

**REPUBLICA DE PANAMA
SUPERINTENDENCIA DE BANCOS**

24 de marzo de 2003
Circular No. 008-2003

Señor
Gerente General
E. S. D.

Ref.: International Narcotics Control
Strategy Report.

Señor Gerente:

Nos es grato remitir, para su conocimiento, parte del documento titulado "**International Narcotics Control Strategy Report**", emitido por el Departamento de Estado de los Estados Unidos. En este documento se reconocen todos los esfuerzos realizados por la República de Panamá para la prevención del blanqueo de capitales.

Para más información sobre el documento se puede visitar la página *web* del Departamento de Estado de los Estados Unidos de América <http://www.state.gov/g/inl/rls/nrcrpt/2002/html/>

Sin otro particular, nos suscribimos de usted.

Atentamente,

Delia Cárdenas
Superintendente

Adj.: (lo enunciado)

Panama. Despite significant progress to strengthen Panama's anti-money laundering regime since October 2000, money laundering remains a serious problem in Panama and is a potential threat to the stability of the country's legitimate financial institutions. Panama's proximity to major drug-producing countries, its sophisticated international banking sector, its U.S. dollar-based economy, and the Colon Free Zone's (CFZ) role as an originating or transshipment point for goods purchased with narcotics dollars through the Colombian Black Market Peso Exchange make the country particularly vulnerable to money laundering. Panama's financial institutions engage in currency transactions involving international narcotics-trafficking proceeds that include significant amounts of U.S. currency or currency derived from illegal drug sales in the United States.

Panama's large offshore financial sector includes international business companies (over 370,000 currently registered in Panama), offshore banks (approximately 34 banks), captive insurance companies (corporate entities created and controlled by a parent company, professional association, or group of businesses), and trusts. Captive insurance has become one of the most important sectors of Panama's offshore financial industry, following banking. The high volume of trade occurring through Panama's Colon Free Trade Zone (there are approximately 2,040 businesses established in the Zone) presents opportunities for trade-based money laundering to occur.

In June 2000, the Financial Action Task Force (FATF) identified Panama as a non-cooperative country or territory (NCCT) in international efforts to fight money laundering. In July 2000, the U.S. Treasury Department issued an advisory to U.S. financial institutions advising them to "give enhanced scrutiny" to financial transactions involving Panama, including transactions involving the CFZ.

These events prompted the Government of Panama (GOP) to engage in coordinated effort to enact and implement laws, executive orders, and regulatory agreements with banks to bring Panama's anti-money laundering program into compliance with international standards. In October 2000, the GOP enacted two laws and issued two Executive decrees to address FATF's concerns about its anti-money laundering regime:

Law No. 41 (Article 389) of October 2, 2000, amended the Penal Code by expanding the number of predicate offenses for money laundering beyond drug trafficking to include criminal fraud, arms trafficking, trafficking in humans, kidnapping, extortion, embezzlement, corruption of public officials, terrorism, and international theft or trafficking of motor vehicles. Law No. 41 established a punishment of 5 to 12 years imprisonment and a fine.

Law No. 42 of October 2, 2000, requires financial institutions (banks, trust companies, money exchangers, credit unions, savings and loans associations, stock exchanges and brokerage firms, and investment administrators) to report the Financial Analysis Unit (UAF)—Panama's Financial Intelligence Unit—currency transactions in excess of \$10,000 and suspicious financial transactions. Law 42 also mandates casinos, CFZ businesses, the national lottery, real estate agencies and developers, and insurance/reinsurance companies to report to the UAF currency or quasi-currency transactions that exceed \$10,000. Furthermore, Law 42 requires Panamanian trust companies to identify to the Superintendency of Banks the real and ultimate beneficial owners of trusts.

Executive Decree No. 163 of October 3, 2000, which amended the June 1995 decree that created the UAF, authorizes the UAF to share information with FIUs of other countries, subject to entering into a Memorandum of Understanding (MOU) or other information exchange agreement. The Panamanian UAF and the U.S. FIU, the Financial Crimes Enforcement Network (FinCEN), concluded an informal information sharing arrangement and have since shared information through letters of exchange on a case-by-case basis. In 2002 the Panamanian UAF signed memoranda of understanding with seven countries—Mexico, Italy, Guatemala, the Dominican Republic, Croatia, Honduras, and the Principality of Monaco—bringing the total to nineteen. In addition MOUs with Spain, France, Bulgaria, Colombia, Brazil, and El Salvador are awaiting signatures by those respective governments.

Executive Order No. 163 also allows the UAF to provide information related to possible money laundering directly to the Office of the Attorney General for investigation. The UAF continues efforts to raise the level of compliance for reporting suspicious financial transactions particularly by non-bank financial institutions and businesses in the CFZ.

Executive Order 213 of October 3, 2000, amending Executive Order 16 of 1984 relative to trust operations, provides the dissemination of information related to trusts to appropriate administrative and judicial authorities. Furthermore, in October 2000, Panama's Superintendency of Banks issued an Agreement No. 9-2000 that defines requirements that banks must follow for identification of customers, exercise of due diligence, and retention of bank records reporting transactions.

In light of these significant legislative and regulatory reforms and GOP efforts to implement these reforms, the FATF recognized in June 2001 that Panama had remedied the serious deficiencies in its anti-money laundering regime and removed Panama from FATF's list of non-cooperative countries and territories. Similarly, the U.S. Treasury Department withdrew its advisory against Panama in June 2001.

In 2002, the Ministry of Commerce and Industry issued a circular to all finance companies reminding them of the transaction-reporting requirement of Law 42. It also increased the number of inspections on finance companies, and began drafting a law to regulate the operations of pawnshops and exchange houses. The Autonomous Panamanian Cooperative Institute (IPACCOOP) established a specialized unit for the supervision of loans and credit cooperatives regarding compliance with the requirements of Law 42. The National Securities Commission carried out numerous training sessions and workshops for its personnel and regulated entities. The Colon Free Zone Administration prepared and issued a procedures manual for the users of the Free Zone, outlining their responsibilities regarding prevention of money laundering and requirements under Law 42.

In December 2002, the Panamanian Legislative Assembly approved the Financial Crimes Bill (Law No. 6 of December 6, 2002), which establishes criminal penalties of up to ten years in prison and fines of up to one million dollars for financial crimes that undermine public trust in the banking system, the financial services sector, or the stock market. The penalties criminalize a wide range of activities related to financial intermediation, including the following: illicit transfers of moneys, accounting fraud, insider trading, and the submission of fraudulent data to supervisory authorities.

With support from the Inter-American Development Bank, the GOP is implementing a Program for the Improvement of the Transparency and Integrity of the Financial System. This Transparency Program is targeted at, through enhanced communication and information flow, training programs, and technology, strengthening the ability of

those government institutions responsible for preventing and combating financial crimes and terrorist-financed activities.

Panama has brought cases for domestic prosecution, and the UAF routinely transfers cases to the UIF for investigation. To increase GOP interagency coordination, the UAF and Panamanian Customs are developing an office at the Tocumen International Airport to expedite the entry of customs currency declaration information into the UAF's database. This will enable the UAF to begin more timely investigations. In 2002, Panamanian Customs continued an anti-money laundering program at Tocumen International Airport, begun in 2001, to deter currency smuggling by seizing and forfeiting all undeclared funds in excess of \$10,000 from arriving passengers. During 2002, Panamanian customs officers at Tocumen International Airport seized \$3,745,000 in undeclared currency.

GOP cooperation in the investigation of the Hemisphere's largest Black Market Peso Exchange money laundering scheme was instrumental in the U.S. conviction in 2002 of Yarden Hebroni, owner of Speed Joyeros, a CFZ enterprise. The GOP also revoked the Panamanian residency of Hebroni, an Israeli national, after she was ordered deported from the United States. Also notable in 2002 was GOP cooperation in the investigation of large-scale political corruption, theft, and embezzlement of Government of Nicaragua funds, and money laundering by former Nicaraguan president Arnoldo Aleman and members of his government and family. The Panamanian portion of the investigation resulted in the freezing of \$7 million of the Nicaraguan funds in Panamanian banks and in the freezing of considerable real estate holdings in Panama.

The GOP identified the combating of money laundering as one of five goals in its five-year National Drug Control Strategy issued in 2002. The Strategy commits the GOP to devote \$2.3 million to anti-money laundering projects, the largest being institutional development of the UAF. Also in 2002, the Institute of Autonomous Panamanian Cooperatives, UAF, and the Embassy Narcotics Assistance Section cosponsored a roundtable on money laundering that offered practical training to financial institutions in meeting the reporting requirements under Law No. 42.

In October the UAF, Bank Superintendency and Public Ministry inaugurated a public campaign for the prevention of money laundering that articulated the link between money laundering and terrorist financing and included television commercials co-funded by the Embassy NAS. Also in 2002, the Panamanian Gaming Commission received training on compliance and security issues from the Las Vegas Gaming Commission Seminar earlier in the year.

Panama and the United States have a Mutual Legal Assistance Treaty that entered into force in 1995. The GOP has also assisted numerous countries needing assistance in strengthening their anti-money laundering programs, including Guatemala, Costa Rica, Russia, Honduras, and Nicaragua. Panama also hosted the Sixth Hemispheric Congress on the Prevention of Money Laundering in August 2002. Panama is active in the multilateral Black Market Peso Exchange Group (BMPEG) Directive. In March 2002, the GOP signed the cooperation agreement issued by the Working Group as part of a regional effort against the black market system. Panama is a member of the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD), the Caribbean Financial Action Task Force (CFATF), and the Offshore Group of Banking Supervisors (OGBS), and the UAF is a member of the Egmont Group. Panama is a party to the 1988 UN Drug Convention.

In response to USG efforts to identify and block terrorist-related funds, the GOP continues to monitor suspicious financial transactions. Panama is a signatory to over

eleven United Nations conventions and protocols addressing actions against terrorism, some dating back to 1963. During 2002, the GOP became a party to the UN International Convention for the Suppression of the Financing of Terrorism, and in 2000 signed, but has not ratified, the UN Convention against Transnational Organized Crime, which is not yet in force internationally.

Panama should criminalize terrorist financing, continue its regional assistance efforts, and continue implementing the significant reforms it has undertaken to its anti-money laundering regime, in order to reduce the vulnerability of Panama's financial sector and to enhance Panama's ability to investigate and prosecute financial crime, money laundering and potential terrorist financing.

<http://www.state.gov/g/inl/rls/nrcrpt/2002/html/17952.htm>