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TRANSITION 2017

Trump's Foreign Policy May Further Strain Foreign Correspondent Banking

The Problem of De-Risking

Foreign correspondent banking relationships (FCBRs) have come under strain in recent years as major global and regional banks have de-risked from FCBRs that have posed (or have been perceived to pose) more legal risk and administrative costs than commercial benefits.

The de-risking trend and its resulting diminishment of access to *legitimate* financial services by individual customers, classes of customers, and regions (among others) has raised concern among national governments and multilateral institutions that have, from 2015 most noticeably, conducted studies on de-risking to determine its extent and effects, as well as to identify potential solutions.

Regional government and banking associations have sounded alarms about the deleterious effects of de-risking on regional financial services sectors—among these are, for example, the Arab Monetary Fund and the Caribbean Association of Banks. Indeed, the Middle East and Caribbean regions stand out among regions affected by de-risking.

The Trump Administration's "America First" Foreign Policy, Countering Financing of Terrorism (CFT), and Foreign Correspondent Banking Relationships

Within a day of Donald Trump becoming the 45th President of the United States, the Trump Administration's "[America First Foreign Policy](#)" was posted to the White House website. The "America First" policy, a notably brief publication, states that "[d]efeating ISIS and other radical Islamic terror groups will be our highest priority." Achieving this goal, according to the Trump Administration, will include "aggressive joint and coalition military operations when necessary" and working "with international partners to cut off funding for terrorist groups, to expand intelligence sharing, and to engage in cyberwarfare to disrupt and disable propaganda and recruiting."

The America First policy is consistent with candidate Trump's presidential campaign statements (*e.g.*, defeating ISIS/ISIL) and with Trump's inaugural address, in which he [stated](#) that the United States, under his leadership, would "unite the civilized world against radical Islamic terrorism, which we will eradicate completely from the face of the Earth." The Trump Administration's plan to work with "international partners" to combat terrorism is more striking, as it is one of few statements or plans articulated by Trump—as a candidate, as the President-elect, and now President—that centers on or clearly values multilateralism.

The Trump Administration's positions on countering the financing of terrorism were also articulated by Treasury Secretary nominee Steven Mnuchin during his confirmation hearings, where he expressed his commitment to working unilaterally and multilaterally to combat terrorism financing (see, for example, [hearing segment starting at 55:18](#)).

Moreover, the Trump Administration's interest in strengthening CFT is shared on the other side of Pennsylvania Avenue, where, for example, the U.S. House of Representatives' Financial Services Committee recently [released the results](#) of a 2-year investigation of terrorism financing and, among other measures, recommended that the United States adopt a "whole-of-government" strategy to combat terrorism financing.

Action Steps for Banks

For U.S. and foreign banks doing business across borders, the Trump Administration's early prioritization of CFT is worth noting, and subsequent steps by the Administration should be followed closely. Foreign correspondent banks, particularly those in regions, like the Middle East and the Caribbean, that have been or may be (further) affected adversely by FCBR de-risking, should take steps to work with, among others, their foreign bank partners, national regulators, and multilateral institutions, to take remedial and preemptive steps to avoid further losses or curtailments of correspondent banking relationships. Such steps would *include*:

- monitoring U.S. policy, legislative, regulatory, and other developments;
- developing policy positions and practical action plans to position themselves as participants in or contributors to counter terrorism financing (and money laundering and other financial crime); and,
- develop, implement, and document *demonstrably* effective capacity building programs that actually improve capacity to detect, prevent, and report terrorism financing at the individual financial institution and broader levels.

How MassPoint Can Help

MassPoint PLLC is a boutique law and strategy firm that offers customized compliance services to foreign banks, focusing on AML/CFT, anti-corruption, and sanctions compliance. MassPoint's services, which the firm provides independently and working in teams that the firm assembles to meet client needs, include:

- Legal, regulatory, and international standards counseling that caters to the specific needs of foreign banks, *including*: (1) geographic presence, (2) personnel demographics, (3) lines of business, (4) and organizational dynamics.
- Customized compliance needs assessments, compliance program design, and compliance program execution (on one-off or continuing bases).
- Commissioned legal, regulatory, and policy research and analysis and advocacy to inform and represent client interests before governmental, policy, and industry entities.
- Design and execute programming and initiatives that bring together banks (correspondent and respondent), financial services industry representatives, policy professionals, and other experts and stakeholders for informational, training, and educational exchanges; policy forums; and to further other objectives.

For more information about MassPoint and its services, please contact the firm's Principal, [Hdeel Abdelhady](#), at habelhady@masspointpllc.com.