France appears to have taken its public relations strategy for dealing with $8.9 billion fine against BNP Paribas from an old saying among lawyers: “If you have the facts on your side, pound the facts. If you have the law on your side, pound the law. If you have neither on your side, pound the table.” Here’s the guts of the French compliant, which is that the US is abusing the power of dollar dominance, courtesy the Financial Times (http://www.ft.com/intl/cms/s/0/883e7912-0513-11e4-b098-00144feab7de.html#axzz36iGzlXyh):

France’s political and business establishment has hit out against the hegemony of the dollar in international transactions after US authorities fined BNP Paribas $9bn for helping countries avoid sanctions.

Michel Sapin, the French finance minister, called for a “rebalancing” of the currencies used for global payments, saying the BNP Paribas case should “make us realise the necessity of using a variety of currencies”.

Mr Sapin said he would raise the need for a weightier alternative to the dollar with fellow eurozone finance ministers when they meet in Brussels on Monday, although he declined to go into detail about what practical steps might emerge.

This talk is a lot of hot air. Mind you, we’ve been critics of US foreign policy, particularly in the Middle East, but the French position is ridiculous.

First, BNP Paribas broke US laws. No and, ifs, or buts about it. BNP Paribas made itself subject to US laws by having operations in the US, which were necessary for the bank to have access to Fedwire, the Fed’s system for processing large transactions. Payment system experts like Perry Merhling point out that private inter-bank payment systems also depend on being backstopped by a central bank. Even though the transactions in question originated offshore, they were cleared through BNP’s New York branch. From the Department of Justice’s press release (http://www.justice.gov/opa/pr/2014/June/14-ag-686.html), emphasis ours:
According to court documents submitted today, BNP Paribas S.A. (BNPP), a global financial institution headquartered in Paris, agreed to enter a guilty plea to conspiring to violate the International Emergency Economic Powers Act (IEEPA) and the Trading with the Enemy Act (TWEA) by processing billions of dollars of transactions through the U.S. financial system on behalf of Sudanese, Iranian, and Cuban entities subject to U.S. economic sanctions. The agreement by the French bank to plead guilty is the first time a global bank has agreed to plead guilty to large-scale, systematic violations of U.S. economic sanctions...

According to documents released publicly today, over the course of eight years, BNPP knowingly and willfully moved more than $8.8 billion through the U.S. financial system on behalf of sanctioned entities, including more than $4.3 billion in transactions involving entities that were specifically designated by the U.S. Government as being cut off from the U.S. financial system. BNPP engaged in this criminal conduct through various sophisticated schemes designed to conceal from U.S. regulators the true nature of the illicit transactions. BNPP routed illegal payments through third party financial institutions to conceal not only the involvement of the sanctioned entities but also BNPP’s role in facilitating the transactions. BNPP instructed other financial institutions not to mention the names of sanctioned entities in payments sent through the United States and removed references to sanctioned entities from payment messages to enable the funds to pass through the U.S. financial system undetected.

Now you can point out that domestic money launderers like Wachovia got off much easier, but that’s not terribly persuasive. All you are now debating is the fairness of the punishment, not the conduct at issue. If you have out of state license plates and are caught speeding, it’s almost a given you’ll pay a bigger fine than a native. That’s the bias in most law enforcement around the world, and BNP Paribas was no naif. Similarly, it was also well known that the US was deadly serious about what it calls “terrorist finance” and about using its power of financial sanctions against countries it regards as opposed to its interests. I’m hardly plugged in, but I knew in 2007 that this was a top priority for not just the US but the ECB, because a colleague who was consulting to the Treasury on terrorist finance could get Trichet on the phone. If a not-well-connected blogger had picked that up, you can be sure BNP Paribas knew it in spades. They thought they could fool the authorities and get away with it and they lost.

As to the French threat about diversifying away from the dollar, as we’ve said elsewhere, it is at least 20 years away from happening. The dollar is the reserve currency and has no ready competitors. The euro could have been a contender for ending dollar dominance, but the way the Troika has lurched from crisis to crisis has pretty much put that idea to rest. Because the US has been running trade deficits for decades, there is a large stockpile of dollars in foreign hands, a necessary condition for reserve currency status. No country is willing to run sustained trade deficits (as in send demand abroad and hurt the living standards of domestic workers) to achieve that result. That, by the way, was the logic of the Rubin “strong dollar” policy: allowing other countries to keep their currencies low against the dollar enables the US to continue to run trade deficits and preserves dollar dominance.
The other advantages of the dollar include the US Treasury market, which is traded actively in all major financial centers and serves as the benchmark for pricing dollar-denominated debt instruments. The Fed (like it or not) has demonstrated itself as willing and able to serve as lender of the last resort. The adeptness of the authorities in rescuing financial firms (the failure to punish the perps is another matter) is reassuring to international investors and currency users. By contrast, Europe has only a small Euro denominated bond market, which is dominated by sovereign issuers (and the liquidity of many of those bonds depends on the munificence of the ECB).

Now it is true that countries like China and Russia are pushing for more and more trade transactions to be denominated in non-dollar currencies. But if the US is involved in any way, use of dollars is inevitable. And while China has plans to create institutions to engage in international development and payment settlements, those are a long way from being established, let alone mature. Most important, the renminbi will not replace the dollar until China is prepared to run trade deficits, and there’s no evidence it is willing to cross that Rubicon.

Moreover, the value of international financial transactions greatly exceeds those related to trade, and the dollar is the largest single currency used in those exchanges. The Financial Times story acknowledges these issues:

More than half of cross-border loans and deposits are transacted in dollars and in the last global survey of the $5tn a day foreign exchange market, the dollar was on one side of 87 per cent of all trades. Despite efforts to diversify, many central banks say that they still see no real alternative to the safety and liquidity of the US Treasury market, and hold more than 60 per cent of their reserves in dollars.

A senior French official cast doubt on the government’s ability to stimulate the further use of the euro in international trade: “In the end it is hard to know what they can really do. The market really decides these things.”

The lack of any serious successors means dollar dominance is certain to continue for at least the next decade. When a transition starts to take place, it is more likely to be chaotic rather than orderly, as the period from World War I to the end of World War II, when the change from a sterling-dominated era to the dollar era, attests. So dollar haters, be careful what you wish for.

This piece is cross-posted from Naked Capitalism (http://www.nakedcapitalism.com/2014/07/france-hissy-fit-bnp-paribas-fine-dollar-dominance.html) with permission.
