



Countries/Jurisdictions of Primary Concern - Panama

BUREAU OF INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS

2016 International Narcotics Control Strategy Report (INCSR)

Report

Panama's strategic geographic location; dollarized economy; status as a regional financial, trade, and logistics center; and lax regulatory system make it an attractive target for money launderers. Money laundered in Panama is believed to come in large part from the proceeds of drug trafficking due to the country's location along major drug trafficking routes. Tax evasion, financial fraud, and corruption also are believed to be major sources of illicit funds. Numerous factors hinder the fight against money laundering, including the existence of bearer share corporations, a lack of collaboration among government agencies, lack of experience with money laundering investigations and prosecutions, inconsistent enforcement of laws and regulations, and a weak judicial system susceptible to corruption and favoritism. Money is laundered via bulk cash and trade by exploiting vulnerabilities at the airport, using commercial cover and free trade zones (FTZs), and exploiting the lack of regulatory monitoring in many sectors of the economy. The protection of client secrecy is often stronger than authorities' ability to pierce the corporate veil to pursue an investigation.

Panama has 16 FTZs, including the Colon Free Zone (CFZ), the second-largest FTZ in the world.

For additional information focusing on terrorist financing, please refer to the Department of State's Country Reports on Terrorism, which can be found at: <http://www.state.gov/j/ct/rls/crt/>

Do FINANCIAL INSTITUTIONS engage in currency transactions related to international narcotics trafficking that include significant amounts of US currency; currency derived from illegal sales in the U.S.; or illegal drug sales that otherwise significantly affect the U.S.: YES

criminalization OF money laundering:

"All serious crimes" approach or "list" approach to predicate crimes: List approach

Are legal persons covered: criminally: YES **civily:** NO

Know-your-customer (KYC) rules:

Enhanced due diligence procedures for PEPs: Foreign: YES **Domestic:** YES

KYC covered entities: Banks, savings cooperatives, savings and mortgage banks, and money exchanges; investment houses and brokerage firms; insurance and reinsurance companies; fiduciaries; casinos; FTZ companies; finance companies; real estate brokers; and lawyers

REPORTING REQUIREMENTS:

Number of STRs received and time frame: 1,005 in 2014

Number of CTRs received and time frame: 554,879 in 2014

STR covered entities: Banks, cooperatives, money exchanges, money transfer companies, casinos, betting and gaming companies, fiduciaries, insurance and insurance brokerage companies, the national lottery, investment and brokerage houses, real estate brokers, construction companies, precious metals and mining companies, pawnshops, and FTZs

money laundering criminal Prosecutions/convictions:

Prosecutions: 295 in 2015

Convictions: 251 in 2015

Records exchange mechanism:

With U.S.: MLAT: YES **Other mechanism:** YES

With other governments/jurisdictions: YES

Panama is a member of the Financial Action Task Force of Latin America (GAFILAT). Its most recent evaluation can be found at:

<http://www.imf.org/external/pubs/ft/scr/2014/cr1454.pdf>

Enforcement and implementation issues and comments:

<http://www.state.gov/j/inl/rls/nrcrpt/2016/vol2/253424.htm>

In June 2014, in response to continued criticism, Panama developed an action plan to address its AML deficiencies, and the Government of Panama offered a high-level commitment to implement the necessary actions. In 2015, the government approved and passed legislation to criminalize money laundering, address countering the financing of terrorism (CFT), and cover designated non-financial businesses and professions (DNFBPs). A key factor contributing to Panama's vulnerability to money laundering was that not all financial and non-financial sectors were subjected to regulations and supervision, which has now been addressed in legislation. Government agencies responsible for AML issues are under-resourced and often lack the personnel and training to investigate and prosecute complex money laundering schemes.

In 2015, Panama strengthened its legal framework, amended its criminal code, and passed a new AML/CFT law and other legislation enhancing the framework for international cooperation. Panama is beginning to develop an adequate legal framework for freezing terrorist assets and effective measures for customer due diligence to improve transparency. Panama passed a series of laws, which brought its legal regime more in line with international standards. Law 10 and Law 34 amend the criminal code by adding predicate offenses that typify terrorist financing and money laundering. Law 11 addresses provision of international legal cooperation and assistance in criminal matters. Law 23 of 2015 includes many new reporting entities, in particular a broad array of DNFBPs as well as money service businesses. For the banking sector, the law sets out key customer due diligence requirements. The government also amended or adopted new regulations pertaining to the identification of suspicious activity by banks and other entities. Additionally, Panama's financial intelligence unit, the UAF, has significantly improved its analytical capacity under the leadership of its new director. Panama has started to implement the various AML/CFT laws; however, implementation efforts are in early stages.

Panama's Law 18, 2015, which came into effect in December 2015, provides for the custody of bearer shares. The law will severely restrict the use of bearer shares; companies still using these types of shares must appoint a custodian and maintain strict controls over their use. Bearer shares issued before the law was approved must be replaced with nominative shares or handed over to a custodian by December 2015. Until the law is fully implemented, financial institutions face a risk associated with clients who maintain bearer share companies. Additionally, only banks have enhanced due diligence procedures for foreign and domestic politically exposed persons (PEPs).

The judicial branch's capacity to successfully prosecute and convict money launderers remains weak and judicial branch employees remain susceptible to corruption. Panamanian officials have given assurances they will complete the transition to a U.S.-style accusatory judicial system in all provinces, which began in September 2010, by 2016. All known money laundering convictions are tied to bulk cash cases with an obvious connection to a predicate crime. Panama does not adequately track criminal prosecutions and convictions specifically related to money laundering. The numbers of prosecutions and convictions shown in this report represent partial figures from the drug and anti-corruption prosecutors for 2015, because not all provinces reported figures.

The Panama Customs Authority's collaboration with U.S. agencies increased passenger scrutiny and notable seizures of undeclared cash at Tocumen International Airport. However, regional airports are undergoing renovation and gaining prominence and could be new channels of access for money launderers. Although Panamanian Customs can identify potential trade-based money laundering with information from the Trade Transparency Unit, a regional trade data-sharing entity, it can only levy fees for customs tax evasion.

The CFZ remains vulnerable to illicit financial activities and abuse by criminal groups, due primarily to weak customs enforcement and limited oversight of trade and financial transactions. Bulk cash remains easy to introduce into the country by declaring it is for use in the CFZ, but no official verification process exists to confirm its end use for lawful business in the free zone. The lack of integration of the CFZ's electronic cargo tracking system with Panamanian Customs hinders timely analysis. The CFZ administrator, appointed in July 2014 by the president, has reinstated the CFZ's Office of Money Laundering Prevention and is aiming to expand its control over CFZ businesses and transactions. Under Law 18, 2015, the CFZ comes under the supervision of the Intendencia, the body within the Ministry of Finance that supervises DNFBPs.

On October 22, 2013, the Government of Panama signed a case-sharing agreement with the United States, creating a bilateral committee to manage \$36 million of forfeited assets for use by the Panamanian government to strengthen AML practices. However, there is limited cooperation and communication among the various government agencies to propose and approve projects to use the funds, and the Government has not finalized a process to disburse the funds. The U.S. and Panamanian governments jointly administer these shared funds to address AML issues.

Panama must continue to strengthen the prosecutor's office and the judicial system, increase transparency in financial and trade networks, and enforce the legal framework approved to freeze terrorist assets. The government should criminalize tipping off to ensure the integrity of STR reporting. Panama should also work diligently to fully implement its new laws and regulations and ensure all relevant agencies and departments have adequate resources to effectively fulfill their responsibilities. The government's action plan is providing a roadmap for Panama to achieve these goals.