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U.S., Mexico Take Actions to Combat Money Laundering

by Carlos Navarro
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A US effort to discourage criminal organizations from laundering drug profits in the US is having unintended consequences for legitimate Mexican businesses that hold accounts in US financial institutions. In the fall of 2014, several US banks began to advise a number of their Mexican corporate and individual clients that their deposits were no longer welcome. The banks did not offer an explanation and directed the depositors to withdraw their funds from the bank. "They told us to come and pick up our money," Federico Díaz, chief financial officer for Calimax, which has 109 stores in Baja California and Sonora, said in an interview with The San Diego Union-Tribune.

There was also no official announcement from the US Treasury, the US Department of Homeland Security, or any other federal agency regarding the efforts to address money laundering, but US authorities made a number of moves during the fall of 2014 that were compatible with the actions to keep criminal organizations from laundering their profits in the US, including a surprise raid on a business district in Los Angeles.

The only advance notice came during the North American summit in February 2014 when President Barack Obama and counterparts Enrique Peña Nieto of Mexico and Stephen Harper from Canada announced that the three North American countries were planning a joint effort to control money laundering and arms trafficking (SourceMex, Feb. 26, 2014). "As neighbors that are increasingly becoming integrated, we recognize the need to collaborate efficiently to fight against the global threats like international terrorism and to protect our vital common infrastructure," the three leaders said in a communiqué.

The US action last fall reportedly involved imposing new requirements on a number of large banks and other institutions, including Bank of America, Citigroup, JP Morgan, and Western Union. Many of these banks allegedly knew the money they were handling involved drug-related profits and yet did nothing to discourage the activity. One bank, the US subsidiary of British based HSBC, did acknowledge its role in laundering drug profits and evaded criminal prosecution by paying a fine of almost US$2 billion.

"Banamex USA, a subsidiary of Citigroup that operates under US regulations, has sent some of its clients—individual depositors as well as corporate customers—a notice that it would cancel their accounts, effective Nov. 9," the daily newspaper Reforma reported on Oct. 16, 2014. "In this notice to clients, the bank did not offer any explanation and only asked clients for instructions on how their funds should be released before Nov. 9. Lacking instructions, the bank was planning to send a cashier's check to the owners of the accounts."

Unintended consequences for border businesses

The decision to force US banks to divest of the large accounts from Mexican nationals and businesses has had some negative repercussions for Mexican businesses, particularly those along the Mexico-US border. Many businesses in cities like Tijuana, Reynosa, Ciudad Juárez, and Nuevo Laredo have traditionally conducted transactions using US dollars. The decision by US authorities to restrict those accounts leaves border businesses without a place to deposit their US currency

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reserves, as the Mexican government has had strict limits on dollar deposits in Mexican banks since 2010.

Mexican businesses say the US accounts allow them to pay US vendors directly and thereby avoid costly cross-border transaction fees. "I have a large number of friends whose accounts are being canceled," a Mexican exporter, who had been a client of the bank since 1988, told Reforma. "This is a terrible blow because we need to receive deposits and make payments overseas."

"Where is all this cash supposed to go? Are we supposed to put it inside a shoe box under the bed?" José Manuel Ripa, vice president of finance for the Tijuana branch of the Cámara Nacional de Comercio (CANACO), told The San Diego Union-Tribune. "We're seeing established companies that are having problems. This isn't good for either side of the border."

While the US action has had negative repercussions for the Mexican clients, some critics suggested that the US government has been too lenient with the financial institutions, many of which allowed their operations to be used by criminal organizations to lauder profits. "The lack of imprisonment of any bankers involved is indicative of the hypocritical nature of the drug war; an individual selling a few grams of drugs can face decades in prison, while a group of people that tacitly allow—and profit from—the trade of tons, escape incarceration," Avinash Tharoor of the Drug Policy Alliance wrote in The Blog, published by The Huffington Post.

The efforts to address money laundering are aimed at large criminal organizations, which earn between US$19 billion and US$29 billion every year from selling marijuana, cocaine, heroin, and methamphetamines in the US, according to the US State Department. Most of Mexico's major criminal organizations no longer rely exclusively on drug trafficking, moving into other illegal activities both to earn additional revenue and to launder drug profits. The Zetas, for example, sold fuel in the US that was stolen from the state-run oil company PEMEX (SourceMex, Jan. 6, 2010). And the Caballeros Templarios and La Familia enhanced their revenues by selling minerals extracted illegally (SourceMex, Oct. 20, 2010).

The Sinaloa cartel, also known as the Cártel del Pacífico, operates the largest and most sophisticated system of illegal export and financial transactions. The organization has continued to thrive from its illegal business ventures despite the arrest of its top leader, Joaquín "El Chapo" Guzmán Loera, in February 2014 (SourceMex, Feb. 26, 2014).

The Sinaloa cartel has succeeded because of its ability to use the global banking system to launder its profits. "It's very important for them to get that money into the banking system and do so with as little scrutiny as possible," Jim Hayes, special agent in charge of Homeland Security Investigations for the New York office of Immigration and Customs Enforcement (ICE), said in an interview with National Public Radio.

The US government coordinates some of its efforts to address money laundering through the Financial Crime Enforcement Network (FinCEN), a unit of the US Department of Treasury. In August 2014, FinCEN announced a joint project with the Mexico's Unidad de Inteligencia Financiera (UIF), a unit of the Secretaría de Hacienda y Crédito Público (SHCP), to require a series of reporting initiatives designed to improve the transparency of cross-border cash movements.

"Drug trafficking organizations and other criminal enterprises thrive when their cash movements are hidden from view," FinCEN director Jennifer Shasky Calvery said in a news release "FinCEN is committed to working closely with our Mexican counterparts, law enforcement, and industry

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partners to bring greater transparency along our border and safeguarding the integrity of our financial systems."

"The actions taken by FinCEN address an important issue that was identified jointly by US and Mexican authorities and has our support," said UIF director Alberto Bazbaz Sacal. "Mexico and the United States will continue to further improve our fight against money laundering with this and other measures."

In Mexico, authorities have also tightened regulations to discourage the use of the country's financial system for illicit purposes. In April 2014, the SHCP—with support from the independent banking commission (Comisión Nacional Bancaria y de Valores, CNBV)—announced changes that would tighten oversight of financial institutions. Under the proposal, the SCHP would provide all financial institutions in Mexico a list of people who have violated international money-laundering rules. The banks and other institutions would be responsible for implementing mechanisms to identify and report these individuals to authorities.

Illicit operations attempt to avoid financial institutions

The Mexican drug cartels, using a scheme created by Colombia's Medellín and Cali cartels in the 1980s, are finding ways to bypass banks altogether to launder their profits via international trade. The Colombian criminal organization developed the scheme, known as Black Market Peso Exchange (BMPE), after the US enacted the anti-money laundering law known as the Bank Secrecy Act in 1970. Under the system, brokers charged a fee to connect businesses with drug traffickers who at that time owned a surplus of US dollars in the US and Colombian businesses that needed US currency to buy goods for import.

"The Black Market Peso Exchange is perhaps the largest, most insidious money-laundering system in the Western Hemisphere," Raymond Kelly, who served as commissioner for the US Customs Service in 1998-2001, said in an interview on Frontline, an investigative news program produced by the US Public Broadcasting System (PBS). "It's the ultimate nexus between crime and commerce, using global trade to mask global money laundering."

According to the Frontline report, which ran in the 1990s, the drug traffickers transformed the black market into their own illegitimate international banking system. "The money side is a completely separate business from the drugs," a source who worked within the system for decades said in the interview. "We never got involved in the drug side of the business, only receiving the money, processing it, selling it, and making a profit."

Mexican drug traffickers have adopted the Colombian scheme in response to tight restrictions imposed by US and Mexican banks. This prompted US authorities to launch an extensive investigation, which resulted in a major crackdown operation in September 2010. As part of a campaign called Operation Fashion Police, 1,000 law-enforcement agents moved into the fashion district in Los Angeles, arresting nine people who allegedly took part in an international trade-based money-laundering scheme orchestrated by Mexican drug cartels.

Federal agents seized several documents and electronic data during the raids. Authorities hope that these materials, along with cash-transaction reports that businesses in the zone are now required to file, will eventually clarify how drug cartels used international trade transactions to launder drug profits.

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"One key piece of intelligence being sought is whether legitimate Mexican businessmen are involved or if the cartels are handling all of the import-export aspects of the scheme on their own," said Reuters. "Authorities are also trying to determine why roughly US$90 million in cash was warehoused at the businesses they raided rather than in bank accounts."

"Los Angeles has become the epicenter of narco-dollar money laundering, with couriers regularly bringing duffel bags and suitcases full of cash to many of these businesses," Robert Dugdale, the assistant US attorney in charge of federal criminal prosecutions in Southern California, said in an interview with The New York Times.

Authorities described how some of the operations worked. In one laundering scheme, they said, the Sinaloa cartel allegedly used a business in the fashion district to move ransom money to Mexico from the US. According to a US investigation, the Sinaloa cartel used the Los Angeles company Q.T. Fashion to move about US$140,000 paid in ransom in the US to free a hostage that the criminal organization was holding in Mexico. The full amount was taken to Q.T. Fashion, from where it was distributed to 17 other businesses throughout the fashion district, which moved it to business partners in Mexico and ultimately to the cartel.

The DEA and other US law-enforcement authorities believe their efforts can be more effective if they are able to identify and prosecute the perpetrators directly linked to the criminal organizations in Mexico, rather than the business owners who become involved in the scheme through a need to buy currency.

"You go after the businessmen that are buying the goods and you might prevail in a seizure--you almost never get a prosecution--and you spend two years of your time. And the traffickers are sitting back, they've got their money, and they're laughing at us. That's really frustrating," a DEA source told Reuters. "You have to attack the money when it's still owned by the traffickers. If you don't do that, you're not having any effect."

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