Time for Action: De-Risking and the Threats to Caribbean Banks

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At a time when the financial sectors and regulatory authorities of the Caribbean are yet to complete post-mortems into the collapses or other demises of regional financial institutions (CL Financial Group, British American Insurance Company Ltd., SGL Holdings Inc., Stanford International Bank, to name a few of the more prominent); have not regained footing from the global financial crisis of 2007–2009; and have not implemented the correlating regulatory reforms; yet another threat emerges to the vulnerable financial sectors of our region.

Beginning in April 2015 the de-risking trend by correspondent banks in the U.S. and Europe has left banks in Belize, Jamaica, Guyana, Barbados and Trinidad scrambling for solutions. The banks of the Eastern Caribbean Currency Union are understandably on alert. The grounds upon which the foreign correspondent banks appear to have taken the decision to de-risk are the comparatively heavy compliance burdens involved in doing business with smaller jurisdictions and inadequate due diligence by banks in such jurisdictions in the facilitation of financial transactions — the risk of exposure to money laundering and terrorism financing being at the apex of concerns. While several other small jurisdictions have been targeted (including regions in Africa and Central Asia), the World Bank observes that the Caribbean region appears to be most severely affected by the termination of correspondent banking relations. Because of the abrupt and unilateral manner in which the terminations have taken place it has been left open to speculation what specifically has earned the region its designation as a 'high risk area'.

CARICOM, given its clear mandate for the financial integration of the region, has rightfully joined endeavours to confront the problem. The essence of the problem however is that the de-risking actions themselves coming as they are from private financial institutions leave little recourse to regular forums of adjudicative resolution. There is no treaty or other legally binding agreements governing the banking relationship to which CARICOM or any of its member states is a party to make this even potentially an internationally justiciable issue. Even if — as some claim — these actions may be traced to regulatory authorities in the U.S.A. and the European Union, it would still encounter the unhappy state of the international financial architecture; specifically the absence of a legally constituted global financial regulatory authority.

Unlike any of the other global economic branches — trade, monetary affairs, investment — there is no legally constituted central authority via which rights are afforded to countries and to which, accordingly, redress may be sought for violations of such rights. While a number of debates and studies have contemplated the idea, it has at best attained lacklustre responses and at worst, outright dismissal.

The reason for this is that the financial sector plays a critical role in the economies of every country and so, many countries take the stance that questions as to the financial sector's management fall within that part of state sovereignty which must not be delegated to external authorities. The counterpoint to this contention is that financial globalisation has created an extensive global financial system which cannot continue to be solely regulated from within the domestic sphere. Regulatory action which has extra-terrritorial effect certainly must come in for supranational review?

In real terms the terminations of relationships with our local banks by corresponding banks increase the isolation of our banking systems at a time when much of our lives flow seamlessly across borders. Online shopping, used-vehicle and other imports, wire transfers by local businesses, credit card usage by locals and even tourists are several of the direct effects that come to mind. Even more dire, these terminations make the remission of monies to the Caribbean from loved ones overseas less certain, more difficult and in some cases, more costly. It will as well have the attendant effect of forcing persons to take less prudent means of transferring monies.

It is urged that CARICOM should lead all response efforts. To relegate our responses to individual nation responses would be counterproductive and foolhardy. The effects of the actions of foreign correspondent banks are not contained to the individual banks whose relationships have been terminated, but have regional-level implications given intraregional bank linkages. The presentation of a single CARICOM front in executing an effective response must in the immediate also include serious consideration of a single regulatory and supervisory authority, commencing with the harmonisation and heightening of regulatory rules within the region. The present crisis also calls for accelerated implementation of the Liliendaal Declaration on the Financial Sector and the long-delayed Financial Services Agreement.

It is unfortunate that the call to action on such important elements of integration hinge on external triggers. (The other inevitable concern is must we also await the Privy Council's termination of appellate relations?)

In 1992 'Time for Action' the Report of the West Indian Commission raised a cry that was true then and even truer today.

"That…we are so small in size and so limited in resources compels us to be big in our minds if we are to reach beyond those limitations in a world that shows every disposition to ignore the small and the weak."

At a time when we are being dismissed as 'small' and 'weak', we are compelled to be big and decisive and steadfast in our regional response.