory. “We discussed the willingness to restore normalcy at the borders, various issues about peace and the prosperous future of both peoples,” said Maduro. During his campaign, Petro promised to re-establish diplomatic ties with Venezuela.

NEWS BRIEFS

Brazilian Judge Releases Former Education Minister Accused of Graft

A Brazilian federal judge on June 24 released Milton Ribeiro, a former education minister under President Jair Bolsonaro, a day after federal police arrested the former minister as a part of a corruption investigation, the Associated Press reported. Brazilian federal Judge Ney Bello said Ribeiro, along with four other suspects, were being released because they are not currently a part of the Bolsonaro administration and because the accusations against them do not justify their detention before trial. Ribeiro denies wrongdoing.

Peruvian Truckers' Union Calls for National Strike

Peru's main truckers' union and some farm groups on June 27 announced plans to go on strike after failing to reach agreements with the government over high costs of fuel and fertilizer, Reuters reported. The union has 400,000 cargo transport units in 14 of the 25 regions of the country. Óscar Graham, Peru's minister of economy and finance, on June 26 called on carriers to maintain peace during the strike and to respect private and public property, state news agency Andina reported.

Bolsonaro, Putin Discuss Food Security in Phone Call

Brazilian President Jair Bolsonaro and Russian President Vladimir Putin had a phone conversation in which they confirmed their commitment to strengthening their strategic partnership, the Kremlin said June 27, Reuters reported. The presidents also discussed global food security, and Putin promised that Russia will fulfill its standing fertilizer supply obligations with Brazil. Bolsonaro said June 27 that his ministers of agriculture and energy were also a part of the conversation.

The two countries broke diplomatic relations in 2019 following Colombia's recognition of Venezuelan opposition leader Juan Guaidó as Venezuela's legitimate interim president after the country's disputed 2018 election. [Editor's note: See related [Q&A](#) in the June 21 issue of the daily Latin America Advisor.]

ECONOMIC NEWS

Worst of Inflation Is Over in Brazil: Central Bank Chief

Brazil's central bank president said June 27 that "the worst period of inflation is over" for Brazil, adding that monetary policymakers had managed to "lead in front" and halt the

We will probably have strong GDP growth in the second quarter."

— Roberto Campos Neto

inflationary process in South America's largest economy, Agência Brasil reported. Roberto Campos Neto made the statements at a conference in Lisbon. "We will probably have strong GDP growth in the second quarter," Campos Neto added. Headline inflation rose 12.04 percent in June, year-over-year, according to data released last week from state statistics agency IBGE. Economists had expected a less sharp increase for the month. "Inflation is now not only very high but also highly disseminated," Goldman Sachs economist Alberto Ramos told clients in a research note last Friday. The New York-based investment bank expects headline inflation to remain above 10 percent until October this year and stay above 8 percent until March of 2023. In related news, the board of directors of Brazilian state oil company Petrobras on Monday elected Caio Paes de Andrade as its new chief executive. A former economy ministry official with little direct experience in the oil industry, Andrade's predecessors faced pressure from Brazilian President Jair Bolson-

aro to lower fuel prices, a politically sensitive issue in an election year.

Mexico's President Plans to Discuss Inflation With Biden

Mexican President Andrés Manuel López Obrador on June 24 said that on his scheduled visit to Washington next month he would propose a joint anti-inflationary plan with the United States, Reuters reported. López Obrador described how his government had raised subsidies for gasoline and diesel and urged companies not to pass on increases to consumers. "It's working well for us," he told reporters at his daily news conference. State statistics agency INEGI said earlier in June that inflation in the first half of the month rose to its highest rate in more than 20 years, with core inflation at 7.47 percent, year over year. Mexico's economy has been expanding this year, although real GDP remains below pre-pandemic levels. "The economy still has room to grow, and we expect it to expand in coming quarters supported by firm terms of trade and further normalization of activity among a number of still-lagging



López Obrador // File Photo: Mexican Government.

sectors, particularly services," Goldman Sachs economist Alberto Ramos told clients in recent research note. López Obrador declined Biden's invitation to attend the Summit of the Americas in Los Angeles in early June after news emerged that the United States would not invite Cuban, Venezuelan and Nicaraguan leaders to the meeting. Opposition Republicans recently called on Biden to press López Obrador for help in combating the flow of fentanyl into the United States, Fox News reported.

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to punish individuals who belong to the opposition. Right now, a drama of this kind is playing out in India. Current opposition leaders are being questioned. More than a decade ago, the current ruling party was in opposition. They were duly summoned by the tax authorities then. The same could play out in Mexico.”

A **Alma Caballero, director at McLarty Associates:** “The Mexican Supreme Court of Justice declared constitutional the power of Mexican tax authorities to access banking information of individuals and companies without the need for a prior court order. The SCJN’s decision came after a businessman accused the Finance Ministry of breaching his constitutional right to privacy for requesting bank documents over tax fraud suspicions. The decision infuriated privacy advocates throughout Mexico who are concerned with the possibility of arbitrary targeting through fiscal and financial tools. This ruling came as part of the López Obrador administration’s aggressive taxation strategy, which relies on the Tax Administration Service (SAT) to audit more taxpayers, filing multi-million dollar claims against cor-

porations (both domestic and foreign) and urging taxpayers to pay outstanding debts or face legal action. A decree modifying several provisions took effect on Jan. 1, 2020—offenses including electoral crimes, corruption and tax fraud are now classified as serious crimes, allowing preventive detention for as

“**This opens the door to subjectivity, discretionality and legal uncertainty.**”
— Alma Caballero

long as two years and asset forfeiture. Other charges authorizing preventive detention and asset forfeiture include tax evasion and comparable crimes, using shell corporations, illegal invoicing and illegal outsourcing. Individuals charged with these crimes could even face prosecution for national security violations. This opens the door to subjectivity, discretionality and legal uncertainty.”

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

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