

# TRANSLATION

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## LAW 2 Of 1 February 2011

**Whereby the measures to know your customer by registered agents of existing corporations organized according to the laws of the Republic of Panama are governed**

### THE NATIONAL ASSEMBLY

#### DECREEES:

#### Chapter I Legal Provisions

**Article 1.** This Law shall apply to any registered agent of corporations organized or under organization, duly established according to the laws of the Republic of Panama. The registered agents are aimed to meet the measures to know their customers in order to prevent crimes related to money laundering, financing of terrorism, and any other illegal activity, in accordance with the laws of the Republic of Panama, and to meet the responsibilities set forth in international treaties or agreements ratified by the Republic of Panama.

**Article 2.** For the purposes of this Law, the following terms shall be understood as follows:

1. *Lawyer.* Legal practitioner granted with a license issued by the Fourth Court of General business of the Supreme Court of Justice of the Republic of Panama or by the entity, which in the future, will perform this duty. The holder of such a license is entitled to exercise the legal profession, whether individually or jointly as a member of any qualified lawyers civil organization incorporated under the law.
2. *Registered Agent.* Lawyer or law firm providing services as such and who shall keep the records required by this Law on behalf of corporations organized under the laws of the Republic of Panama and with whom they have an existing professional relationship.
3. *Competent authority.* In case of crimes related to money laundering, financing of terrorism, and any other illegal activity, according to the laws of the Republic of Panama, those will be handled by the Attorney's General Office and the Judicial Branch. In case of meeting the international treaties or agreements ratified by the Republic of Panama, the Directorate General of Income of the Ministry of Economy and Finance will be in charge of this task.

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4. *Customer.* Any natural or juridical person having a professional relationship with a lawyer or law firm, on his behalf or third party's behalf, for which the latter will provide registered agent services for one or more corporations.
5. *Corporation.* Any structure or juridical relationship that, according to this law, requires the services of a registered agent.
6. *Measures to know your customer.* Actions that any registered agent must do to comply with the requirements set forth by this Law.

The terms mentioned herein will be understood and included both as plural and feminine.

**Article 3.** To the effects of this Law, the measures to know your customer include actions to achieve the following:

1. To identify the customer and verify his identity with documents, data or information obtained from reliable and independent sources.
2. To obtain from the customer information on the purpose of the corporation that will be created.
3. To provide to competent authorities the requested information, within the periods established in this Law, to combat money laundering, financing of terrorism, and any other illegal activity according to the laws of the Republic of Panama, through the identification of the customer involved in the possible commission of said crimes and to meet the responsibilities established in international treaties or agreements ratified by the Republic of Panama.

To the effects of number 2, it is established that within the implementation of measures to know your customer, the registered agent is not bound to take any action or check the information furnished by the customer regarding the activity that will be carried out by the corporation, and will meet with his duty, as set forth in this Law, of obtaining customer's information when commencing the service provision.

## Chapter II

### Measures to Know your Customer

**Article 4.** The measures to know your customer must be taken before rendering the services to him. However, these measures can be completed within thirty business days following the date in which the service provision started, if there are justified reasons that impede the customer to provide immediately to the registered agent the required information and documentation.

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**Article 5.** Any registered agent rendering his professional services to one or more corporations must apply the measures to know your customer when:

1. A professional relationship was established with the customer, according to the provisions of this Law, or
2. The registered agent is aware that the customer has transferred, whether directly or indirectly, his interests over the corporation, or
3. It is necessary to maintain duly updated the documentation and information obtained as part of the measures to know your customer.

**Article 6.** Any registered agent is bound to apply the measures to know your customer, for which he will ask the customer to provide satisfactory evidence of his identity; when the customer acts on a third party's behalf, he shall provide satisfactory evidence of said third party; and, when the stock certificates representing the title deed of the corporation are issued to the bearer, the customer shall provide satisfactory evidence of the identity of the stockholders.

Pursuant to the provisions of this article, the registered agent must obtain and maintain in his files, at least the following information:

1. When the customer on his behalf or on third party's behalf is a natural person, the registered agent shall obtain from each one of them:
  - a. Full name.
  - b. Physical address.
  - c. P.O. box address, if different from physical address.
  - d. Phone number.
  - e. Mobile phone number, if any.
  - f. Fax number, if any.
  - g. E-mail address, if any.
  - h. Core business activity.
  - i. Copy of national identification document or passport.
  - j. Customer's declaration about the activity the corporation will be engaged in. This information must be requested for each corporation for which the customer requires the registered agent's services.
  - k. Contact details of a natural person or corporation that can furnish bank and commercial references of the customer and third party on behalf of whom he is acting for, when applicable, or written documentation containing his or third party's bank and commercial references, if applicable.
2. When the customer on his behalf or third party's behalf is a juridical person, the registered agent shall obtain from each one of them:
  - a. Full name.
  - b. Jurisdiction and incorporation data.

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- c. Physical address.
- d. P.O. box address, if different from physical address.
- e. Phone number.
- f. Fax number, if any.
- g. Name of the legal representative or person responsible for its management.
- h. E-mail address of the legal representative or person responsible for its management.
- i. Core business activity.
- j. Copy of national identification document or passport of the person or persons, whether direct or indirect owner or owners of, at least, 25% of capital. In case of juridical persons registered in an organized stock market this information will not be required.
- k. Document proving its incorporation.
- l. Customer's declaration about the activity the corporation will be engaged in. This information must be requested for each corporation for which the customer requires the registered agent's services.
- m. Contact details of a natural or juridical person that can furnish bank and commercial references of the customer or third party on behalf of whom he is acting for, when applicable, or written documentation containing his or third party's bank and commercial references.

**Article 7.** The registered agent will not require information from the third party on behalf of whom the customer is acting for, when he is certain that the customer is a juridical person that belongs to a professional organization whose conducts or practices requires him to adopt and maintain professional and ethical standards for the prevention and detection of money laundering, combat of terrorism, and any other illegal activity in terms no lesser than the required pursuant to this Law, as law firms, banks, trust companies, insurance companies, brokerage houses, and certified public accountants.

In these cases, and pursuant to the provisions of this law, the registered agent shall obtain and maintain in his files, at least the following customer information:

- 1. Full name.
- 2. Place and date of incorporation.
- 3. Physical address.
- 4. P.O. box address, if different from the physical address.
- 5. Phone number.
- 6. Fax number, if any.
- 7. Name of the legal representative or person in charge of its management.
- 8. E-mail address of the legal representative or person in charge of its management.
- 9. Core business activity.
- 10. Proof of its existence.
- 11. Customer's declaration about the activity the corporation will be engaged in. This information must be requested for each corporation for which the customer requires the registered agent's services.

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12. Confirmation that the customer:

- a. Has a business relationship with the person on behalf of whom he is requesting the registered agent's services.
- b. Practices the measures to know your customer, which bounds him to have information about the identity of the third parties on behalf of whom he is requesting the registered agent's services in connection with one or more corporations, even though when the stock certificates representing the title deed of the corporation are issued to the bearer.
- c. If required by the registered agent, the customer shall provide information regarding the identity of the customer on behalf of whom he is acting, according to the requirements and procedures established in the legislation of the jurisdiction where the operations are performed.

## Chapter III

### Information Management

**Article 8.** The information furnished by the customers to the registered agent, in regards to the requirements of this Law, shall be strictly confidential and only be furnished to competent authorities in strictly compliance with the procedures and formalities to that end.

The officials and natural or juridical persons in the private sector that due to the positions they discharge have access to the information resulting from the implementation of this Law shall be bound to maintain due confidentiality when they cease their posts, unless that said information is kept in official records of public character.

The offender of the provisions of this article will be punished with a penalty from one thousand Balboas (B/.1,000.00) to twenty five thousand Balboas (B/.25,000.00), without prejudice of civil or criminal sanctions that may be applied.

**Article 9.** When a registered agent renders his services to one or more corporations and cannot obtain the information required to comply with this Law, within the period established for that purpose, the former shall refrain from executing any transaction related to the corporation for which the customer is not complying with the requirements.

**Article 10.** The information required to meet the measures to know your client shall be maintained by the registered agent, by means of any written or technological means authorized by law, for a period no longer than five years, counted from the termination of the professional relationship with the entity.

To the effects of this article, it will be presumed that the professional relationship with a corporation has terminated de facto, when the customer did not have any contact with the registered agent for a period longer than three years and have discontinued the payment for the services rendered by the lawyer as registered agent for that corporation in said period. In that case, the obligation of keeping the information will be for a two-year period, counted from the termination date of said relationship.

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**Article 11.** Any registered agent of one or more corporations is bound to establishing and maintaining policies and procedures ensuring:

1. Customer's identification and update of his information according to the provisions of this Law.
2. Keeping record of the customer and each one of the corporations to whom the registered agent provides his services under customer's instructions.
3. Executive officials with hierarchical and decision-making powers, if any, know the regulations regarding the prevention of money laundering, financing of terrorism, and other illegal activities, and compliance with the responsibilities established in international treaties or agreements ratified by the Republic of Panama and the measures to know your customer.
4. The registered agent and his executive officials or officials with hierarchical and decision-making powers, if any, shall be trained pursuant the compliance with the measures to know your customer.

**Article 12.** The competent authority will, prior compliance with the norms, requirements, and legal proceedings provided by the Republic of Panama for such effects, request to the registered agent, by notification in due form:

1. To provide information of the client kept in his files in due compliance with the requirements of this Law, or
2. To provide information contained in any means or document of any nature that have been compiled in due compliance with the requirements of this Law.

**Article 13.** The request of information or documents about the identity of the customer by the competent authority shall meet the following requirements:

1. The notification shall state the reasons why the competent authority requires the submittal of information or documents.
2. The term in which that information or documents shall be submitted by the registered agent, which shall not be lesser than five business days from the date in which the notification requesting the information was issued.
3. The office of the competent authority to which the information or documents must be submitted.

**Article 14.** In regards to professional secrecy of the lawyer-customer relationship, the lawyer is not bound to provide any information or documents required by this Law on which he has legitimate right of professional secrecy, unless that information is limited strictly to the one required by his duties on the measures to know your customer.

The right the competent authority has to request for information is not considered as an authorization to search the offices of the registered agent or to confiscate files or archive means, as computers and databases. These actions by the competent authorities shall be made in due compliance with the concerning rules to that end, established in the Panamanian ordinary legislation.

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**Article 15.** When the information about a customer shall be submitted to the competent authority pursuant of this Law, the information will be provided by the registered agent printed in common paper, legible and detailed or by any technological means authorized by law, to allow the receiver of the information to understand its contents and determine its due compliance with the requirements of this Law.

**Article 16.** The furnishing of information as requested by the competent authority will not be considered as a violation to professional secrecy of the lawyer to his customer or as unethical, because it is a superior interest in the Republic of Panama.

Without prejudice to the above, the registered agent will not be bound to provide information requested by the competent authority, when the request is made without the due compliance with the rules, requirements, and procedures established in the Panamanian legislation or when it is based on information obtained, by any domestic or international authority, through illegal or illegitimate means according to the laws of the Republic of Panama.

**Article 17.** The registered agent, due to the fact that he rendered his services to the customer's corporations, will not be considered as the author or accomplice of the customer, even though if the latter is found guilty of committing a violation or offense to the administrative, civil, criminal or tax regulations.

## Chapter IV Penalties

**Article 18.** The competent authority that, when discharging its functions, knows the noncompliance by a registered agent within the obligations imposed by this Law shall inform of said noncompliance to the Fourth Court of General Business of the Supreme Court of Justice.

**Article 19.** The disciplinary action prescribes in two years, from the date in which the registered agent failed to comply with the provisions of this Law. The filing of the complaint at the Fourth Court of General Business of the Supreme Court of Justice interrupts the prescription.

**Article 20.** Failure to comply with the obligations set forth in this Law will be punished by the Fourth Court of General Business of the Supreme Court of Justice by means of the following penalties will be imposed:

1. Warning.
2. Penalty of up to five thousand Balboas (B/.5,000.00)
3. Temporal suspension of lawyer license or law firm license to provide registered agent services to new corporations for a period no lesser than three months or higher than three years.



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**Article 21.** The warning will proceed in case that the registered agent provides less than the minimum information required by this Law or if the information is not updated due to causes imputable to the registered agent.

**Article 22.** The penalty will proceed when the registered agent has avoided completely the submittal of the required information and documentation by this Law.

**Article 23.** The suspension will proceed in case that the registered agent is engage in providing the services as such without complying systematically and repeatedly with the requirements of this Law.

## Chapter V Proceedings

**Article 24.** The proceedings will start when the Fourth Court of General Business of the Supreme Court of Justice receives the filing of the complaint from the competent authority in which is recorded that a registered agent has failed to comply with the obligations established by this Law, adjusting it to the principles of procedural economy, swiftness, efficiency, simplification of proceedings, absence of formalisms, publicity and impartiality, all with full respect for the right of initiative and defense of the interested party.

**Article 25.** After the complaint is received, the Fourth Court of General Business of the Supreme Court of Justice will establish the legitimacy of the claimant in regards to the cause and to determine the condition of the accused registered agent and the origin of the claim in accordance with the facts indicated and the right invoked.

**Article 26.** If the complaint is admitted by the Fourth Court of General Business of the Supreme Court of Justice it will prepare a list of charges and will order the notification of such to the accused lawyer, in a period of fifteen days, for the latter to answer the complaint and provide his explanation and to submit or produce the proofs.

**Article 27.** The Fourth Court of General Business of the Supreme Court of Justice may provide a period of ten business days to produce the evidences in order to practice the proofs presented by the parties. The Fourth Court of General Business of the Supreme Court of Justice may also order as many proofs and acts that may help to clarify the facts and determine the concerning responsibilities.

**Article 28.** After the period to produce evidences is over, if any, the Fourth Court of General Business of the Supreme Court of Justice shall solve by means of a considered resolution, within forty five business days, with a brief explanation of the proven facts, the testimony related to the responsibility of the accused, the legal provisions broken or the exemption of responsibility, it that be the case. The accused lawyer shall be notified in person of the resolution.

**Article 29.** The Fourth Court of General Business of the Supreme Court of Justice will reject the complaint and will order its filing when:



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1. Is evident that the act in question was not committed.
2. The prosecution does not proceed for lack of merit.
3. The complaint is frivolous.
4. The information request is made without the due compliance of the norms, requirements, and procedures established by law or based on information obtained by illegal or illegitimate means by any domestic or international authority, according to the Panamanian law.

**Article 30.** All final decision issued after the summary proceeding mentioned in this Chapter will be adopted by the Fourth Court of General Business of the Supreme Court of Justice in Unit Court. The decision, once pronounced, will only admit an appealing recourse before the remaining members of the Court.

**Article 31.** The resolution suspending temporarily the capacity of the lawyer or the law firm to provide the registered agent services will be published in the Official Gazette and will be notified to the authorized notary publics of the country and to the Public Registry of Panama, for the pertinent legal purposes.

## **Chapter VI** Final Provisions

**Article 32.** The requirements established in this Law will be mandatory after six months of its enactment and shall be applicable to any registered agent that organizes a new juridical.

Regarding existing clients and with relationships established before the enactment of this Law, any registered agent that does not keep the data, documents, and information to comply with the provisions of this Law will have a time period of five years, from the enactment of this Law, to meet these requirements.

To the purposes of this article, when the relationship with an entity has been terminated de facto, as established in article 10, it will not require that the registered agent obtains additional information about the entity unless the professional relationship is reactivated.

In the event that the customer does not provide the information, the registered agent may resign as such and submit said resignation to be filed at the Public Registry of Panama; said filing will not serve for registration purposes.

**Article 33.** This Law repeals the Executive Decree 468 of 19 September 1994, amended by Executive Decree 124 of 27 April 2006.

**Article 34.** This Law shall take effect the day following its promulgation.

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## **LET IT BE KNOWN AND ENFORCED.**

Project 275 of 2011 approved in third read in the Palacio Justo Arosemena, city of Panama on twenty-sixth (26<sup>th</sup>) January, two thousand eleven.

The President,

Jose Muñoz Molina

The Secretary General,

Wigberto E. Quintero G.

NATIONAL EXECUTIVE BRANCH. PRESIDENCY OF THE REPUBLIC.

PANAMA, REPUBLIC OF PANAMA, 1 FEBRUARY 2011.

RICARDO MARTINELLI BERROCAL  
President of the Republic

ALBERTO VALLARINO CLÉMENT  
Minister of Economy and Finance