A Toolkit on Illicit Financial Flows:
Module 5

Technical Module: The Role of Banking in Latin America as a Facilitator of Illicit Financial Flows

Latindadd
Red Latinoamericana por Justicia Económica y Social

Southern Regions Program https://financialtransparency.org/

About the project:

As a unique space under the Financial Transparency Coalition (FTC), the Southern Regions Programme (SRP) plays a crucial role of an incubator by placing just tax systems and financial transparency at the heart of development debates. In October 2017, during a South-South strategy meeting it was recognised to bring out a collaborative document that emerged from the perspective of the Global South. Five members[1] of the SRP came together to author the IFF Toolkit in an effort to address issues of financial secrecy, enablers of illicit financial flows, lopsided impact on domestic resources and the ability to raise further resources due to loss of revenue as IFFs and the much-needed reforms in the international financial architecture set in the context of Global South. The toolkit uses case study-based evidence to simplify the issue of tax abuse. The document also covers tax incentive abuse as a subject under IFFs. The toolkit has benefitted from discussions held at the Nepal Social Forum (March 8th-10th, 2018), Paper on Illicit Financial Flows: Rights, Restoring Justice and Freedom and Pan-Continental Southern Dialogue on Illicit Financial Flows[2], Nairobi (November 21-22, 2018).

Disclaimer:
The publication has been produced by Latin American Network on Economic and Social Justice (LATINDADD), This output does not intend to reflect the positions of all members of FTC.

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1 Asian People's Movement on Debt and Development (APMDD), Centre for Budget and Governance Accountability (CBGA), Latin American Network on Economic and Social Justice (LATINDADD), Pan African Lawyers Union (PALU) and Tax Justice Network Africa (TJNA)

2 See more here - https://financialtransparency.org/ftcs-pan-continental-southern-dialogue-illicit-financial-flows-nairobi-21st-22nd/

A Toolkit on Illicit Financial Flows: Module 5

The Role of Banking in Latin America as a Facilitator of Illicit Financial Flows

List of Acronyms

ASB	Atlantic Security Bank
BCP	Banco de Crédito del Perú
BIS	Bank for International Settlements
BIT	Bilateral Investment Protection
CIMA	Cayman Islands Monetary Authority
CNBV	Mexican National Banking and Securities Commission
FBI	Federal Bureau of Investigation
FIBA	Florida International Bankers Association
FinCEN	Financial Crimes Enforcement Network
FTA	Free Trade Agreements
GATS	Financial Services Annex of the General Agreement on Trade in Services
ICBC	Industrial and Commercial Bank of China
IMF	International Monetary Fund
NAFTA	North American Free Trade Agreement
SEC	Securities and Exchange Commission

Contents

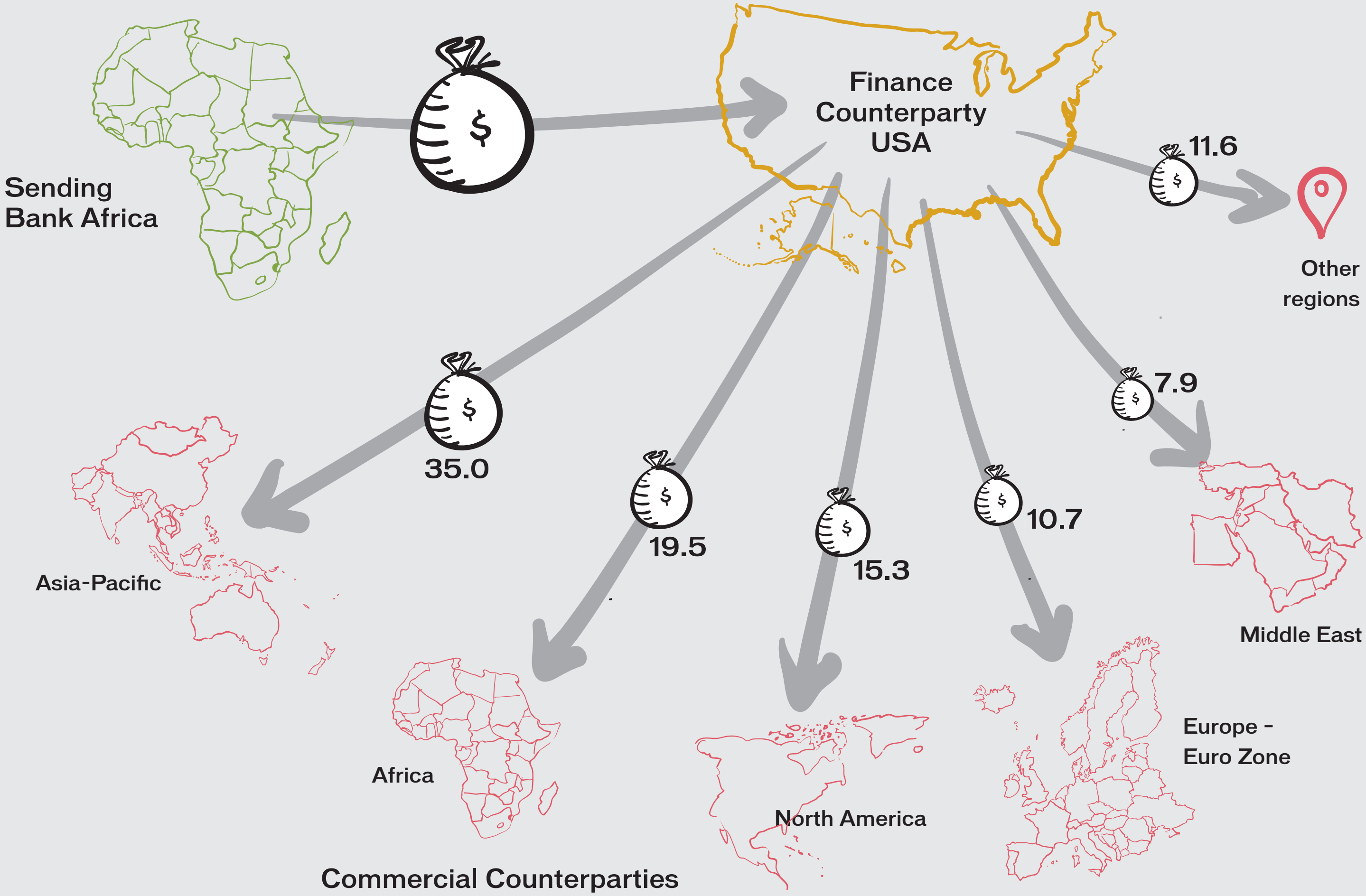
1

Introduction and Background

Illicit financial flows, when not in cash, are accounting movements in the (electronic) books of one or more banks[1]. As explained in Module 1, the term 'illicit' includes any transaction that is illegal or abusive in terms of its nature, origin, transfer, use or destination. However, accounting movements that require banks to go through jurisdictions based on convenience" and not "economic reality" also fall within the scope of illicit activities. This implies that illicit financial flows inevitably have a cross-border feature important for tax, regulatory, secrecy, or jurisdictional arbitrage. In some of these jurisdictions, financial regulations are so lenient that (shell) banks can operate there without requiring a physical presence. When an international transfer occurs, it is generally registered in the SWIFT messaging system: a secure communications protocol used amongst thousands of banks to communicate and authorise credits or debits of accounts. The cross-border characteristic of illicit financial flows, therefore, subjects them to the conventions of the international banking correspondence system, including their denomination being an international currency–primarily the US dollar- and the use of the SWIFT messaging system. To sum up, illicit financial flows are recorded through (shell) banks in jurisdictions for convenience, are in dollars and are communicated through SWIFT.

There is no publicly available analysis of SWIFT messages for Latin American and Caribbean countries, but it is possible to understand the rationale by looking at the case of Africa[2].

Figure 1: Final destination of payments from Africa routed through US clearing banks (%)



Source: SWIFT Watch. https://www.swift.com/resource/africa-payments-insights-african-transaction-flows

Although, only 10% of the payments originating in Africa are channeled to North America as the final destination, North American banks are intermediaries of 40% of all international payments ordered by African banks[3]. That is, for every ten transactions originating from Africa to anywhere in the world, four transactions go through banks in North America but only one ends up in North America. On the other hand, out of all the transactions intermediated by US banks that have originated in Africa, 35% of transactions end up in Asia-Pacific and 20% end up back in Africa. This clearly shows the central role that US banking system plays in cross-border flows, including for illicit flows.

In Latin America and the Caribbean, the relative use of the US dollar and US banks is much more frequent than in Africa, where there is still a significant influence of European banks. This is evident by the fact that the most recurring location for the General Assemblies of the Latin American Federation of Banks is Miami, USA.

Accounting movements that require banks to go through jurisdictions based on “convenience” and not “economic reality” also fall within the scope of illicit activities.

In the case of Latin America, most illicit financial flows are concentrated in the United States, Panama, the Cayman Islands and some other jurisdictions. However, if we analyse each country, there are some favourite corridors of illicit financial flows depending on geographical proximity and historical idiosyncrasies of each country’s elites. For example, Colombia and Ecuador have a close financial relationship with Panama. Argentina’s financial relationship is closer with Uruguay. Mexico has a closer financial relationship with the United States and Brazil has one with the Cayman Islands. In the next section, we examine these relationships with the help of some statistics.

2

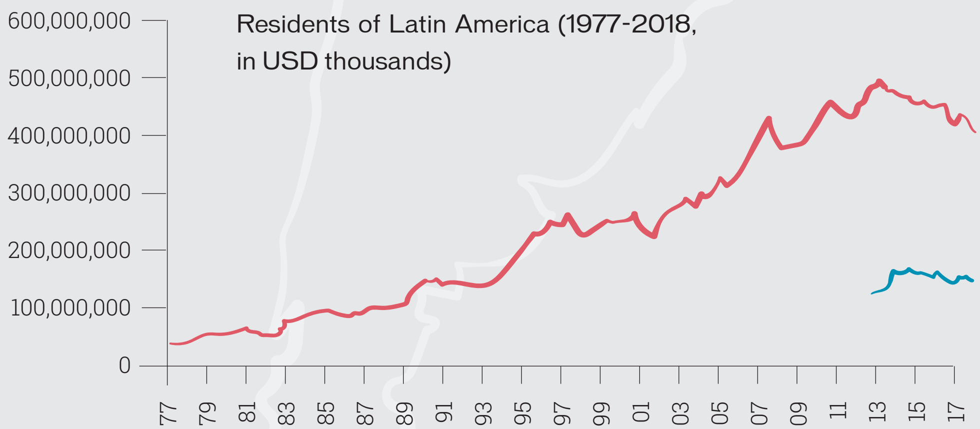
General Analysis of the Situation in Latin America and the Caribbean

According to the Bank for International Settlements (BIS), Switzerland, the total deposits made by developing Latin American and Caribbean countries in foreign banks add up to a total of $ 403.5 billion (as of December 2018). This is in stark contrast with the $620.4 billion that Latin American and Caribbean countries have in debts with these institutions.

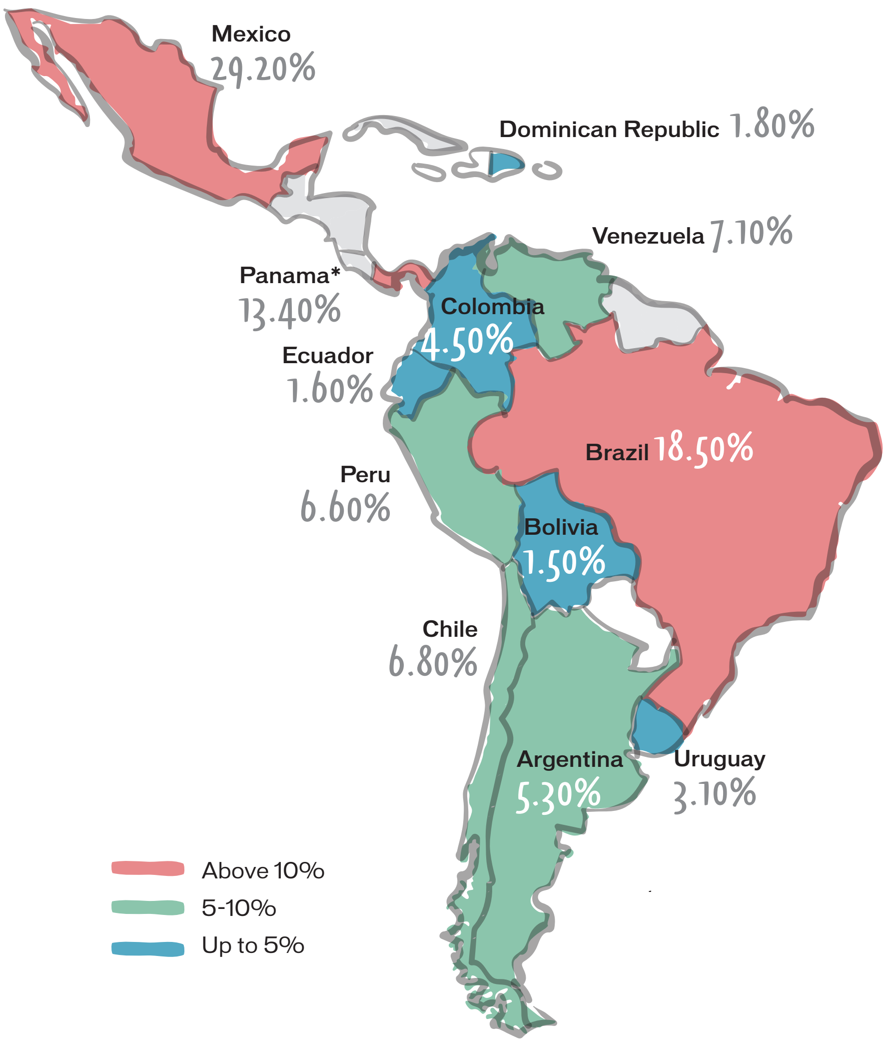
Before continuing with more data, it is worth highlighting a statistical problem of significant magnitude. The BIS statistics compiled by the monetary authorities of the main financial centers are limited to considering residence as "immediate counterparts". So, let's say, a Chilean individual creates, and is the ultimate beneficiary of a company in the British Virgin Islands, a well known tax haven. Any monetary deposits made by this company in the United States will be recorded in statistical data as a deposit corresponding to the British Virgin Islands, not Chile. Therefore, the figures indicated in the preceding paragraph are important underestimations, but (for now) impossible to determine exactly.

The graph below shows the historical evolution of Latin America and the Caribbean's deposits abroad. While in 1977, it did not exceed $50 billion, in 2013 it reached its highest point with $500 billion. The red line represents the deposits of the non-financial sector, that is, of companies, households and parastatal entities[4]. That amount, as shown, reaches $146.0 billion (36% of the total). The difference between $403.5 billion and $146 billion is attributed to the financial sector's assets that are abroad.

Figure 2: Deposits abroad of total (red) and non-financial (blue)



Source: Locational Banking Statistics - Bank for International Settlements (BIS)



The country that has the most assets abroad is Mexico, followed by Brazil, Panama and Venezuela. The case of Panama (*) is special because it is not considered to be a developing Latin American country by the BIS, but rather an offshore center. However, it is important to show the size of Panama's nominal assets abroad in relation to the rest of Latin American countries.

Figure 3: Foreign Deposits of Residents of Latin American Countries

	Foreign deposits (USD Billions, Dec 2018)	Share in Latin America (%)
Mexico	117.7	29.20%
Brazil	74.7	18.50%
Panama*	54.0	13.40%
Venezuela	28.7	7.10%
Chile	27.4	6.80%
Peru	26.7	6.60%
Argentina	21.6	5.30%
Colombia	18.2	4.50%
Uruguay	12.7	3.10%
Dominican Republic	7.3	1.80%
Ecuador	6.5	1.60%
Bolivia	6.2	1.50%

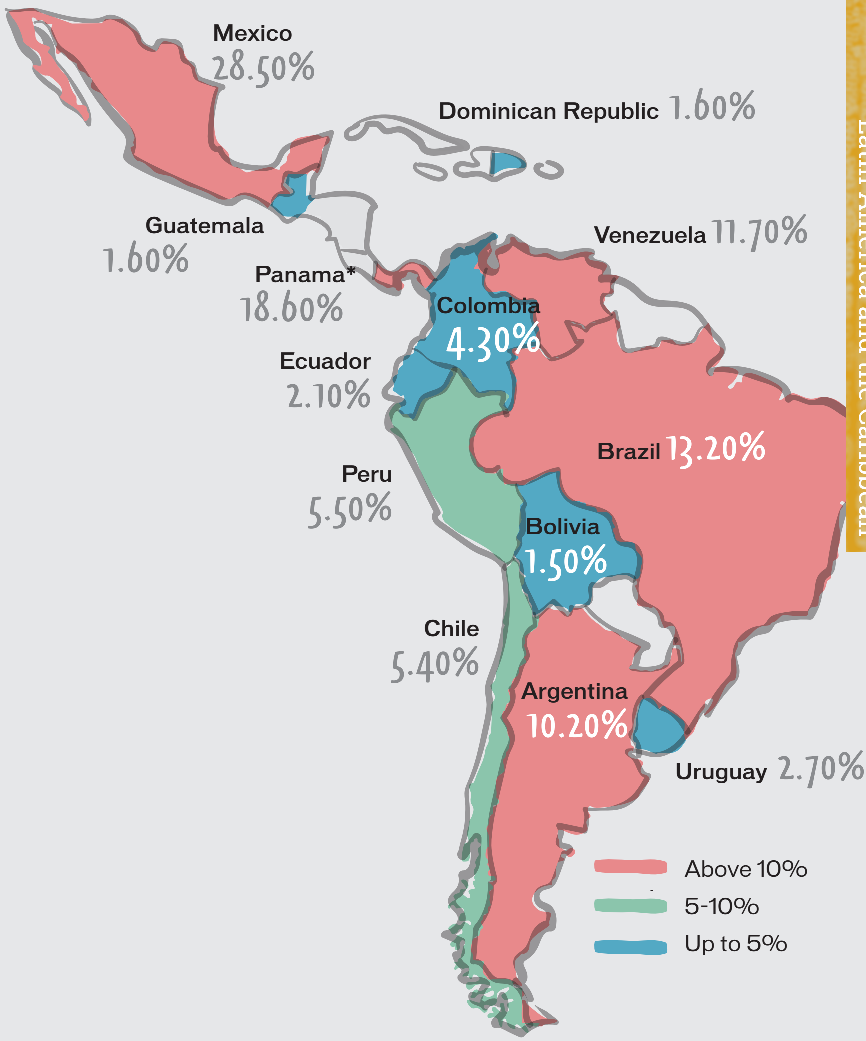
Source: Locational Banking Statistics - Bank for International Settlements (BIS)

If we want to observe the assets abroad of the non-financial sectors of the Latin American countries, similar results can be observed in ordinal terms. Again, we see Mexico leading, but Panama ranks even higher here than in the previous table. This is likely explained by the statistical phenomenon described above as Panama is a tax haven in which many shell companies are registered.

Figure 4: Foreign Deposits of non-financial sectors of residents of Latin American Countries

	Foreign deposits (USD Billions, Dec 2018)	Share in Latin America (%)
Mexico	41.6	28.50%
Panama*	27.2	18.60%
Brazil	19.3	13.20%
Venezuela	17.1	11.70%
Argentina	14.9	10.20%
Peru	8.1	5.50%
Chile	7.8	5.40%
Colombia	6.3	4.30%
Uruguay	4.0	2.70%
Ecuador	3.0	2.10%
Guatemala	2.4	1.60%
Dominican Republic	2.3	1.60%

Source: Locational Banking Statistics - Banco de Pagos Internacionales (BIS)



3

What is the Preferred Banking System for Foreign Capital Deposits of Developing LAC Countries?

According to the Treasury Information Capital System of the US government, approximately $241.6 billion of the $403.5 billion are deposited in the United States (60% of all LAC money abroad is in the US). In the case of non-financial capital, there are $124.1 billion in the US (85%).

The amount of assets abroad, along with the information available on international payments in the case of Africa, should call our attention to the role that the United States plays in the channelling of illicit financial flows in the case of Latin America too. The largest banks in Latin America and the Caribbean are part of the Florida International Bankers Association (FIBA). The following table shows the list of FIBA member banks. Latin American owned banks and megabanks are highlighted below.

Figure 5: Banks members of the Florida International Bankers Association[5]

Apollo Bank	
Bac Florida Bank	Centroamérica
Banco Azteca S.A. Institución de Banca Múltiple	México
Banco de Bogota Miami Agency	Colombia
Banco de Crédito del Peru-Miami Agency	Perú
Banco de Crédito e Inversiones	Chile
Banco do Brasil	Brasil
Banco Financiera Comercial Hondureña (Int'l Rep Office	Honduras
Banco Internacional de Costa Rica, S.A.	Costa Rica
Banco Pichincha	Ecuador
Banco de la Nación Argentina	Argentina

Latin America owned banks

Megabanks

What is the Preferred Banking System for Foreign Capital Deposits of Developing LAC Countries?

Banco Sabadell, Miami Branch	
Banesco	Venezuela
Bank Hapoalim, B.M.	
Bank Leumi	
Bank of America Merrill Lynch	
Bank United Inc	
Bansirul Miami Branch	Brasil
Barclays	
BBVA Compass Group	
Brickell Bank	
Brown Brothers Harriman & Co	
Citibank, N.A-Wealth Management	
City National	
CorpBanca	Colombia
Credit Agricole Private Banking Miami	
Davivienda International	Colombia
Eastern National Bank	
EFG Capital International Corp.	
First Citizens Bank Limited	
Gibraltar Private Bank & Trust	
Global Bank of Commerce Limited	
HSBC Private Bank International	
IDBBANK-Israel Discount Bank of New York	
International Finance Bank	
Itau Private Bank	Brasil
JP Morgan Chase	
Mercantil Commercebank, N.A.	Venezuela
Morgan Stanley	
Nodus International Bank	

Latin America owned banks

Megabanks

Northern Trust Company	
Ocean Bank	
Pacific National Bank	**Ecuador**
Regions Bank	
Safra National Bank of New York	
Santander Bank	
St. Kitts-Nevis-Anguilla National Bank Ltd.	
Sunstate Bank	
SunTrust Banks, Inc, Miami	
TD Bank	
Terrabank, N.A.	
Totalbank	**Chile**
U.S Century Bank	
UBS AG	
Wells Fargo Bank, N.A.	

Against this backdrop, it is not surprising that the financial intelligence unit of the US (Financial Crimes Enforcement Network, FinCEN) issued a geographically targeted order in 2016 aimed at controlling money laundering, specifically in Miami[6]. More recently, in March 2019, the Federal Bureau of Investigation (FBI) announced the opening of an office in Miami specifically dedicated to studying accounting corruption and white-collar crimes that are conducted outside the United States but have a connection with Miami, presumably as a financial center[7]. Miami's role as a destination for Latin American capitals–considered to be illicit financial flows–has been documented for decades[8]. It is estimated that in 1986, 28% of all LAC capital deposited abroad was in Miami. This phenomenon is referenced in the American series Miami Vice that began airing in the mid-1980s, which showed the city as a center of money laundering, drug trafficking and arms trafficking operations.

The 80s: Looking back

The 1980s were a time of substantial reforms, especially in the structure of the economic policy of international financial flows in Latin America and the Caribbean. It was during this period that tax havens and offshore banking started becoming prominent. The phenomenon came about largely because of financial deregulation as well as the deregulation of the capital account (called opening or liberalisation by orthodoxy). The gradual cutback in the role of central banks in international transfers took place through the privatisation of international payment systems through the emergence of the international banking correspondent services. Further, these economic policy decisions were influenced by the conditionality of the agreements with the International Monetary Fund (IMF). In fact, the IMF publishes the annual report on exchange restrictions, which seeks to stigmatise countries that violate ("restrict") the free mobility of capital. In turn, the OECD's Code of Liberalisation also made deregulation of the capital account an international standard that allowed developed countries to deepen their role as recipients of illicit financial flows. Finally, the international treaty network opened by the Financial Services Annex of the General Agreement on Trade in Services (GATS), negotiated throughout the 1980s and signed in 1994, meant the crystallization of deregulation of financial flows for most countries.

Deregulation was also included as a pillar in successive treaties such as Free Trade Agreements (FTA) and Bilateral Investment Protection treaties (BIT). One of the pillars of the FTAs is the deregulation of the capital account: the prohibition where states imposed controls on the free transferability of foreign currency abroad. Furthermore, BITs establish that the financial flows of foreign investments (broadly defined) must be guaranteed free transferability abroad, under the penalty that the owner of regulated capital may initiate international arbitration against the regulatory state.[9]

However, the question of why financial flows are predominantly channeled through and deposited in the US still persists. The answer is geopolitical, but with technical edges.

The geopolitical dimension has to do with the Bretton Woods agreements. After World War II, it was defined that the dollar would be the unit of account in planetary commerce. After the breakdown of Bretton Woods in 1971, the Petrodollar agreement between the Arab monarchies and the United States government was consolidated so that the oil and gas trade–main energy and raw materials for the chemical sector (e.g. fertilizers, textiles, plastic)–would be denominated in US dollars. The demand for dollars for international trade in turn generates demand for banking services with access to dollar payment systems. While the 'xenodollar' phenomenon (dollar accounts outside the United States) is an option, the only issuer of last resort in case of insufficient liquidity for international payments is the United States,

> **When dollars flow from one bank to another bank, records are also registered in a third 'correspondent' bank—generally based in the United States.**

particularly the Federal Reserve. Because dollars are created as banks' liabilities, dollars continue their lifecycle in circulation as electronic accounting records on the balance sheets of the banks that created them. When dollars flow from one bank to another bank, records are also registered in a third 'correspondent' bank–as explained, generally based in the United States. It is only when dollars flow within the same bank that the records are not shared elsewhere.

Additionally, the Basel Committee on Banking Supervision has issued regulations that worsen the systematic behavior of placing capital abroad. As we have seen, two-thirds of the assets abroad of Latin America and the Caribbean are from financial institutions (including commercial banks and central banks). Therefore, it is absolutely crucial to ask why banks place their liquid assets in developed countries, particularly in the United States. A part of this liquidity is the result of international payments through exports, remittances, etc. But another part is due to portfolio optimisation decisions. According to Basel international standards, a large part of the banks' portfolios must be invested in maximum safe and liquid securities[10]. At the international level (primarily the US, German and Japan), government bonds attain maximum safety and liquidity. Although in some cases, Latin American banks directly acquire US government bonds. In others, however, they acquire stakes in money-market funds (liquid investment funds) that in turn invest in US government bonds or maintain liquid deposits in the US banking institutions that are "*too big to fail*" (of systemic importance, also called "megabanks")[11].

4

The Role of Megabanks

the institutions that have been considered megabanks by Basel are listed in the table below, organised into five categories according to their global systemic importance. Nine of the twenty-nine banks are from the United States. Two of the four largest banks are from the United States. The largest bank is also from the United States. It is in these institutions where the records of illicit financial flows remain. In particular:

Only taking the activity of financial flows variables from the data used by BIS to carry out this categorisation (in 2017), 20 banks (among the 76 largest banks in the world) concentrate 68% of the activity of financial flows. The statistics refer only to payments ordered by these institutions through high value payment systems excluding intra-group payments. Six of these banks, almost all of them from the United States, (JP Morgan, BNY Mellon, Citigroup, Deutsche Bank, Bank of America and HSBC) concentrate 39% of the payment activity. On its own, JP Morgan concentrates 12% of the payment activity of 76 large banks worldwide; its payment activity was EUR 242.8 billion in 2017.

Figure 6: Globally Systemically Important Banks

(from highest to lowest importance)

Category	Megabanks[12]
5	(empty)
4	JP Morgan Chase
3	Citigroup, Deutsche Bank, HSBC
2	Bank of America, Bank of China, Barclays, BNP Paribas, Goldman Sachs, Industrial and Commercial Bank of China Limited, Mitsubishi UFJ FG, Wells Fargo
1	Agricultural Bank of China, Bank of New York Mellon, China Construction Bank, Credit Suisse. Groupe BPCE, Groupe Crédit Agricole, ING Bank, Mizuho FG, Morgan Stanley, Royal Bank of Canada, Santander, Société Générale, Standard Chartered, State Street, Sumitomo Mitsui FG, UBS, Unicredit Group

Source: Financial Stability Board (2018). 2018 list of global systemically important banks (G-SIBs) https://www.fsb.org/wp-content/uploads/P161118-1.pdf

Among the Wolfsberg Group's priorities for 2019 are "reducing friction for the customer" and "ensuring data privacy guarantees". This means that they continue to promote the free transfer of financial flows and bank secrecy.

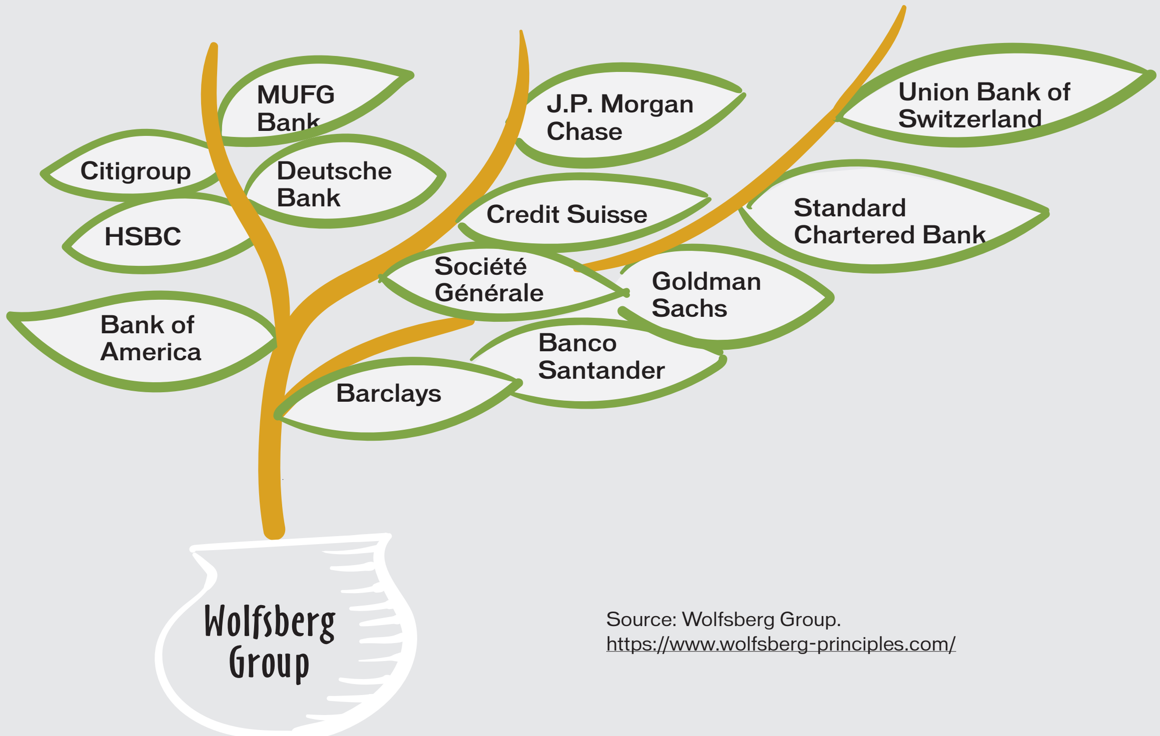
The level of interconnectedness between banks is measured by the amount of liabilities they have with other each other. In this category, 20 banks (including seven in China) account for 52% of intra-bank liabilities. Six banks concentrate 19% of intra-bank liabilities: JP Morgan, Deutsche Bank, Industrial Commercial Bank of China, Mitsubishi UFG, HSBC and Shanghai Pudong. At the end of 2017, JP Morgan led the concentration of intra- bank liabilities with EUR 350 billion, which represented 4% of this category.

In relation to cross-border liabilities- a proxy for their role in international correspondent networks, including non-resident direct clients - 20 banks (of the 76 largest in the world) concentrate the 65%. Six banks (HSBC, BNP Paribas, Santander, Citigroup, ING Bank, JP Morgan) concentrate 30% of cross-border liabilities. The HSBC, from the United Kingdom, leads this category with 7% of cross-border liabilities of the 76 largest banks in the world; in total, it registered EUR 1.16 billion at the end of fiscal year 2017.

In the public sphere, Senator Carl Levin of the United States has carried out multiple investigations on the role of US banks in the systemic facilitation s of illicit financial flows[13]. Megabanks have been evidenced as systemic facilitators of IFFs–sometimes as direct promoters of such flows[14] and other times as a result of negligence[15] or as passive actors of international flows[16].

Aware of the systemic role they play in illicit financial flows, the largest Western banks (including Japan) formed the Wolfsberg Group. It is a group of thirteen megabanks (see figure 7) dedicated to developing frameworks and guidance for financial crime risk management, from a banking perspective. Among the group's priorities for 2019 are "reducing friction for the customer" and "ensuring data privacy guarantees". This means that they continue to promote the free transfer of financial flows and bank secrecy. Next is the composition of group members[17]. They are the same institutions that star in the list of megabanks and serve as systemic facilitators of illicit financial flows, revealed through self-selection.

Figure 7: Transnational megabanks members of the Wolfsberg Group (June 2019)



Source: Wolfsberg Group.
https://www.wolfsberg-principles.com/

Just as these banks have a global presence, they also have a presence in Latin America and the Caribbean. We proceed to examine the cases of banks as facilitators in Mexico (the LAC developing country with more capital abroad) and in the Cayman Islands (the offshore center with more capital abroad).

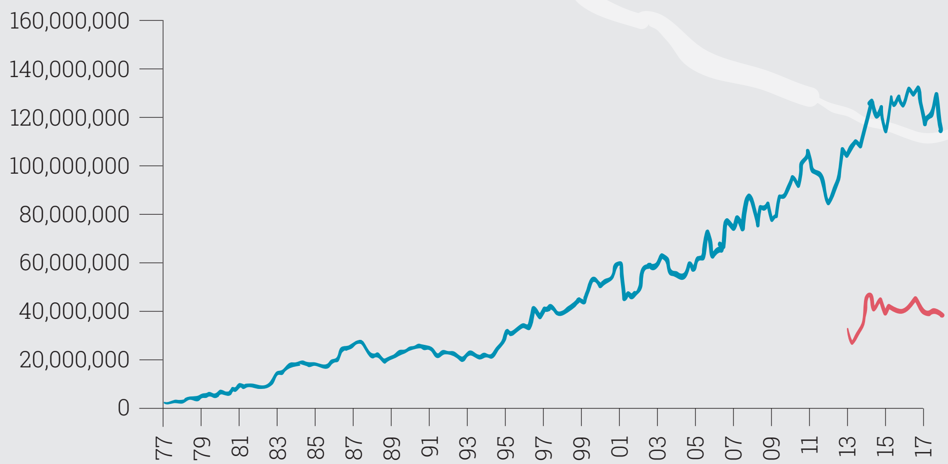
5 The Case of Mexico

Residents in Mexico accumulate $118 billion in banks abroad. Of that amount, $50 billion correspond to capital of the non-banking sector and $42 billion of the non-financial sector. As can be seen in the graph, the tendency to accumulate assets abroad is increasing, especially since 1994, when the North American Free Trade Agreement (NAFTA) came into effect.

Mexico places its capital primarily in the United States. This is not in vain; Mexico is one of the few countries in the world that has had, in the past, a swap line with the United States Federal Reserve and currently has a swap line with the United States Department of the Treasury. Undoubtedly, due to the geographical proximity and the deep economic and financial ties between Mexico and the United States, the US has become the main destination of Mexican financial flows. The US accounts for 61% of total deposits of Mexican residents and 71% of non-

Figure 8: Deposits of Mexican residents in Foreign Banks

(1977-2018, USD thousands)



Source: Locational Banking Statistics. Banco de Pagos Internacionales (BIS)

Due to their geographical proximity, and their deep economic and financial ties, the United States accounts for 61% of total deposits of Mexican residents and 71% of non-banking sector deposits.

banking sector deposits. Only 6% of Mexico's deposits abroad seem to be in jurisdictions that prefer to keep the BIS statistical disaggregation by country confidential.

It is worth examining the deposits in the US. It is often overlooked that the US jurisdiction allows a certain amount of relaxation in regulatory treatments, especially for the creation of certain corporations or foundations. While the BIS reports $71.6 billion of Mexico's deposits in the US, the US TIC[18] reports $79.6 billion. On the non-bank side, the BIS reports $35.6 billion and the US TIC reports $33.8 billion. Both figures approximate each other, thus are

Figure 9: Deposits of Mexican residents in foreign banks, by country (to december 2018)

Deposits by country	Total (USD billions)	% of total	Non-banking (USD billions)	% of total
US:United States	71.6	60.8%	35.6	71.1%
ES:Spain	7.7	6.5%	2.7	5.3%
CH:Switzerland	7.6	6.4%	3.4	6.8%
CA:Canada	4.7	4.0%	0.8	1.6%
GB:United Kingdom	4.6	3.9%	1.9	3.7%
Others	3.5	2.9%	7.0	13.9%
Unknown	18.2	15.4%	5.8	11.5%

Source: Locational Banking Statistics. Banco de Pagos Internacionales (BIS) considered within a range of statistical tolerance. Detailed figures by type of deposit instrument reveal that the non-banking sector (companies and individuals) have a strong presence in the United States. Deposits in the US amount to approximately 25% of all deposits in the Mexican banking system. It is a research challenge to identify which would be the main US banks that receive the deposits of Mexican residents in order to investigate illicit financial flows of Mexican origin channeled through US banks.

Wolfsberg Banks in Mexico

Mexico has a large presence of foreign financial entities in its territory. Credit Suisse, JP Morgan, Citigroup, Santander, Bank of America, Barclays, Deutsche Bank, HSBC, MUFG are entities that make up the Wolfsberg Group and operate in Mexico under multiple banking licenses. Societé Generale has a representative

Figure 10: Deposits of Mexico residents in US banks (to December 2018)

Deposits in US	USD billion
TOTAL	79.6
Payable in dollars	72.5
Total own liabilities payable in dollars	64.0
Total custody liabilities payable in dollars	8.5
Non negotiable deposits Held by foreign official institutions and foreign banks	30.4
Non negotiable deposits Held by all other foreigners	27.5
Negotiable CDs Held by foreign official institutions and foreign banks	3.4
Negotiable CDs Held by all other foreigners	5.0
Other liabilities Held by foreign official institutions and foreign banks	4.9
Other liabilities Held by all other foreigners	1.3
Total liabilities payable in foreign currencies	7.1

Source: Treasury Information Capital System. US Treasury.

office and UBS operates as a brokerage and wealth management firm (investment advisor).

Bank of China, Industrial and Commercial Bank of China (ICBC) and Mizuho are not in the Wolfsberg Group but are part of the megabank list. They also operate in Mexico.

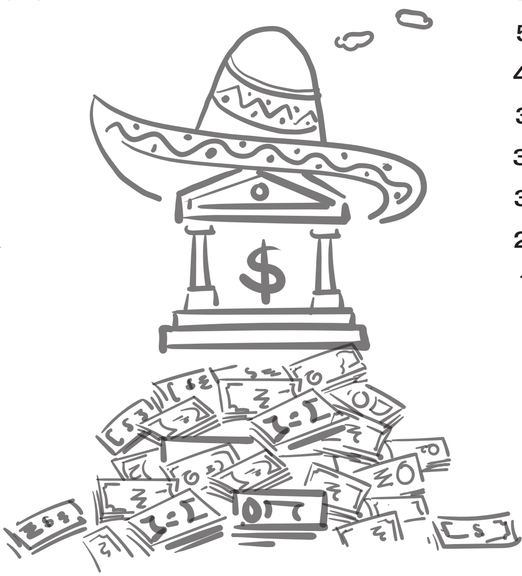
However, it is noteworthy that Bank of China, Barclays, Deutsche Bank, Mizuho and ICBC (in that order) have zero or negligible levels of deposits in the Mexican jurisdiction. These institutions, in addition to the operations of Societé Generale and UBS, should be flagged as possible regulatory arbitrage practices. These entities could be taking advantage of their

Figure 11: Deposits in Banks Operating in Mexico

(end-December 2018)

Deposits by Banks[19]	MXN million	Share (%)
BBVA Bancomer	1.218.560	21.3%
Banorte	792.391	13.8%
Santander	775.840	13.6%
Banamex (Citigroup)	768.574	13.4%
HSBC	464.209	8.1%
Scotiabank	385.791	6.7%
Inbursa	236.756	4.1%
Banco del Bajío	166.215	2.9%
Banco Azteca	123.665	2.2%
Banregio	94.624	1.7%
Multiva	86.256	1.5%
Bancoppel	56.562	1.0%
Afirme	53.696	0.9%
Monex	45.644	0.8%

Banca Mifel	45.104	0.8%
Sabadell	42.662	0.7%
Ve por Más	40.436	0.7%
CIBanco	32.728	0.6%
Banco Ahorro Famsa	30.880	0.5%
Actinver	26.514	0.5%
Bank of America	25.116	0.4%
Invex	24.492	0.4%
MUFG Bank	22.209	0.4%
J.P. Morgan	19.530	0.3%
Compartamos	18.889	0.3%
Banco Base	16.445	0.3%
Credit Suisse	15.067	0.3%
Intercam Banco	15.031	0.3%
Bansí	13.632	0.2%
Bancrea	11.835	0.2%
American Express	10.297	0.2%
ABC Capital	6.180	0.1%
Consubanco	5.867	0.1%
Inmobiliario Mexicano	5.659	0.1%
Autofin	5.156	0.1%
Accendo Banco	4.245	0.1%
ICBC	3.787	0.1%
Mizuho Bank	3.365	0.1%
Finterra	3.278	0.1%
Volkswagen Bank	2.679	0.0%
Banco S3	1.107	0.0%
Shinhan	481	0.0%



Forjadores	315	0.0%
BIAfirme	197	0.0%
Dondé Banco	190	0.0%
Pagatodo	18	0.0%
Deutsche Bank	1	0.0%
Barclays	0	0.0%
Bank of China	0	0.0%
Bankaool	0	0.0%

Source: National Banking and Securities Commission

commercial presence- physical establishments- but orienting their deposit-taking business to their subsidiaries in other jurisdictions outside the Mexican territory. In some countries, the deposit-taking by entities that do not have a domestic bank license carries penalties of a criminal nature. Additionally, such uptake would be incurred in the cross-border mode of financial services under the General Agreement on Trade in Services, which were not necessarily included as commitments to liberalisation.

Mexican banks in offshore jurisdictions

On the other hand, it has been possible to identify two Mexican private banks operating in offshore banking jurisdictions. The first is Banco Azteca, in Panama[20]. According to the Superintendence of Banks of Panama, this operation has deposits for $21.6 million, which are 100% from Panamanian clients. Additionally, credit operations are 97% within Panama. Banco Azteca has 393 employees in six physical branches in Panamanian territory.

The second is Banorte, in the Cayman Islands. Besides the fact that it has a type B banking license (no physical presence required), there is no more information available on them[21]. Although, the Cayman Islands Monetary Authority (CIMA) argues that banks with a type B banking license are subject to consolidated supervision by the national supervisory authority- in this case, the Mexican National Banking and

Securities Commission (CNBV)–no publicly available document of consolidated supervision agreements was found between CNBV and CIMA.

Additionally, Mexican state-owned banks Nacional Financiera and Banco de Comercio Exterior have branches in the Cayman Islands with type B licenses (no physical presence required).

In addition to the megabanks identified above, BBVA and Scotiabank also have an offshore presence, particularly in the Cayman Islands. In the case of BBVA, in addition to a bank license in Cayman Islands, it also has a license for the administration of trusts. The administration of trusts is a tool used more as a facilitator of illicit financial flows to add one more level of secrecy and legal veil to the final beneficiary.

6

The Case of Cayman Islands

The Cayman Islands are the most transnationalised offshore banking jurisdiction. Only 2% of deposits in banks domiciled in the Islands are from capital originating there. These Islands, located in the Caribbean, fulfill a systemic function in The United States' financial system and therefore in the global financial system. However, it also has a broad history of illicit financial flows with Latin America.

The US TIC reports approximately $5440 billion deposits and short-term securities (including Treasury bonds) from abroad (June, 2018). With $1513 billion, the Cayman Islands are, in turn, the largest depositor in the US banking system. To understand the magnitude, it is worth comparing this amount with those of other countries. The Cayman Islands' funds in the US are 1.5 times larger than those of the United Kingdom, almost four times larger than those of Japan and 10 times larger than those of China. The Cayman Islands, alone, account for 25% of all short-term cross-border liabilities of the US banking system. This data is explained by the importance of "shadow banks"–financial entities without a banking license, such as investment funds or hedge funds. In many cases, this money simply serves a round-tripping function for regulatory and tax arbitrage purposes[22].

US shadow banks place money in the Cayman Islands to take advantage of unlimited leverage and lower solvency requirements, on the one hand, and non-existent tax rates, on the other.

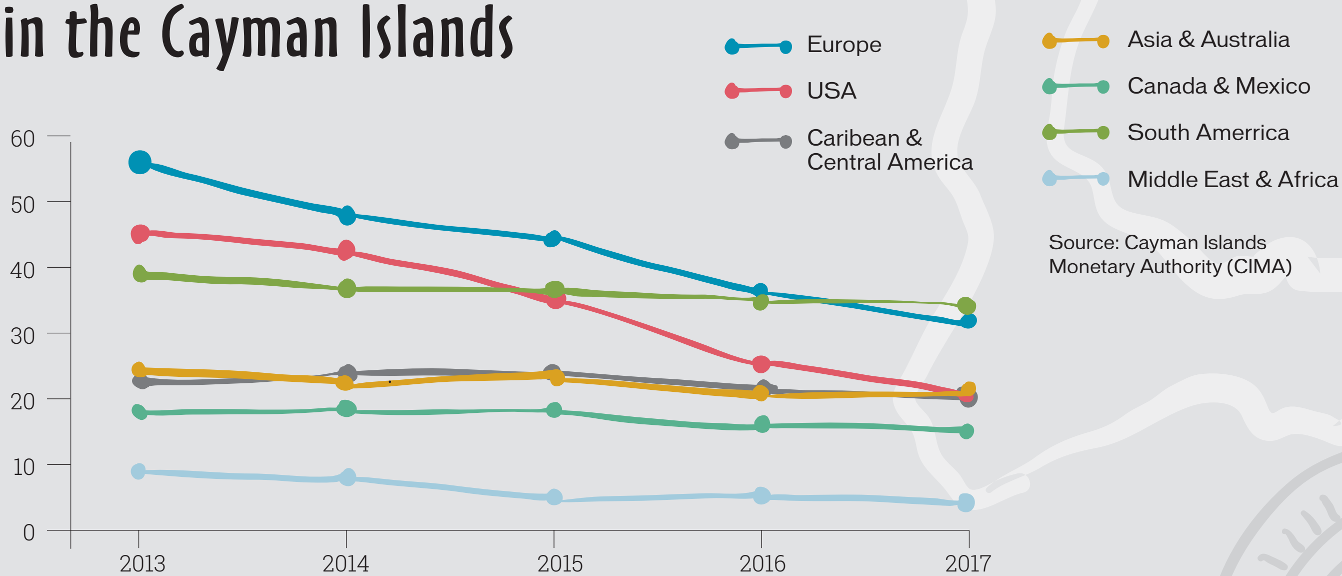
Considering specifically the banking sector, out of the $819 billion reported by CIMA in cross-border deposits in banks of the Cayman Islands, $446 billion are deposited in US banks. That is, half of every dollar deposited in banks in the Cayman Islands is redirected to US banks. Consequently, almost all megabanks in the world operate in the Cayman Islands.

According to the BIS, in 2011 there were 234 banks in the Cayman Islands. Till date, 133 banks are operational, almost all of them with a type B license (no physical presence required). Only ten banks have a Type A license (which allows them to operate with local customers). In type B banks, 265 people work in the Islands and 3285 people work outside the Islands. The reduction in the number of offshore banks, according to CIMA, is attributed to Regulation Q of the Dodd-Frank banking regulation legislation in the United States. This regulation allowed banks to remunerate liquid deposits in US banks with interest. However, the requirements of other regulation put in place to prevent money laundering and help combat the financing of terrorism increased transaction costs for banks operating in offshore jurisdictions. Not only have banks been shut down (as is evident in the case of the Cayman Islands) but also, according to the BIS, correspondent relations between onshore and offshore banks have been severed[23]. In the case of the Cayman Islands, between 2012 and 2018, 21% of bank correspondent relationships (bank accounts in other banks) have been closed.

According to the CIMA, there are 20 banks from Central America and the Caribbean, 15 banks from Canada and Mexico and 34 banks from South America operating in the Islands. This shows the deep relationship that exists between Latin American banks and the jurisdiction.

CIMA reports that $50.6 billion in developing Latin America and Caribbean are deposited in the Cayman Islands. The vast majority correspond to deposits from the banking sector. In fact, 68.5% of all deposits in the Islands correspond to intra-group deposits of the banks mentioned. Only

Figure 12: National origin of Banks licensed to operate in the Cayman Islands



Source: Cayman Islands Monetary Authority (CIMA)

Figure 13: Banks of Latin America in Cayman Islands

(June 2019)

TYPE OF LICENSE: BANKING

Banco ABC Brasil S.A.

Banco Bradesco S.A.

Banco do Brasil S.A.

Banco do Estado do Rio Grande do Sul S.A.

Banco Mercantil del Norte, S.A., Institucion de Banca Multiple, Grupo Financiero Banorte

Banco Mercantil do Brasil S.A.

Banco Nacional de Comercio Exterior, SNC

Banco Sumitomo Mitsui Brasileiro S.A.

Bancolombia Cayman

BCP Finance Bank, Ltd.

Haitong Banco de Investimento do Brasil S.A.

Itau Unibanco Holding S.A.

ITAU UNIBANCO S.A.

Mizuho do Brasil Cayman Limited

Nacional Financiera S.N.C.

St. Georges Bank & Trust Company (Cayman) Ltd.

Venezolano De Credito, S.A., Banco Universal

TYPE OF LICENSE: BANKING & TRUST

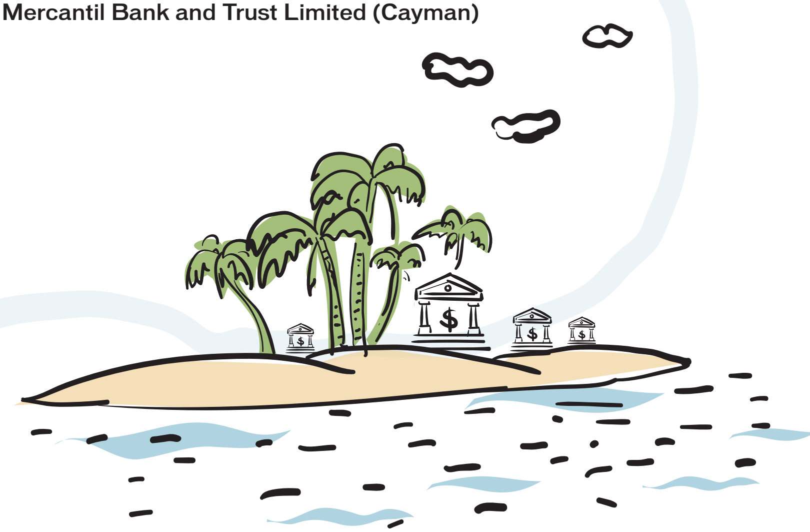
Atlantic Security Bank

Banco BTG Pactual S.A.

Itau Bank & Trust Cayman Ltd.

Itau Bank, Ltd.

Mercantil Bank and Trust Limited (Cayman)



Source: Autoridad Monetaria de las Islas Caimán (CIMA)

$7.5 billion belong to the non-banking sector of developing Latin America and the Caribbean.

Banks of Latin America in Cayman Islands

Given that CIMA does not publish detailed information on each bank, an initial approach was made to determine, through secondary sources, the nationality of the banks that are domiciled in the Cayman Islands that could be of Latin American or Caribbean origin. It can be concluded that Brazilian banks have a very strong presence in this jurisdiction.

To understand the role of banks as facilitators of illicit financial flows, we can look at two specific cases: the HSBC with headquarters in London, United Kingdom and the Atlantic Security Bank of the Cayman Islands.

HSBC

HSBC has been at the center of media and judicial attention on a recurring basis for its role as a facilitator of illicit financial flows. In fact, the HSBC is at the top of the list of financial institutions that facilitate tax evasion of the Internal Revenue Service of the United States Treasury[24]. It was at the centre of one of the largest leaks in history, the SwissLeaks, in 2015. The whistleblower who leaked the information of the Swiss private banking subsidiary of HSBC is Hervé Falciani. The information provided by Falciani allowed several developing countries to initiate investigations, take action and increase their revenue collection.

As a result of the leak, in 2017, the HSBC reached an agreement with the French prosecutors to pay EUR 300 million for facilitating tax evasion practices. In 2019, a former senior executive of HSBC, Peter Braunwalder, pleaded guilty to the promotion and facilitation of illicit financial flows from France and other European countries to the Swiss subsidiary of HSBC. Facilitation included creating clandestine bank accounts, establishing offshore trusts and forging loans[25]. In addition to the bank penalty, the manager was also punished with a fine of EUR 500,000 and a (suspended) sentence of one year.

However, this is not the only incident in which HSBC had been involved. In 2012, another whistleblower, Everett Stern, provided information to the US Department of Justice. Due to this information, HSBC had to pay $ 1.25 billion for money laundering and a fine of $655 million. In this case, the negligence of HSBC occurred as a correspondent bank (which keeps accounts of other banks). The bank facilitated international transfers from its subsidiaries and other banks without due diligence[26].

Atlantic Security Bank (ASB)

The ASB is an offshore bank, with a type B license, in the Cayman Islands. This means that it does not require a physical presence in the Cayman Islands. In fact, it reports its main offices in Lima, Peru and indicates that almost all of its clients are located in Peru. ASB is a subsidiary of the Peruvian financial group Credicorp (Banco de Crédito del Perú - BCP) and reports that it has operations in the Cayman Islands and Panama, two offshore centers. Its main activities are administration of trusts, private banking and institutional banking services. Private banking or wealth management is a term used when catering to wealthy clients.

According to the information reported by Credicorp (which is established in the offshore jurisdiction of Bermuda) to the Securities and Exchange Commission (SEC), the ASB has 136 employees[27]. The group reports 34 thousand employees in the Hemisphere.

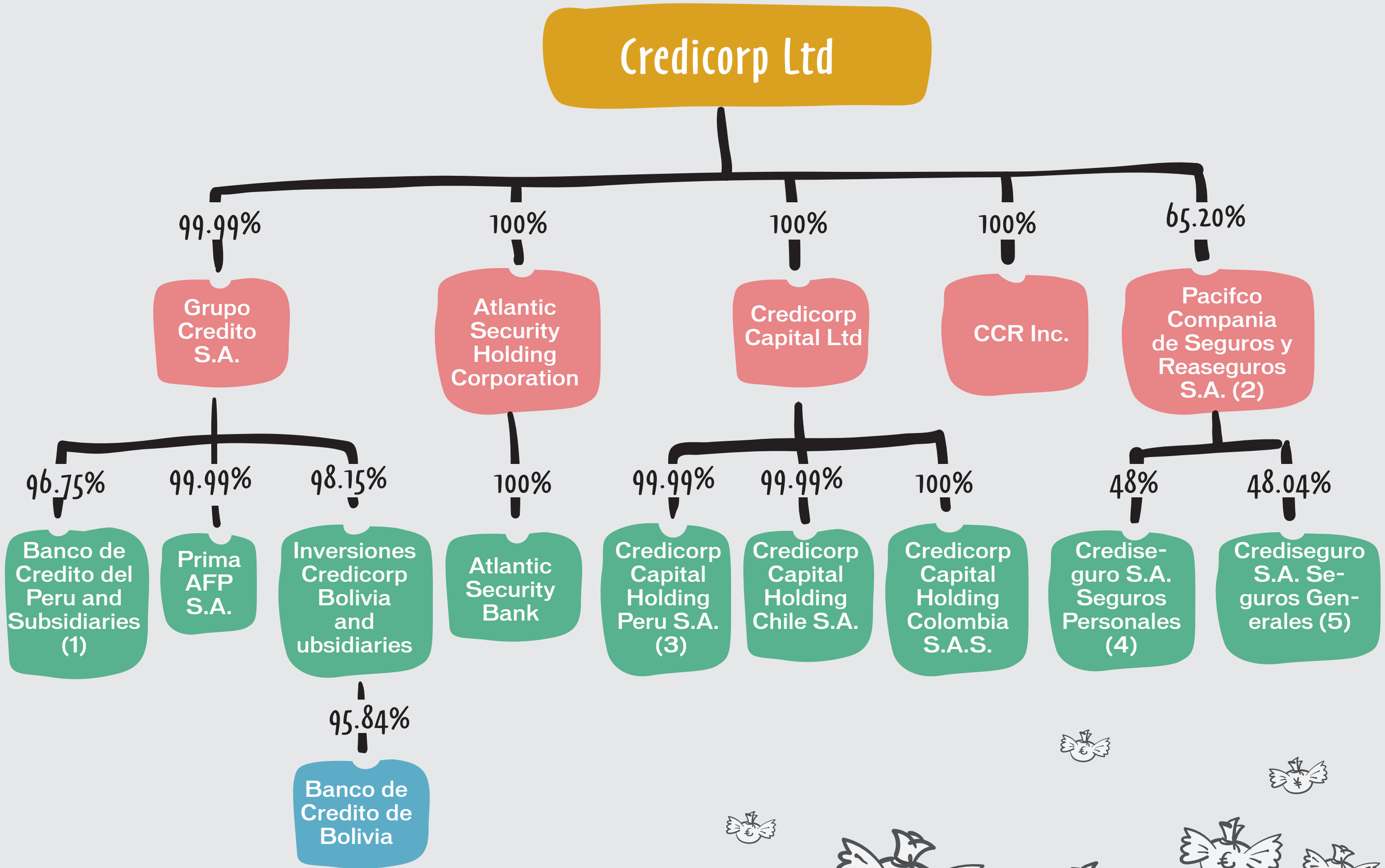
Next, we can see the organisational structure of the Credicorp group, according to the publication of the US SEC. It is worth adding to this structure that ASB has a subsidiary Correval Panamá S.A., a brokerage firm that operates in Panama. According to the SEC filings, ASB and Correval do not pay taxes in the Cayman Islands or in Panama.

The main shareholder of Credicorp Ltd.– in Bermuda– is Dionisio Romero Paoletti. Unconventionally, one of the main shareholders of Credicorp Ltd. is Atlantic Security Holding Corporation, which is, in turn, a subsidiary of Credicorp Ltd. Additionally, the offshore bank in the Cayman Islands, Atlantic Security Bank, is the custodian of a portion of the Credicorp shares.

Atlantic Security Bank is in lawsuits in the courts of New York and the British Virgin Islands, with the successor fund of American scammer Bernie Madoff, which claims about $120 million from ASB.

ASB has been involved in more than one irregular operation. A former director of the Lima Drinking Water Service (SEDAPAL) had transferred $409,000, possibly due to bribes, from an account in the BCP to the ASB[28]. In this case, even though the press narrated the story as if the money had travelled to a distant bank in the Cayman Islands, it was actually a book transaction between the Peruvian bank and its subsidiary. It is not clear which of the two banks served as the correspondent of the other, but it is striking that both banks have not performed the due diligence of a director of a public institution.

Figure 14: Corporative Credicorp Ltd. Corporate structure (to March 2019)



Source: Securities and Exchange Commission de EEUU

Excerpt from the report of the Investigative Commission of the Congress of Peru

Fecha de Emision	Importe Dolares	Referencia del Remitente	Ordenante	Cuenta Destino	Beneficiario	N Operacion
15/03/2006	3,50,000.00	TRE10106093281	ATSEKYKY	1.93101E+12	Pedro Pablo Kuezynski Y/O Gloria Jesus Kisic	STB42231
22/03/2006	3,45,000.00	TRE10106093974	ATSEKYKY	1.93101E+12	Pedro Pablo Kuezynski Y/O Gloria Jesus Kisic	STB63615

Fuente: Carta N R-7579049-1 del BCP

The former Peruvian president, Pedro Pablo Kuczynsky denied making transfers between the ASB and the BCP, in 2006, for $695,000. However, the Investigative Commission of the Peruvian Parliament obtained evidence of various transactions. The Commission argued that the transfers were caused by bribes from Odebrecht. Again, the role of the BCP as a facilitator of transfers, both to and from the ASB is evident, since in reality they are transfers within the same group[29].

In addition, the BCP has confirmed that both transfers were made under order of Dorado LTD and the issuing bank in-charge was the Atlantic Security Bank (ASB) located in the Cayman Islands. It should be noted that Mr. Kuczysnki Godard expressly denied such transfers, despite the fact that the members of the Commission consulted him twice on the origin of the $695,000 that he “paid” Golden LTD. It should be noted that the ASB is an entity that belongs to Credicorp, therefore this bank and the BCP belong to the same economic group.

End Notes

1 Not to be confused with cryptocurrencies.

2 Africa Payments: Insights into African transaction (Swift.com,2019) available at flowshttps://www.swift.com/resource/africa-payments-insights-african-transaction-flows [Accessed 17 Dec. 2019]

3 This contrasts with the case of the Euro zone, which receives 29% of payments originating in Africa but banks in the Euro zone intermediate only 32%.

4 Also referred to as state owned enterprises.

5 FIBA: Florida International Bankers Association (2019) Available at: https://www.fiba.net/page/members [Accessed 17 Dec. 2019].

6 Geographic Targeting Order (2016) Available at: https://www.fincen.gov/sites/default/files/shared/Real_Estate_GTO-MIA.pdf [Accessed 17 Dec. 2019].

7 FBI Announces New International Corruption Squad in Miami Field Office – FBI (2019) Available at: https://www.fbi.gov/news/pressrel/press-releases/fbi-announces-new-international-corruption-squad-in-miami-field-office [Accessed 17 Dec. 2019].

8 Los Angeles Times. (1986). Billions in U.S. : Private Cash Drains From Latin World. [online] Available at: https://www.latimes.com/archives/la-xpm-1986-08-18-mn-18005-story.html [Accessed 17 Dec. 2019].

LA Times reports an estimation between USD 12 and 14 billion from Latin Americans in Miami in 1986. According to BIS data, LAC had USD 91 billion of assets abroad, on average, in 1986. If this all corresponded to non-financial holdings (in line with restrictions at the time), Miami's share would be 13%. If 36% corresponded to non-financial holdings, in line with today's coefficient, Miami's share would be 43%. The midpoint is 28%.

9 For a comprehensive review of sovereign regulation of financial flows and international economic law, see Viterbo, Annamaria (2012). International economic law and monetary measures: limitations to states' sovereignty and dispute. Edward Elgar. Bu.edu. (2019) Capital Account Regulations and the Trading System: A Compatibility Review Available at: http://www.bu.edu/pardee/files/2013/02/Pardee-CARs-and-Trade-TF-March2013-copy.pdf [Accessed 17 Dec. 2019].

10 Otherwise, banks could to be penalized in terms of loss-provisions or risk weighting of capital.

11 US megabanks through mergers and acquisitions are the result of explicit US government policies for at least 30 years New York Times.com. (1987). TREASURY NOW FAVORS CREATION OF HUGE BANKS. [online] Available at: https://www.nytimes.com/1987/06/07/us/treasury-now-favors-creation-of-huge-banks.html [Accessed 17 Dec. 2019].

12 Financial Stability Board. (2018). 2018 list of global systemically important banks (G-SIBs) Available at: https://www.fsb.org/wp-content/uploads/P161118-1.pdf [Accessed 17 Dec. 2019].

13 US Senate (2019). *Homeland Security & Governmental Affairs Committee*. Available at: https://www.hsgac.senate.gov/subcommittees/investigations/issues/money-laundering [Accessed 17 Dec. 2019].

14 Internal Revenue Service. (2019). *Foreign Financial Institutions or Facilitators | Internal Revenue Service*. Available at: https://www.irs.gov/businesses/international-businesses/foreign-financial-institutions-or-facilitators [Accessed 17 Dec. 2019].

15 Department of Justice (2019). *HSBC Holdings Plc. and HSBC Bank USA N.A. Admit to Anti-Money Laundering and Sanctions Violations, Forfeit $1.256 Billion in Deferred Prosecution Agreement*. Available at: https://www.justice.gov/opa/pr/hsbc-holdings-plc-and-hsbc-bank-usa-na-admit-anti-money-laundering-and-sanctions-violations [Accessed 17 Dec. 2019].

16 Department of Justice (2019). *Offshore Compliance Initiative*. Available at: https://www.justice.gov/tax/offshore-compliance-initiative [Accessed 17 Dec. 2019].

17 Wolfsberg Group (2019). *wolfsberg-principles.com*. Available at: https://www.wolfsberg-principles.com/ [Accessed 18 Dec. 2019].

18 United States Treasury Information Capital

19 National Banking and Securities Commission of Mexico (2019). https://portafolioinfo.cnbv.gob.mx/PortafolioInformacion/BE_BM_201812.xls [Accessed 18 Dec. 2019].

20 Banking Superintendency of Panama (2019). Available at: https://www.superbancos.gob.pa/superbancos/documentos/financiera_y_estadistica/cartas_bancarias/2018/4to_trimestre/CB-0018-EF-BANCO-en-Azteca.xlsx [Accessed 18 Dec. 2019].

21 Cayman Islands Monetary Authority. (2019). Bank List - Category B Banks [online] Available at: https://www.cima.ky/upimages/commonfiles/BBanks2017Q3.docx_1510345759.pdf [Accessed 18 Dec. 2019].

22 Round-tripping is when funds are placed abroad and re-placed in the country of origin as FDI. The goal is to appear as if it were foreign investment to obtain advantages with tax incentives, dividend repatriation, freedom to transfer capital, freedom to transfer foreign currency, and even to benefit from investor-state arbitration under bilateral investment protection treaties.

23 Bank of International Settlements (2019). *CPMI publishes new data on correspondent banking networks showing 20% reduction in relationships over seven years*. [online] Available at: https://www.bis.org/press/p190527.htm [Accessed 18 Dec. 2019].

24 Internal Revenue Service (2019). *Foreign Financial Institutions or Facilitators | Internal Revenue Service*. [online] Available at: https://www.irs.gov/businesses/international-businesses/foreign-financial-institutions-or-facilitators [Accessed 18 Dec. 2019].

25 Gaspard Seabag (2019). Ex-HSBC Banker Pleads Guilty in Rs. 12810.15 crore French Tax Case. Bloomberg. [online] Available at: https://www.bloomberg.com/news/articles/2019-08-07/ex-hsbc-banker-pleads-guilty-in-1-8-billion-french-tax-probe

26 Tracy Kitten (2012). HSBC, SCB Agree to AML Penalties. Bank of Security. [online] Available here: https://www.bankinfosecurity.com/hsbc-scb-agree-to-aml-penalties-a-5345

27 United States Securities and Exchange Commission. [online] Available here: https://www.sec.gov/Archives/edgar/data/1001290/000114420419022382/tv515281_20f.htm#a_016

28 El Comercio. (2019). *Alan García sobre Gran Caimán: Si es aprista debe ser expulsado*. [online] El Comercio Perú. Available at: https://elcomercio.pe/politica/actualidad/alan-garcia-gran-caiman-aprista-debe-expulsado-377312 [Accessed 18 Dec. 2019].

29 Memoria y ciudadania (2019). *Informe Final Comisión Lava Jato MAYORIA p. 1. Memoria y Ciudadania*. [online] Available at: https://documentos.memoriayciudadania.org/en/document/rljs13apnv [Accessed 18 Dec. 2019].

How to Use the Toolkit?

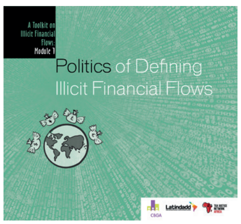
The toolkit is as an easy and accessible resource for enthusiasts, activists, civil society organisations, practitioners and journalists. Designed in a modular format, the toolkit aims to enable evidence based advocacy from the perspective of developing countries[1] for bringing awareness, policy change, exchanging examples of effective interventions from the Global South and wider collaboration between different actors. Please note that the policy recommendations are aimed to be adapted and tailored across settings, regions and priorities.

All modules are designed independently from each other but are structured in a holistic manner. It is recommended that Module 1 be read first as it sets the premise for this undertaking. The toolkit fulfils three objectives -

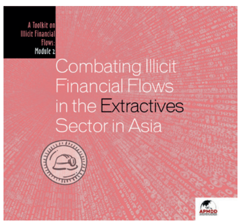
- Provides a well-rounded perspective of illicit financial flows from the Global South context and delving into its regional components.
- Introduces terms that are set under the framework of human rights, gender justice and the sustainable development agenda with respect to redressing the impact of illicit financial flows.
- Uses a multi-pronged approach to involve the larger civil society, practitioners and journalists through international and regional mechanisms, simplified case studies to demystify complex topics and examples of successful interventions across the Global South.

The toolkit is available in print and online. The technical module is also available in Spanish.

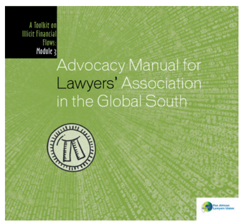
A Toolkit on Illicit Financial Flows



Module 1: Politics of Defining Illicit Financial Flows



Module 2: Combating Illicit Financial Flows in the Extractives Sector in Asia



Module 3: Advocacy Manual for Lawyers' Associations in the Global South

Module 4: Addressing Illicit Financial Flows – National, Regional and Global Interventions

Module 5: Technical module: The Role of Banking in Latin America as a Facilitator of Illicit Financial Flows

1 The toolkit uses the terms developing countries or regions interchangeably with the Global South. The term 'Global South' represents countries in the developing regions of Africa, Asian and Latin America, Central America, Mexico, South America, and the Middle east (with the exception of Israel) that share a colonial and imperial past (with the exception of Japan, Hong Kong, Macau, Singapore, South Korea and Taiwan). Southern countries refer to countries belonging to the Global South.

About the Financial Transparency Coalition:

The Financial Transparency Coalition (FTC) is a global civil society network working to curtail illicit financial flows through the promotion of a transparent, accountable and sustainable financial system that works for everyone.

FINANCIAL TRANSPARENCY COALITION

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