The Complex World of Anti-Financial Crime Policies in the Caribbean

Competing Strategies: the EU, UK, US, and OECD

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Introduction

The Caribbean has long been associated with tax havens, defined as "offshore financial centers" (OFC) or jurisdictions with nominal or zero taxation on financial or other service income. By shifting their funds into or through tax havens, businesses and other investors can avoid paying taxes in high-tax countries. Another important feature of tax havens is that they share little or none of their investors' financial information with foreign tax authorities. These policies, therefore, attract huge inflows of capital, which may be subject to nominal fees, charges or taxes in order to generate government revenue, and foster economic growth in the "tax haven" country. In many instances, "tax haven" countries, including those in the Caribbean, are also associated with money laundering. However, while "tax havens" and OFCs are closely related, not every OFC qualifies as a "tax haven." Purportedly to prevent tax evasion, which is a crime in the sending countries, OFCs have been treated as "tax havens," and have been subjected to global governance institutions and processes designed and implemented by the global governors in the developed world, including the OECD, EU, US and G7 countries. In order to foster and facilitate good governance, the OECD, for example, states that it "works closely with some of the world's largest economies" in its daily work even though they are non-members (www.oecd.org). Governance objectives include developing standards and managing best practices that promote global financial stability and competitiveness, as well as measures to counter the financing of terrorism. However, as increasing numbers of smaller countries gained significantly higher shares of this international financial services market, global governors have shifted their governance strategy from one of cooperation and collaboration to one of coercion framed as the pursuit of security and implemented via financial surveillance and discipline (Vlcek: 2008). Two central questions drive this paper: 1) have the various anti-money laundering and counter

terrorism financing (AML/CFT) programs and policies implemented by so-called global financial governors succeeded in achieving compliant behavior from less powerful states? And 2) how have these programs and policies impacted the target countries? To answer these questions, this paper uses the independent and non-independent countries of the Anglophone Caribbean as the units of analysis because of a) their use of OFCs as an integral part of their development strategy; and b) the asserted association between the OFCs and tax havens made by the global financial governing institutions. Given that tax haven jurisdictions are assumed to be "high-risk" areas for money laundering and the financing of terrorism, behaviors that undermine the security of the global financial system, the paper frames the analysis of global financial governance within the paradoxical framework of sovereignty and hierarchy to answer these questions.

The argument is that an analysis of global governance requirements, including "Blacklisting" and "Grey Listing," imposed upon asserted "high risk" countries, especially Caribbean jurisdictions, indicates that while significant levels of compliance have been achieved, the policies have been implemented in a discriminatory manner. This is because global governance institutions reflect embedded hierarchies of power that are exercised on "fundamentally unequal terms that structurally benefit powerful nations while structurally disadvantaging and exploiting subordinated nations" (Achiume and Bali: 2021). To demonstrate this point, the paper is divided into four sections. The next frames the analysis within the paradox of sovereignty and hierarchy in order to demonstrate the structural inequality of the international system that prevents the small and weak countries in the Caribbean from pursuing their own interests as they see fit. The third section describes and discusses the discriminatory way that these programs and policies have been implemented on independent countries in the region versus non-independent jurisdictions that remain politically linked European countries, and the extent to which AML/CFT compliance has been achieved. The fourth section discusses the impact of the consequent "de-risking" decisions that witnessed the departure of international banks that long operated in the Organization of Eastern Caribbean States (OECS) subregion, and the resultant cost and challenge of indigenous banks to step in and fill the banking and financing void created by the "de-risking" decisions of these international banks. This is followed by a discussion of the impact enhanced AMF/CFT enforcement on the banking system in the region that has produced one regional financial institution dominating banking services in the region and creating a situation of "too big to fail." A concluding summary follows.

Theoretical Frame

Sovereignty reflects an enduring norm in world politics by which all countries are deemed to be equals. Ideally, this would mean that where supranational governance is called for, such as AML/CFT, all states would be involved and engaged in the governance process. However, an uncomfortable but indisputable reality holds that interstate relations reflect sovereign inequality, which permeates and structures a hierarchy in global politics. Beyond inequality or stratification among state actors, hierarchy reflects the existence of an authority relationship in which a dominant actor exercises some degree of control or power over a subordinate one (MacDonald, 2018), or as Lake (2007) puts it, "a political relationship is hierarchic when one unit, the dominant state, possesses authority over a second, subordinate state." More specifically, dominant states claim or, perhaps, assume and/or assert a right to dictate some aspect of a subordinate polity's foreign or domestic policies, and the subordinates, whether by agreement or by force, are obliged to comply (MacDonald, 2018). This inequality is due to huge disparities, whether in military capabilities, economic power, or political influence (Kirsch, 2003; Simpson: 2004). Consequently, then, is that many, if not most states are unable to exercise significant influence over global events (Hobson & Sharman, 2005). In fact, some states are so weak that they can exercise only minimal control over their own foreign and domestic policies, because their abilities are highly likely to be determined by the interests and demands of powerful allies, rich economic partners, and international institutions rather than their own preferences. In this regard, the hierarchy in international relations between and among countries today, therefore, refers to structures of authority in which a dominant state such as the United States, or a dominant set of states such as the European Union, or the Organization of Economically Developed Countries (OECD), sets rules for or possesses more-or-less authority over one or more subordinate ones (Lake and Liu, 2020). Simply put, hierarchy "is the extent of the authority exercised by the ruler over the ruled" (Barnett, 2010; Lake, 2009). As MacDonald (2018) notes, this authority relationship differs dramatically from those found in domestic hierarchies. This is because it is shaped less by written laws or formal procedures than by subtle forms of manipulation and the development of informal practices. This means that whether there are rules and requirements, as those delineated by the Financial Action Task Force (FATF) or by EU Commission Anti-Money Laundering Directive (AMLD), or the Organization of Economically Developed Countries' (OECD) Money Laundering and Terrorist Financing Handbook for Tax

Examiners and Tax Auditors, or FinCEN and the US Office of the Comptroller of the Currency (OCC) rules, these entities reflect "an institutional arrangement between economic units that defines and specifies the ways by which these units can cooperate or compete (Mearshimer 1994: 6; North and Thomas 1970: 5) In this regard, while hierarchy construes a relationship of legitimate authority, it also construes "intersubjective manifestations of organized inequality (Mattern and Zarakol, 2016), and is based on the self-interests of powerful countries that establish these institutional arrangements. Weaker countries like those in the Caribbean are treated as the areas of concern for global financial stability and, therefore, must be subject to these governance rules.

This has long been, and continues to be, the situation in the Caribbean. With no ability to chart their own course, they have served the hierarchical and power enhancing interests of the various international actors, largely from Europe, who have exploited their resources as vassal colonies for over 300 years. This speaks to the era of classical overseas empires when European powers claimed the exclusive right to govern colonial possessions while, in some cases, local authorities were given some residual rights over domestic matters (Abernethy, 2000). Today, having attained their juridical sovereignty, these former colonial vassals continue to be constrained in their actions by the same international actors—individually as well as dressed up as various intergovernmental organizations (IGO) and attendant institutional rules—as these global actors make decisions that serve their own interest. Historically, competition and contestation over these Caribbean countries revolved around their agricultural products; today, however, competition and contestation revolve around their offshore financial services, including low and no tax products. It is this phenomenon that has had such profound impacts on the strategies of Caribbean countries as they have attempted to carve out their competitive niche in the global financial services system.

Dueling Lists and OFCs: The Caribbean Battleground

A stated goal of global financial governance is to promote financial stability and competitiveness. Given this goal, why have the independent Caribbean countries, especially, been so adversely affected by the various financial security and stability requirements propounded and imposed upon them by the FATF's AML/CFT, FATCA, the EU's Financial Stability Forum, and the OECD's Forum on Harmful Tax Practices, including the policy of

"Blacklisting" and Grey Listing? One specific and substantive impact has been the loss of correspondent banking services (CBR) that resulted from the "de-risking" decisions made by international banks that long operated in the region and visited largely upon the independent countries. whereas the non-independent OFC jurisdictions appear to operate with impunity. With regard to the non-independent Caribbean territories that offer OFCs, it is especially instructive to note that the top three OFCs are also territories that are under the jurisdiction of the UK. In pursuit of their respective objectives, therefore, it is highly likely that the policies and goals of these global governors—the EU, UK, US, and OECD—are sometimes aligned and at other times are in conflict, and that the Caribbean is one area in which their domestic and international issues are played out. In the process, it is the non-independent territories that fall under the jurisdiction of European countries that seem to get a pass while the independent ones bear the brunt of these policies.

An often overlooked but, nonetheless, relevant component in this complex set of relationships is the fact that offshore businesses in the Caribbean are owned by "onshore" individuals and companies, and there appears to be a competition between "onshore" entities that have operations "offshore" and those that do not. Two issues appear to be central to this competition: a) the belief that offshore operations are more attractive because of lower taxation, among other benefits; and b) that the tax avoidance services that these overseas jurisdictions offer are financial crimes because they approximate tax evasion. In an apparent effort to manage this competition, global governance entities ranging from the Paris-based Financial Action Task Force (FATF) along with its Associate Members,[1] to FATF and the European Commission's Anti-Money Laundering Directive (AMLD), have been instituted. However, the efficacy of this governance apparatus is undermined by a conflict between its stated goals and the very rules. For example, FATF and the AMLD, pursue strategies that are sometimes complementary and at other times are at odds.

As part of its governance strategy, FATF created a "Blacklist" consisting of countries it deems to have significant deficiencies in their respective AML/CFT regimes, and who are not actively taking steps to address them. FATF also created a "Grey List" consisting of countries

[1] Action Group against Money Laundering in Central Africa (GABAC); Asia/Pacific Group on Money Laundering (APG); Caribbean Financial Action Task Force (CATF); Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL); and Eurasian Group (EAG)

deemed to have strategic AML/CFT deficiencies but who, however, are actively working to improve their systems (by taking countermeasures) and are, therefore, subject to increased monitoring by the FATF. Rightly concerned about risks to its internal market, the EU, also, has created a list, whose composition is based on FATF's list. Of particular concern, however, is its new, 2020 method for identifying high-risk countries. Using FATF's "Grey List" as a reference point, the new EU method assumes that when a country is placed on FATF's "Grey List," it represents a risk to the global financial system and, by extension, a risk to the EU's internal market as well (Dalip, 2020). Since jurisdictions on FATF's "Grey List" are presumed to present a threat to the global financial system, the EU's process fails to adequately consider the commitment and progress being made by these jurisdictions. That is, it fails to distinguish them from the "Blacklisted" countries that FATF deems to pose a real threat to the global financial system.

On the other hand, the EU's AMLD speaks to the Commission's "legal obligation to identify high-risk third countries having strategic deficiencies in their AML/CFT regime in order to "protect the Union's internal market, through application of enhanced due diligence measures by obliged entities" (European Commission 2020). While the Commission has developed a methodology[2] for identifying high-risk third countries, those third-countries listed by the FATF will, in principle, also be listed by the EU. Also, when a country is de-listed by the FATF, the Commission will assess whether the FATF's justifications for de-listing are "sufficiently comprehensive also in view of an EU delisting" (European Commission, 2020). Based on its interests and criteria, EU requirements will "top up" the existing FATF guidelines by referencing additional EU criteria, including the level of threat that the third country presents to the EU, specifically, or requirements on beneficial ownership transparency (European Commission,

[2] The AML/CFT regime of a third country will be assessed according to the following eight building blocks: 1) criminalization of money laundering and terrorist financing; 2) measures relating to customer due diligence, record keeping and reporting of suspicious transactions in the financial sector; 3) the same measures in the non-financial sector; 4) the powers and procedures of competent authorities; 5) the existence of dissuasive, proportionate and effective sanctions; 6) the practice of competent authorities in international cooperation; 7) the availability and exchange of information on beneficial ownership of legal persons and legal arrangements; 8) implementation of targeted financial sanctions. See, European Commission COMMISSION STAFF WORKING DOCUMENT: Methodology for identifying high-risk third countries under Directive (EU) 2015/849, https://finance.ec.europa.eu/document/download/f745b6e8-735b-4855-b050-f52276356fe6_en?filename=200507-anti-money-laundering-terrorism-financing-action-plan-methodology_en.pdf

2020). Further, third countries that may present a risk but are not (yet) subject to the FATF procedure would be flagged by the Commission/Member States in FATF before considering an autonomous listing by the EU. As Dukharam (2020) argues, the EU's actions "weaponises rules on tax avoidance and money laundering by effectively discriminating against smaller and mostly nonwhite countries to make it harder for them to compete economically."

The EU and its member states may argue that they are well within their sovereign right to take whatever measures they deem necessary to protect their financial system from money laundering and terrorist financing risks. FATF Recommendation 19 on higher-risk countries actually requires countries to be able to apply countermeasures proportionate to risks, independent of any call from the FATF.[6] However, the proportionality of the approach has to be questioned as the EU seems to have grossly exceeded the precautions called for by the FATF. The EU's countermeasures can range from requiring EU financial institutions (FIs) to apply enhanced due diligence to transactions involving designated countries to prohibiting EU FIs from establishing branches in those countries.[7] The impact on these member states ranges from "de-risking" individual citizens and respondent banks, to curtailing foreign direct investment in their national economies, which can be catastrophic (Dalip, 2020). Above all, the EU's measures appear to favor OFCs jurisdictions that are under the control of some of its member states, including the UK and the Netherlands Caribbean territories.

Table I: Top Three Tax Havens in the World Plus Other Caribbean OFCs

Jurisdiction	Tax Haven Share*	Tax Haven Score**	CTHI Score***	FSI Score 2022****
British Virgin Islands	**6.45%**	**100**	**2853**	**70.7**
Cayman Islands	**5.99%**	**100**	**2653**	**72.6**
Bermuda	**5.67%**	**100**	**2508**	**70.1**
Bahamas	3.28%	100	1454	75.5
Turks and Caicos Is.	0.66%	100	290	75.7
Anguilla	0.58%	100	255	75.5
Montserrat	0.01%	65.3		73.8
Antigua and Barbuda	0.00%			77
Barbados	0.00%			73.7
Belize	0.00%			75.1
Dominica	0.00%			65.2
Grenada	0.00%			65.9
Saint Kitts and Nevis	0.00%			77.2
Saint Lucia	0.00%			72.2
Trinidad and Tobago	0.00%		3	69

**The Haven Score for each jurisdiction is constructed from 20 Haven Indicators, which reflect the many different rules, laws and mechanisms that multinationals can use to escape tax. The index grades each country's tax and legal

system with a "haven score" out of 100 where a zero represents no scope for corporate tax abuse and a 100 is unrestrained scope for corporate abuse.
***CTHI Value: A measure of how intensely the jurisdiction enables MNCs to abuse corporate tax, calculated by combining the Haven Score and Global Scale Weight.
****The Financial Secrecy Index (FSI) is a ranking of jurisdictions most complicit in helping individuals hide their finances from the rule of law. Lower scores are better.

Table I and Table II depict the top 11 tax havens in the world as of 2024. Table I, in particular, indicates that while the non-independent Caribbean territories reflect all of the characteristics of tax havens, and with the British Virgin Islands, the Cayman Islands, and Bermuda accounting for the top three spots in the world in terms of shares of the tax haven investments at 6.45%, 5.99%, and 5.60%, respectively, the independent countries from Barbados to Trinidad and Tobago control zero percent of the share of tax havens and, in fact, do not reflect the characteristics of tax havens. The exception is the independent country Bahamas with 3.28% of the global share of tax havens. Meanwhile, the next eight largest tax havens in the world are located in Europe. Moreover, the data indicate that the independent Caribbean countries control zero percent of the global tax haven share, their tax haven score indicates that their legal systems offer little to no scope for corporate tax abuse, and that their Financial Secrecy Index (FSI) indicates a low level of complicity in helping individuals hide their finances from the rule of law. On the other hand, the data indicate that these top 10 tax havens are more conducive to corporate tax abuse by MNCs (World Population Review, 2024).

Table III depicts the extent to which Caribbean jurisdictions have achieved compliance with the implementation of FATF's 40 technical requirements. The data show that Caribbean countries are in various stages of compliance on most of these requirements, and only three countries—all independent ones—are deemed to be noncompliant on differing technical requirements. For example, Grenada and Saint Lucia are out of compliance on Technical

Table II: Remaining Top 8 Tax Havens in the World

Jurisdiction	Tax Haven Share	Tax Haven Score	CTHI Score	FSI Score 2022
Netherlands	5.54%	79.9	2454	64.6
Switzerland	**5.11%**	**88.6**	**2261**	**70**
Luxembourg	**4.10%**	**74**	**1814**	**55**
Hong Kong	4.08%	77.9	1805	65
Jersey	**3.89%**	**100**	**1724**	**63.5**
Singapore	3.87%	84.6	1714	67.2
United Arab Emirates	3.76%	98.3	1664	79.2
Ireland	**3.30%**	**77.1**	**1459**	**47.2**

Requirement 6: Targeted financial sanctions related to terrorism & terrorist financing; Barbados, Dominica, Grenada, and Saint Lucia are out of compliance on Technical Requirement 7: Targeted financial sanctions related to proliferation; Antigua & Barbuda, Barbados, and Saint Lucia are out of compliance on Technical Requirement 8: Non-profit organizations; Grenada is out of compliance on Technical Requirement 15: New technologies; and Saint Lucia is out of

Table: III Extent of Implementation of Technical Requirements of FATF Recommendations

Year	**Jurisdiction**	**Compliant**	**Largely Compliant**	**Partially Compliant**	**Noncompliant**	**% Compliant**
2024	**British Virgin Is.**	11	24	4	1	27.5
2021	**Cayman Is.**	**22**	**17**	**1**	**0**	55.0
2020	**Bermuda**	**28**	**11**	**1**	**0**	70.0
2023	Bahamas	15	23	2	0	37.5
2021	Antigua & Barbuda	11	25	3	1	27.5
2018	Barbados	5	20	14	2	12.5
2023	Dominica	16	17	6	1	40.0
2022	Grenada	8	9	20	3	20.0
2022	Jamaica	5	22	13	0	12.5
2022	St. Kitts & Nevis	11	15	14	0	25.7
2024	Saint Lucia	14	15	5	6	35.0
2024	St. Vincent	13	16	8	1	32.5
2019	Trinidad & Tobago	26	9	5	0	65.0
2023	Turks & Caicos Is.	21	14	4	1	52.5
2016	Canada (2016)	11	23	5	1	27.5
2023	Switzerland	8	29	3	0	20.0
2022	UK (2022)	24	15	1	0	60.0
2016	USA (2016)	9	23	5	3	22.5

compliance on Technical Requirement 21: Tipping-off and confidentiality; Technical Requirement 25: Transparency and beneficial ownership of legal arrangements; and Technical Requirement 26: Regulation and supervision of financial institutions. Finally, the Virgin Islands (UK) is the only non-independent jurisdiction that is out of compliance on Technical Requirement 8: Non-profit organizations. In general, then, Caribbean jurisdictions are at varying levels of compliance on most of the 40 technical requirement, and full compliance ranges from a low of 12.5 percent for Barbados to a high of 70 percent for Bermuda. By comparison, Switzerland, a member of the EU is only 20 percent fully compliant. However, compliance has come at a huge cost for Caribbean jurisdictions.

Table: IV Countries Noncompliant on FATF Technical Requirements	
Jurisdiction	**Areas of Noncompliance**
Antigua & Barbuda	R.8 - Non-profit organizations
Barbados	R.7 - Targeted financial sanctions related to proliferation R.8 - Non-profit organizations
Dominica	R.7 - Targeted financial sanctions related to proliferation
Grenada	R.6 - Targeted financial sanctions related to terrorism & terrorist financing R.7 - Targeted financial sanctions related to proliferation R.15 - New technologies
Saint Lucia	R.6 - Targeted financial sanctions related to terrorism & terrorist financing R.7 - Targeted financial sanctions related to proliferation R.8 - Non-profit organizations R.21 - Tipping-off and confidentiality R.25 - Transparency and beneficial ownership of legal arrangements R.26 - Regulation and supervision of financial institutions
Virgin Is (UK)	R.8 - Non-profit organizations
Canada: R.25	R.25 - Transparency and beneficial ownership of legal arrangements
USA	R.22 - DNFBPs: Customer due diligence R.23 - DNFBPs: Other measures R.28 - Regulation and supervision of DNFBPs
Source: FATF and CFATF	

AML/CFT: Cause and Impact on the OECS

The historically open economies[3] are highly reliant on international trade and commerce, including tourism and related services; foreign direct investment (FDI); remittances; and the presence of Offshore Banking and other Offshore Financial Services. The level of trade openness of the Caribbean is 164.1 percent of GDP; and that of the OECS sub-region is 96% of GDP (IDB, 2018). This means that the region is highly dependent on correspondent banking services to settle cross-border transactions relating to travel, tourism, trade and investments. In 2017, there were 35 banks in the ECCU of which 23 were foreign owned, 8 were privately owned, and 4 were government owned. However, the decisions by the global financial governors discussed

[3] The average openness ratio (the sum of exports and imports of goods and services divided by GDP) in the Caribbean amounted to 95 percent of GDP over 2011-15, which is slightly higher than the world average of 91 percent of GDP. An increase in the cost of making payments or a disruption in the ability to make or receive international payments would seriously undermine economic activity. See Trevor Alleyne, Jacques Bouhga-Hagbe, Thomas Dowling, Dmitriy Kovtun, Alla Myrvoda, Joel Okwuokei and Jarkko Turunen, (2017): "Loss of Correspondent Banking Relationships in the Caribbean: Trends, Impact, and Policy Options," IMF Working Paper WP/17/209.

above, including “Blacklisting” and “Grey Listing” would witness the departure of these international banks, due in part to

Table V: ECCU Commercial Banks Licensed Under the Banking Act 2015					
Territory	**Name of Institution**	**Locally Owned Indigenous Banks**		**Foreign Owned**	**Details**
		Private	Government		
Anguilla	National Commercial Bank of Anguilla, Ltd.		X		Public Company
	First Caribbean International Bank (Barbados) Ltd.			X	Branch
	Scotiabank (Anguilla) Ltd.			X	Subsidiary of Scotiabank International Bahamas Ltd.
Antigua &Barbuda	Antigua Commercial Bank	X			Public Company
	Caribbean Union Bank, Ltd.	X			Private Company
	Bank of Nova Scotia (Scotiabank)			X	Branch
	First Caribbean International (Barbados) Ltd.			X	Branch
	Royal Bank of Canada			X	Branch
	Eastern Caribbean Amalgamated Bank	X			Private Company
Dominica	National Bank of Dominica		X		Statutory Corporation
	Bank of Nova Scotia (Scotiabank)			X	Branch
	First Caribbean International (Barbados) Ltd.			X	Branch
	Royal Bank of Canada			X	Branch
Grenada	Grenada Cooperative Bank	X			Public Company
	Republic Bank (Grenada) Ltd.			X	Public Company (Republic Bank of Trinidad and Tobago has largest interest).
	Bank of Nova Scotia (Scotiabank)			X	Branch
	First Caribbean International (Barbados) Ltd.			X	Branch
	RBTT Bank (Grenada), Ltd.			X	Public Company (RBTT Bank Caribbean Ltd., a subsidiary of RBTT Bank, Ltd., has largest interest).
Montserrat	Bank of Montserrat, Ltd.		X		Public Company
	Royal Bank of Canada			X	Branch
St. Kitts & Nevis	Bank of Nova Scotia (Scotiabank)			X	Branch
	First Caribbean International (Barbados) Ltd.			X	Branch
	Bank of Nevis, Ltd.	X			Public Company
	RBTT (SKN), Ltd.			X	Public Company (RBTT Bank Caribbean Ltd., a subsidiary of RBTT Bank, Ltd., has largest interest).
	Royal Bank of Canada			X	Branch
	St. Kitts Nevis Anguilla National Bank, Ltd.		X		Public Company
Saint Lucia	Bank of Saint Lucia, Ltd.	X			Private Company
	First Caribbean International (Barbados) Ltd.			X	Branch
	Royal Bank of Canada			X	Branch
	RBTT (Caribbean) Ltd.			X	Branch
	First National Bank of Saint Lucia, Ltd.	X			Public Company
St. Vincent and the Grenadines	Bank of St. Vincent and the Grenadines	X			Public Company
	Bank of Nova Scotia (Scotiabank)			X	Branch
	First Caribbean International (Barbados) Ltd.			X	Branch
	RBTT (Caribbean) Ltd.			X	Branch
Total	**35**	**8**	**4**	**23**	
Source: ECCB Financial Stability Report December 2016					

a mix of unclear or inconsistent regulatory expectations (Adriano, 2017). International banks that long operated in the region limited their services for respondent banks that a) do not generate sufficient volumes to overcome compliance costs; b) are located in jurisdictions perceived as too risky; c) provide payment services to customers about which the necessary information for an adequate risk assessment is not available; or d) offer products or services or have customers who pose a higher risk for AML/CFT and are, therefore, more difficult to manage (MacDonald, 2019; Adriano, 2017; Creary, 2016).

Rather than manage risk or assess banking partners on an individual basis, a blanket assessment was made, and banking relationships were terminated. According to the World Bank,

the products and services identified as being most affected by the withdrawal of CBRs are check clearing and settlement, cash-management services, and international wire transfers. In this regard, "de-risking" has also had a major impact on money transfer organizations (MTOs), which are financial companies engaged in the cross-border transfer of funds by using either their local banking system or having access to another cross-border banking system. The largest of these companies include Western Union, UAE Exchange, MoneyGram, and PayPal. MTOs play an important role in countries with large flows of remittances, such as India, China, and much of the Caribbean (MacDonald 2019).

Table VI: The Banking Sector in the ECCU 2023

Country	Name of Indigenous Institution	Name of Foreign Institution
Anguilla	National Commercial Bank of Anguilla Ltd.	Republic Bank (Anguilla) Ltd.
Antigua & Barbuda	Antigua Commercial Bank Ltd. Caribbean Union Bank Ltd. Eastern Caribbean Amalgamated Bank Ltd.	CIBC First Caribbean International Bank (Barbados) Ltd.
Dominica	National Bank of Dominica Ltd.	CIBC First Caribbean International Bank (Barbados) Ltd. Republic Bank (Dominica) Limited
Grenada	ACB Grenada Bank Ltd. Grenada Co-operative Bank Ltd.	CIBC First Caribbean International Bank (Barbados) Ltd. Republic Bank (Grenada) Ltd.
Montserrat	Bank of Montserrat Ltd.	
St. Kitts & Nevis	Bank of Nevis Limited BON Bank Ltd. St. Kitts-Nevis-Anguilla National Bank Ltd.	Republic Bank (St. Kitts and Nevis) Ltd.
St. Lucia	1st National Bank St. Lucia Ltd. Bank of Saint Lucia Ltd.	CIBC First Caribbean International Bank (Barbados) Limited Republic Bank (EC) Limited
St. Vincent & the Grenadines	Bank of St Vincent and the Grenadines Ltd.	CIBC First Caribbean International Bank (Barbados) Ltd. Republic Bank (St. Vincent and the Grenadines) Ltd.

De-risking resulted in the departure of the following long-established banks from the ECCU: Scotiabank, RBC/RBTT, and CIBC/FirstCaribbean International Bank. These decisions jolted the indigenous banks to recognize that their ability to continue to compete in the global financial system was incumbent on their ability to increase their asset base, and that the most expedient way to do so would be by a) purchasing the assets of departing international banks, and b) becoming more multi-country financial institutions through a combination of amalgamations and consortia. Available data indicate that the ECCU has been among the most affected jurisdictions by the termination of CBRs, including more than 75 percent of banks in Dominica and more than 50% of banks in Antigua and Barbuda and St. Kitts and Nevis.
As a result, some thirteen (13) indigenous banks and one (1) regional bank have stepped in to fill the void left by these departing international banks (See Table VI).

ECCU Indigenous Banks: Too Small to Succeed?

The late but prescient former governor of the Eastern Caribbean Central Bank (ECCB), K. Dwight Venner, noted in 2009 that the small, open, vulnerable and disaster-prone economies of the ECCU, with a population of approximately 630,000, were lagging in the Latin American and Caribbean region in growth, competitiveness, macro variables (such as fiscal and debt), the doing business index, and other critical elements in the Global Competitiveness Index. The viability and competitiveness of the banking system, especially the indigenous banks, he argued, demanded a rationalization of the financial sector, which would require that member countries fundamentally restructure their economies at the individual and collective levels by moving from single-country economies to a multi-country economy (Mitchell, 2015; ECCB Annual Report 2008/2009). Implementation of this multi-stage process was slow. Nonetheless, the ECCB pushed for a shared service for the risk and compliance function,[4] arguing that without these banking relationships, businesses would be cut off from international trade and financing, families would be unable to collect remittances from relatives working abroad and, moreover, foreign investors may be unwilling to invest if there is a risk that they will be unable to repatriate their profits (CAB, Inc 2019). Among the expected benefits of consolidation would be economies of scale, greater efficiency in terms of back-of-office activities such as shared software for collaboration; shared investments in ATMS, online and mobile banking; and electronic due diligence that includes greater AML/CFT oversight.

Arbitrarily enforced global financial governance policies, combined with unclear regulatory expectations from enhanced AML/CFT enforcement presented correspondent banks with the possibility of large fines for noncompliance, particularly in cases where local privacy laws prohibit the sharing of information about banks' customers. Consequent risk mitigation decisions of the international banks—CIBC, RBC, and Scotiabank—to "de-bank" from the ECCU and refocus their investment options into bigger markets in the Caribbean and Latin America jolted the indigenous banks into action. Recognizing the trend in the global financial

[4] Ensuring the timely establishment of an effective and efficient shared risk and compliance function; technical expertise; financial capacity; data protection capabilities; monitoring procedures; and good standing within the financial services industry; facilitating money transfers through transactions such as wire transfers, check clearing, and currency exchange.

sector towards mergers and acquisitions, indigenous banks acknowledged that consolidation would enhance
financial stability, conduce growth, and provide modern services to customers at competitive prices in a dynamic environment. This was the case that was articulated in the ECCB's June 2018 Consultative Paper on consolidation of national banks in the ECCU. The evidence was clear: these individual, indigenous banks were too small to succeed.

Accordingly, among the first steps were the acquisition of the assets of the departing international banks, including RBC, Scotiabank, and CIBC. For example, RBC's Eastern Caribbean assets were sold to a consortium of indigenous banks, including: the Antigua Commercial Bank (ACB), Ltd.; the Bank of Montserrat, Ltd.; the Bank of Nevis Ltd.; the National Bank of Dominica, Ltd.; and the 1st National Bank of St. Lucia, Ltd. As part of this transaction, the Consortium has also acquired the Royal Bank of Trinidad and Tobago (Caribbean) Ltd. in St. Vincent and the Grenadines; majority shareholding in Royal Bank of Trinidad and Tobago (Grenada) Ltd.; and the Royal Bank of Trinidad and Tobago (St. Kitts Nevis) Ltd. According to Johnathan Johannes, Managing Director of 1st National Bank of Saint Lucia, "We formed the consortium for the express purpose of expanding the scale of the locally-owned financial entities in the Eastern Caribbean Currency Union. This transaction gives us the size and scale to play a more active role in the development of our respective countries. We see this transaction as the first step in achieving even greater synergies, efficiencies and cross-territory marketing opportunities" (Christopher, 2021; Gonçalves, 2019; Loop Business News December 12, 2019).

Risk aversion witnessed Scotiabank striking a deal with regional financial giant, Republic Financial Holdings, Limited Group (RFHL) in 2018 to sell banking businesses in nine Caribbean countries for US$123 million. Included in this deal were all of Scotiabank's operations in the ECCU, along with those in Guyana and Saint Maarten (Zochdone 2018). The purchase price included US$25 million for the business in Anguilla and $98 million for the other eight countries. De-risking, therefore, has placed banking services largely in the hands of indigenous institutions, which need larger asset bases in order to become more competitive. However, finance and regional politics held up this deal as then Prime Minister of Antigua and Barbuda, Gaston Brown, became concerned about the disposal of the two branches that Scotiabank operated in his country and which employed approximately 75 people (**Padin-Dujon, 2021).** The

impasse was resolved via a separate agreement by Scotiabank to sell those assets to the Antigua and Barbuda-based Eastern Caribbean Amalgamated Bank (ECAB), an outcome deemed consistent that country's national priorities that included boosting the local financial sector.

De-risking has also resulted in the following consortium of indigenous banks in the ECCU—the Bank of Nevis Ltd.; Bank of Montserrat, Ltd.; Antigua Commercial Bank (ACB), Ltd.; National Bank of Dominica, Ltd.; and 1st National Bank of St. Lucia—which purchased the assets of RBC. Meanwhile, the assets of CIBC/FirstCaribbean International Bank in St. Kitts and Nevis were purchased by the St. Kitts Nevis Anguilla National Bank; and an agreement for the assets of CIBC/FirstCaribbean International Bank in St. Vincent and the Grenadines to be sold to the Bank of St. Vincent and the Grenadines was expected to be completed by May 2023. However, whether these indigenous institutions can compete with a Republic Bank and its parent company, RFHL, remains an open question.

RFHL: Too Big to Fail?

Having been in business since 1837, RHFL is the successor to the Colonial Bank in Trinidad and Tobago, and has established a huge footprint across the Caribbean. It operates in 24 subsidiaries with over 4000 employees in Trinidad, Grenada, Barbados and Guyana and an off-shore Corporation in the Cayman Islands. Additionally, RFHL operates in Suriname with approximately 5,500 employees, and made history in 2013 by becoming the first Caribbean Bank to conduct business on the African continent by purchasing a 40 percent stake in the HFC Bank in Ghana. In 2018, RFHL announced plans to purchase the operations of Scotiabank in the following 9 territories (Guyana, St. Maarten, Anguilla, Antigua and Barbuda, Dominica, Grenada, St Kitts and Nevis, St Lucia, and St Vincent and the Grenadines), for US$123 million. A mixture of support and concern by both the public and private sectors greeted this announcement.

Table VII: RFHL' CARIBBEAN FOOTPRINT

		No of Branches	No of ATMs
Cayman National Corporation	*Commercial Bank*		
Republic Bank (Anguilla) Limited	*Commercial Bank*	1	1
Republic Bank (Barbados) Limited	*Commercial Bank*	7	8
Republic Bank (BVI) Limited	*Commercial Bank*	1	3
Republic Bank (Cayman) Limited	*Commercial Bank*	6	21
Republic Bank (Dominica) Limited	*Commercial Bank*	1	1
Republic Bank (Grenada) Limited	*Commercial Bank*	6	8
Republic Bank (Guyana) Limited	*Commercial Bank*	13	50
Republic Bank (St. Kitts and Nevis) Limited	*Commercial Bank*	3	7
Republic Bank (St. Lucia) Limited	*Commercial Bank*	3	6

Republic Bank (St. Maarten) Limited	*Commercial Bank*	2	4
Republic Bank (St. Vincent) Limited	*Commercial Bank*	1	4
Republic Bank (Suriname) N.V.	*Commercial Bank*	6	27
Republic Bank (Trinidad and Tobago) Limited	*Commercial Bank*	39	42
		89	**182**

Among the cheerleaders was the Caribbean Association of Bankers (CAB), who opined that "this is a true reflection of the ongoing maturity of the financial services sector in the Caribbean (CAB Press Release December 11, 2018)." This statement paralleled simultaneous negotiations by RFHL's Barbadian subsidiary, Republic Bank Trinidad and Tobago (Barbados) Ltd., for the purchase of Cayman National Corporation, Ltd. (CNC), the largest financial services company in the Cayman Islands, which includes banking, trust and company management, fund administration, and wealth management services. Established in 1974, the CNC Group has five subsidiaries: Cayman National Bank Ltd., Cayman National Fund Services, Ltd., Cayman National Securities, Ltd., Cayman National Bank (Isle of Man) Ltd., and Cayman National (Dubai), Ltd. The deal resulted in RFHL acquiring 74.99 percent of the issued shares in CNC for US$198M, which increased RFHL's asset base to approximately US$12B. The impact and import of this deal were reflected in CNC's performance for fiscal 2018 (October 2017 to September 2018), in which it recorded an after-tax profit US$26.5 million (https://newsday.co.tt; caymannationalnews.com; https://tt.loopnews.com/).

However, while RFHL's negotiations with Scotiabank reflected a positive opportunity for the regional financial services sector, concerns emerged from other quarters, such as the Government of Antigua and Barbuda, where Scotiabank maintained two branches that employed approximately 75 people. While some considered the country's objection to be reflective of a concern that the sale would make RFHL become a "too-big-to-fail" entity that might jeopardize the financial system in the ECCU, others viewed his objection as a concern about the sale's potential impact on the competitiveness of the country's indigenous banks and, by extension, the ECCU. The impasse was resolved with RFHL withdrawing its bid for Scotiabank's assets in Antigua and Barbuda, which were sold, instead, to the Antigua and Barbuda-based Eastern Caribbean Amalgamated Bank (ECAB), and the acquisition of Scotiabank's operations in the other eight territories.

Table VIII ASSET BASE RE RFHL AND ECCU INDIGENOUS BANKS				
BANKING/FINANCIAL ENTITIES	**Year**	**Local $B**	**US$B**	**US$B**
Republic Financial Holdings Ltd.	2022/21	TT$110.00		16.20
Republic (EC) Territories:		EC$4.40	1.63	
ECCU Indigenous Banks			7.82	
CIBC FirstCaribbean International Bank (Barbados) Ltd.	2021	BD$6.90	*3.42*	
ECCU Indigenous Banks Plus CIBC/FirstCaribbean Int'l				11.24
National Commercial Bank of Anguilla Ltd.	2021	EC$0.13	0.80	
Antigua Commercial Bank Caribbean	2022	EC$1.30	0.48	
Caribbean Union Bank Ltd.	2021	EC$0.30	0.11	
Eastern Caribbean Amalgamated Bank	2022	EC$2.10	0.78	
National Bank of Dominica Ltd.	2021	EC$1.60	0.59	
Grenada Co-operative Bank Ltd.	2020	EC$1.30	0.48	
Bank of Montserrat Limited	2021	EC$0.40	0.15	
Bank of Nevis Group Ltd.	2021	EC$0.90	0.34	
St Kitts-Nevis-Anguilla National Bank Ltd.	2021	EC$3.70	1.37	
1st National Bank St. Lucia Ltd.	2021	EC$0.90	0.33	
Bank of Saint Lucia Ltd.	2021	EC$2.40	0.89	
Bank of St Vincent and the Grenadines Ltd.	2019	EC$2.30	1.30	
Saint Vincent Cooperative Bank.	2022	EC$2.00	0.20	

The RFHL Group's subsidiaries in the Eastern Caribbean include Republic Bank (Grenada) Ltd. which was incorporated in October 1979. In November 2019, the RFHL Group further expanded its regional footprint by acquiring assets in six (6) more territories: Anguilla, Dominica, St. Kitts and Nevis, Saint Lucia, St. Maarten, and St. Vincent and the Grenadines forming Republic Bank (EC) Ltd. Its consolidated asset base is $5.8 billion, with a branch network totalling 19, and reliable suite of 56 ATMs serving these territories (See Table VII). More recently, RFHL's CNB has decided to merge Republic Bank Cayman into the operations of Cayman National Securities Ltd (CNS), thereby leaving CNB and CNS as the main financial services entities. This pending development is all the more significant given that its 30 September 2021 financial report indicated the Cayman Islands represented RFHL's second largest source of after-tax profit, having generated US$219.6 million in after-tax profit, accounting for 15.2 per cent of Republic's after-tax total profit attributable to shareholders of $1.44 billion (https://trinidadexpress.com/; https://newsday.co.tt). The RFHL group, therefore, which operates some 83 branches and 165 ATMs across the Caribbean, including 15 branches and 27 ATMS in the ECCU, whose asset base far exceeds that of the indigenous banks in the ECCU (See Table VI), and which continues to expand and strengthen its presence across the region, is potentially a "too big to fail" operation that is cause for concern among some in the region.

Conclusion

The paper demonstrates that global financial governance exercised through various international bodies, including FATF's AML/CFT, FATCA, the EU's Financial Stability Forum, and the OECD's Forum on Harmful Tax Practices, including the policy of "Blacklisting" and Grey Listing, have been unevenly and unequally imposed upon Caribbean OFC jurisdictions. Arbitrarily associating OFCs with Tax Havens, these global financial governance entities are in competition with one another over the financial services opportunities that Caribbean jurisdictions provide. While the Caribbean overseas jurisdictions of these powerful countries are favored, the independent Caribbean jurisdictions have felt the brunt of the unequal and arbitrary application of global financial security measures. As a consequence, international banks that have long operated in the region have taken risk mitigation measures by "de-risking" from the region and, consequently, have made it more costly for Caribbean jurisdictions, who are dependent correspondent banking services to settle their cross-border transactions. The void created by these departing banks have created a situation in which banking in the OECS has become indigenized, and an asymmetrical relationship has emerged in which there is now one regional financial powerhouse, RFHL Group, whose reach and grasp dwarfs that of the indigenous banks in the OECS. RFHL's dominance of banking in the region has created an uncomfortable situation of a bank that is too big to fail.

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