

OCTOBER 2018

# FREQUENTLY ASKED QUESTIONS

## NEW FINANCIAL REPORTING ENTITIES

## CATEGORY OF QUESTIONS

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## KNOW YOUR CUSTOMER AND FINAL BENEFICIARY MANUAL

- 1. Should the reporting entity's Know your customer and/or final beneficiary manual be approved by the Board of directors?**

*Answer: Yes. The existing rule indicates that the "Know your customer and/or final beneficiary manual" must be approved by the Board of Directors.*
- 2. How can I submit the Know your customer and/or final beneficiary manual to the Superintendency of Banks of Panama?**

*Answer: The manual should be submitted through electronic means (CD) in PDF format along with a transmittal note.*
- 3. When can I submit the "Know your customer and/or final beneficiary Manual" to the Superintendency of Banks of Panama?**

*Answer: Annually by the thirtieth (30th) of January of each year.*
- 4. The updates to the "Reporting Entity's Know your customer and/or final beneficiary manual" must be approved by the Board of Directors?**

*Answer: Yes. The current regulation provides that updates to the "Know your customer and/or final beneficiary manual" must be approved by the Board of Directors.*
- 5. How can I submit the updates of the "Know your customer policy manual" to the Superintendency of Banks of Panama?**

*Answer: The updates should be submitted through electronic means (CD) in PDF format, with the indications of the pages that were replaced along with a transmittal note.*
- 6. In the event there are no updates to the "Know your customer and/or final beneficiary manual," what actions should the reporting entity take?**

*Answer: If there are no updates to the “Know your customer and/or final beneficiary manual,” the reporting entity will submit a certification signed by the Chairman or the Secretary of the Board of Directors, the Legal representative, stating that the “Know your customer and/or final beneficiary manual” has not had any changes in the last twelve (12) months. The approval of this certification should be recorded in the Board of Directors meeting minutes.*

*Additionally, there should be a policy or procedure in the “Know your customer and/or final beneficiary manual” for submittal of the manual on an annual basis to the Superintendency of Banks with the relevant updates.*

## OFAC

### 1. How can I submit the OFAC Certification to the Superintendency of Banks?

*Answer: To the [soporte@superbancos.gob.pa](mailto:soporte@superbancos.gob.pa) e-mail address.*

### 2. When can I submit the OFAC Certification to the Superintendency of Banks of Panama?

*Answer: According to Circular SBP-DPC-FINAN-0077-2016, on a monthly basis during the first 10 business days of the month following the review of the OFAC list against the customer and final beneficiary database.*

### 3. Should the Compliance Officer check the reporting entity’s customer portfolio before submitting the OFAC Certification later to the Superintendency of Banks?

*Answer: Yes. According to Circular SBP-DPC-FINAN-0077-2016, the Compliance Officer or the person discharging the compliance program duties in the reporting entity must confirm that he/she reviewed the OFAC list against the entire customer portfolio (individuals and legal entities). Additionally, he/she must confirm that the list was compared to the final beneficiary list, both individuals or legal entities, and, if the final beneficiary is a legal entity, he/she must identify the shareholder(s) holding a share percentage greater than 10%.*

### 4. How can I obtain the OFAC Certification template?

*Answer: We submitted circulars SBP-DPC-FINAN-0077-2018, SBP-DPC-LSN-0078-2016 and SBP-DPC-FACT-0079-2016 to the reporting entities along with the templates. These circulars and OFAC List Annexes are available on the SBP’s website, circulars section.*

### 5. What information should be registered in the OFAC Certification template?

*Answer: All the fields indicated in the template must be filled out, especially the code assigned to the reporting entity assigned by the SBP’s Prevention and Control of Illicit Operations Division. **Examples:** FINAN015, FACT020, LEAS035 o LSN035.*

### 6. How can I access the OFAC List?

*Answer: The way to Access the OFAC List is through the hyperlink: <https://sanctionssearch.ofac.treas.gov/>. Through this link you can start verifying customers and final beneficiaries against the OFAC List. The OFAC List is frequently updated and it is in text format.*

**7. How can I obtain the OFAC list in PDF format?**

*Answer: Please follow the steps below:*

- a) Access the link: <https://sanctionssearch.ofac.treas.gov/>
- b) Find "Download the SDN List"
- c) Choose the option "Financial Sanctions"
- d) Choose "Specially Designated Nationals List (SDN List)"
- e) In the section "Full List," choose the option "Complete Specially Designated Nationals List (In PDF Format)".

## REGISTERING A FINANCIAL REPORTING ENTITY (FRE) WITH THE SBP

**1. How is a Financial Reporting Entity (FRE) registered with the SBP?**

*Answer: By sending the general data on the Company (Name of the general manager, name and e-mail address of the contact person with the SBP, name and e-mail address of the person responsible for compliance, FRE address and telephone numbers, copy of the notice of operations in PDF format and copy of the resolution of commencement of operations approved by the Ministry of Commerce and Industry (MICI)) to the e-mail address [soporte@superbancos.gob.pa](mailto:soporte@superbancos.gob.pa) in PDF format.*

**2. How can a reporting entity communicate with the SBP's Prevention and Control of Illicit Operations Division?**

*Answer: After the reporting entity submits the general data on the Company, the notice of operation and the resolution of commencement of operations approved by the MICI to the SBP, the entity will be assigned a code (e.g. FINAN015, FACTO38, LSN009) with which the entity can communicate with the SBP's Prevention and Control of Illicit Operations. The e-mail [soporte@superbancos.gob.pa](mailto:soporte@superbancos.gob.pa) should be used for communications.*

## COMPLIANCE OFFICER

**1. Who is the Compliance Officer?**

*Answer: The employee responsible for overseeing the efficient implementation and functioning of the system for the prevention of money laundering and the financing of terrorism within reporting entities.*

**2. What are the duties and obligations of a Compliance Officer?**

*Answer: The Compliance Officer is responsible for appropriately applying the "know your customer" policy and overseeing the implementation and management of the compliance program. The Compliance Officer cannot simultaneously perform positions incompatible with his/her duties.*

**3. How can the Financial Reporting Entity (FRE) communicate [the name of the compliance Officer] to the SBP?**

*Answer: The name of the Compliance Officer should be reported through the e-mail address [soporte@superbancos.gob.pa](mailto:soporte@superbancos.gob.pa), attaching Form SB-01-OC, his/her résumé, work contract and job description.*

**4. What should the Financial Reporting Entity (FRE) do in cases of temporary absences of the Compliance Officer?**

*Answer: For temporary absences of the Compliance Officer (e.g. vacations, sick leave, maternity leave, resignation or others), Form SB-01-OC should be submitted through the e-mail address: [soporte@superbancos.gob.pa](mailto:soporte@superbancos.gob.pa) along with the information on the replacement, his/her résumé, work contract and job description.*

**5. Where should the Compliance Officer be physically located to implement and follow up on the compliance program?**

*Answer: The physical location of the Compliance Officer is up to the FRE. His/her workplace must be private enough to maintain the confidentiality of the activities performed according to the compliance program.*

**6. How can the Financial Reporting Entity (FRE) find out the requirements for becoming a Compliance Officer?**

*Answer: The Superintendency of Banks of Panama has a draft rule to establish the requirements to become a Compliance Officer of finance, leasing and factoring companies. However, the rule is still pending.*

*Currently, the requirements required to become a FRE Compliance Officer are:*

- 1. To have at least 3 years of experience, duly certified, on the activity of the reporting entity that recruited him/her, i.e. have broad knowledge of the business conducted by finance, leasing and factoring companies.*
- 2. Basic knowledge in the areas of prevention, risk analysis, auditing and information systems.*

## REPORTING TO THE SBP

**1. What are the reports and information that must be submitted to the SBP?**

*Answer: The reports and information that must be submitted to the SBP are:*

<i>Information</i>	<i>Regulation</i>	<i>Frequency</i>	<i>Submittal</i>
Manual for the prevention of money laundering	<b>Leasing companies:</b> <ul style="list-style-type: none"> <li>● SBP-DPC-LSN-0096-2016</li> </ul> <b>Finance companies:</b> <ul style="list-style-type: none"> <li>● SBP-DPC-FINAN-0097-2016</li> </ul> <b>Factoring companies:</b> <ul style="list-style-type: none"> <li>● SBP-DPC-FACT-0098-2016</li> </ul>	Annually, by the 30th of January of each year	CD in PDF format with a transmittal note addressed to the SBP.

<p>OFAC List certification</p>	<p><b>For finance companies:</b></p> <ul style="list-style-type: none"> <li>● SBP-DPC-FINAN-0114-2016</li> </ul> <p><b>For leasing companies:</b></p> <ul style="list-style-type: none"> <li>● SBP-DPC-LSN-0115-2016</li> </ul> <p><b>For factoring companies:</b></p> <ul style="list-style-type: none"> <li>● SBP-DPC-FACT-0116-2016</li> </ul>	<p>Monthly, during the first 10 business days of the month following the month to be reported</p>	<p>E-mail address <a href="mailto:soporte@superbancos.gob.pa">soporte@superbancos.gob.pa</a></p>
<p>Audited financial statements</p>	<p><b>For leasing companies:</b></p> <ul style="list-style-type: none"> <li>● SBP-DPC-LSN-0004-2017</li> </ul> <p><b>For finance companies:</b></p> <ul style="list-style-type: none"> <li>● SBP-DPC-FINAN-0005-2017</li> </ul> <p><b>For factoring companies:</b></p> <ul style="list-style-type: none"> <li>● SBP-DPC-FACT-0006-2017</li> </ul>	<p>Annually. FREs with fiscal closure on the 31<sup>st</sup> of December must submit the statements by the 30<sup>th</sup> of April of each year. FREs with fiscal closure on the 30<sup>th</sup> of June must submit it by the 31<sup>st</sup> of October of each year.</p>	<p>Must be inserted in the Excel 182 format and submitted in PDF format through e-mail address <a href="mailto:soporte@superbancos.gob.pa">soporte@superbancos.gob.pa</a></p>
<p>Interim biannual financial statements</p>	<p><b>For leasing companies:</b></p> <ul style="list-style-type: none"> <li>● SBP-DPC-LSN-0004-2017</li> </ul> <p><b>For finance companies:</b></p> <ul style="list-style-type: none"> <li>● SBP-DPC-FINAN-0005-2017</li> </ul> <p><b>For factoring companies:</b></p> <ul style="list-style-type: none"> <li>● SBP-DPC-FACT-0006-2017</li> </ul>	<p>Every six months, 45 business days from the date of each closure. As of September 1, 2017.</p>	<p>Must be inserted in the Excel 182 format and then submitted in PDF format through the e-mail address <a href="mailto:soporte@superbancos.gob.pa">soporte@superbancos.gob.pa</a></p>
<p>Risk factor identification</p>	<p><b>For finance companies:</b></p> <ul style="list-style-type: none"> <li>● SBP-DPC-FINAN-0034-2017</li> </ul> <p><b>For leasing companies:</b></p> <ul style="list-style-type: none"> <li>● SBP-DPC-LSN-0035-2017</li> </ul> <p><b>For factoring companies:</b></p> <ul style="list-style-type: none"> <li>● SBP-DPC-FACT-0036-2017</li> </ul>	<p>The first submittal will be 30 calendar days following the posting of the circular.</p>	<p>In Excel format through e-mail <a href="mailto:soporte@superbancos.gob.pa">soporte@superbancos.gob.pa</a></p>
<p>Internal control survey</p>	<p><b>For factoring companies:</b></p> <ul style="list-style-type: none"> <li>● SBP-DPC-FACT-0174-2015</li> </ul>	<p>The first submittal must be 15 business days from receiving</p>	<p>In Word format through e-mail <a href="mailto:soporte@superbancos.gob.pa">soporte@superbancos.gob.pa</a></p>

	<p><b>For finance companies:</b></p> <ul style="list-style-type: none"> <li>• SBP-DPC-FINAN-0175-2015</li> </ul> <p><b>For leasing companies:</b></p> <ul style="list-style-type: none"> <li>• SBP-DPC-LEAS-0176-2015</li> </ul>	Circular FINAN-0175-2015.	
Appointment of the Compliance Officer	<p><b>For factoring companies</b></p> <ul style="list-style-type: none"> <li>• SBP-DPC-FACT-0177-2015</li> </ul> <p><b>For finance companies:</b></p> <ul style="list-style-type: none"> <li>• SBP-DPC-FINAN-0178-2015</li> </ul> <p><b>For leasing companies:</b></p> <ul style="list-style-type: none"> <li>• SBP-DPC-LEAS-0179-2015</li> </ul>	The report must be submitted each time there are changes in the Compliance Officer position. Form SB-OC-01 must be submitted along with his/her résumé, work contract and job description.	In PDF format through e-mail <a href="mailto:soporte@superbancos.gob.pa">soporte@superbancos.gob.pa</a>

## ACTION PLAN FROM AN AML INSPECTION

1. **What is the deadline or timeframe within which the Action Plan must be submitted to the SBP, once the FRE receives the “Findings and Recommendations Matrix” resulting from the AML inspection?**

*Answer: Twenty business days from the date of acknowledgement of receipt of the “Findings and Recommendations Matrix” report.*

2. **What is the FRE’s deadline or timeframe for submitting the answer to the SBP on the implementation progress reports on the “Findings and Recommendations Matrix”?**

*Answer: Ten business days from the closure of each calendar quarter. The report must include the proof or compliance documents for the progress reports on the implementation of the “Findings and Recommendations Matrix” and must be submitted on a CD to the SBP. It is worth noting that the findings stated as remedied are subject to verification during an onsite inspection to assess their adjustment to current regulations.*

3. **How can the FRE request the SBP provide an extension of the deadline set in the “Findings and Recommendations Matrix” from an AML inspection?**

*Answer: The FRE should do the following:*

- a. *Send an e-mail to [soporte@superbancos.gob.pa](mailto:soporte@superbancos.gob.pa) indicating the closing date of the AML examination and the finding, along with the main reason for requesting the extension.*
- b. *Enclose a formal transmittal letter in PDF format requesting the extension.*

## FINANCIAL ANALYSIS UNIT (UAF)

1. **What is the Panamanian Financial Analysis Unit?**

*Answer: The Financial Analysis Unit for the prevention of money laundering and the financing of terrorism in the national center for compiling and analyzing financial information related to the crimes of money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction, and for informing the results of the analysis to the law enforcement agencies in the country.*

## 2. What are the duties of the UAF?

*Answer:*

- ✓ *Centralize at the national level the suspicious transaction reports and the cash and quasi-cash reports produced or issued by financial reporting entities, nonfinancial reporting entities and activities conducted by professionals subject to supervision, defined by Law 23 dated 27 April 2015 and the rules regulating it, in accordance with the standards of confidentiality and responsibility [required] for their custody and filing, to prevent money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction crimes.*
- ✓ *Receiving any and all information related to suspicious transactions that could be linked to money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction from the financial reporting entities, the nonfinancial reporting entities and activities conducted by professionals subject to supervision.*
- ✓ *[The UAF] may require in writing any and all information from financial reporting entities, nonfinancial reporting entities and activities conducted by professionals subject to supervision related to money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction cases it deems necessary in order to conduct an appropriate analysis.*
- ✓ *Analyze the obtained information in order to report the analysis results and supporting documentation to the Attorney General, the criminal investigation agencies and the jurisdictional authorities when there are enough grounds to suspect that activities related to money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction were or are being conducted.*
- ✓ *Prepare and maintain records and the statistics necessary to perform its duties for up to five years.*
- ✓ *Exchange financial intelligence information that could be related to money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction with counterparties in other countries for analysis.*



- ✓ *Exchange financial intelligence information that could be related to money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction with jurisdictions with which it has not entered into any agreements, as long as they are members of the Egmont Group and for reciprocity purposes.*
- ✓ *Facilitate cooperation when the information is relevant to meet the provisions of United Nations Security Council Resolution 1373.*
- ✓ *Provide the Attorney General, the supervisory bodies, the National Customs Authority and the various intelligence and state security agencies, any technical assistance required to help in criminal or administrative investigations of actions or crimes related to money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction.*
- ✓ *Obtain additional financial information related to the crimes of money laundering, the financing of terrorism and the financing of the proliferation of mass destruction committed by financial reporting entities, nonfinancial reporting entities and activities conducted by professionals subject to supervision when merited by the financial intelligence analyses resulting from the different reports and other statements received.*
- ✓ *Establish guidelines and provide feedback to help financial reporting entities, nonfinancial reporting entities and activities conducted by professionals subject to supervision when applying the measures contained in the Law and, particularly, in detecting and reporting suspicious transactions.*
- ✓ *Maintain updated statistics on matters relevant to the implementation of this Law, including the suspicious transaction reports received and the reports provided to law enforcement agencies.*
- ✓ *Engage in other activities resulting from Law 23 dated 27 April 2015 or other legal provisions and international memoranda entered into and ratified by the Republic of Panama.*

**3. Should the Cash Transaction Reports (CRTs), Suspicious Transaction Reports (STRs) and the Preventive Freezing Form be submitted to the UAF?**

*Answer: Yes, the Cash Transaction Reports (CTR), Suspicious Transaction Reports (STRs) and the Preventive Freezing Forms must be submitted through the UAF online platform. The reporting entity must have an ADSO code to send these reports. This code may be requested through e-mail [contactcenter@uaf.gob.pa](mailto:contactcenter@uaf.gob.pa)*

**4. When must the Preventive Freezing Form be sent?**

*Answer: The procedure resulted from Executive Decree 587 dated 4 August 2015 on preventive freezing. The process starts when the UAF submits the UN list to reporting entities and the reporting entity verifies with its customer database whether there are any*

matches. If there are matches, the result is reported to the UAF using the preventive freezing form.

**5. How can a reporting entity obtain the Updated Reporting Entity Data (ASDO, for its acronym in Spanish) code assigned by the UAF?**

*Answer: It should be requested from the UAF via e-mail [contactcenter@uaf.gob.pa](mailto:contactcenter@uaf.gob.pa) or telephone number 514-0100.*

**6. Can the reporting entity inform the persons involved that they were reported to the UAF?**

*Answer: No. The reporting entity cannot inform the persons involved that they were reported to the UAF.*

*The information obtained by a supervisory body and the Financial Analysis Unit for the prevention of money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction in the performance of their duties must be kept in strict confidentiality and can only be revealed to the Attorney General, the criminal investigation agencies and the jurisdictional authorities pursuant to the existing legal provisions.*

**7. What reports does the UAF receive?**

*Answer: Articles 53 and 54 of Title VII of Law 23 dated 27 April 2015, provides that the reports the UAF must receive are:*

- ✓ *Cash or quasi-cash Transaction Reports (CTR): The reporting entities must report to the UAF the transactions or operations conducted in and from the Republic of Panama in an amount equal to or greater than that of the threshold established by Law or sector regulations, or successive transactions in a business week totaling [an amount] equal to or greater than the threshold. These reports will be issued within the timeframe the regulations provide on that matter.*
- ✓ *Suspicious Transaction Reports (STR): The reporting entities must directly inform the UAF of any event, transaction or operation that is suspected of being related to the crimes of money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction included in Article 254 of the existing Panamanian Criminal Code.*

*Answer: Article 49, included in Title VI of Law 23 dated 27 April 2015, provides that the reports the UAF must receive are:*

- ✓ *Preventive Freezing Form: The reporting entities are required to report to the UAF the result of reviewing the UN Security Council List against its customer database, using the preventive freezing form issued by the UAF.*

**8. Can the information contained in the Suspicious Transaction Reports be disclosed?**

*Answer: The public servants that receive or are aware of the information must keep it under strict confidentiality and it may be furnished only to law enforcement agencies as*

provided for by law. Without prejudice to any civil or administrative liability, the supervisory body and Financial Analysis Unit personnel that directly or indirectly disclose, release or personally misuse the information by any means or form not complying with their duties, responsibilities and strict confidentiality, will be punished according to the provisions of the Criminal Code.

## PENALTIES FOR FRE

### 1. What administrative penalties entail failing to comply with Anti-Money Laundering measures?

*Answer: Failing to comply with the provisions in Law 23 dated 27 April 2015 or the provisions prescribed for its application by the supervisory body of each activity for which there is no specific penalty will be punished for that sole event with fines of from five thousand balboas (B/.5,000.00) to one million balboas (B/.1,000,000.00) in accordance with the severity and the degree of recidivism. These may be imposed by the supervisory bodies of each activity or at the request of the Financial Analysis Unit for the prevention of money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction for the late or inaccurate submittal of reports.*

## CUSTOMER RISK MATRIX

### 1. Should the risk matrix be included in every customer file?

*Answer: The customer risk matrix will be available in accordance with the reporting entity's manuals, policies, procedures, and internal controls, which will conform to the degree of sophistication of its activities and may include various customer categories, established according to the level of risk.*

### 2. How many risk factors should be included in the customer risk matrix?

*Answer: According to Law 23 dated 27 April 2015 and Rule 5-2015 dated 26 of 2015 (sic), at least **four (4) risk factors** should be included in the customer risk matrix, namely: customers, products and services, channels and geographical location. The matrix must be approved by the Board of Directors.*

### 3. Should the customer risk matrix have a methodology for its application?

*Answer: Yes. According to Law 23 dated 27 April 2015, the risk matrix must have a methodology for its application. This methodology must be approved by the Board of Directors.*

## FINANCIAL INFORMATION

### 1. What information should be submitted to the SBP?

*Answer: The financial information that must be submitted to the SBP is:*

- 1. The audited financial statements must be submitted to the Superintendency of Banks of Panama by April 30 of every year. These must be submitted digitally in PDF format via e-mail to [soporte@superbancos.gob.pa](mailto:soporte@superbancos.gob.pa).*

2. *The interim half-year financial information must be submitted to the Superintendency of Banks of Panama within 45 business days after the close of the semiannual period. This interim financial information must be provided in Excel format 182 (finance companies), 183 (factoring companies), 184 (leasing companies) and submitted digitally in PDF format via e-mail to [soporte@superbancos.gob.pa](mailto:soporte@superbancos.gob.pa).*

## LICENSING

1. **Does the Superintendency of Banks of Panama grant finance, factoring and leasing licenses?**

*Answer: No. The licenses to commence operations are authorized by the Directorate of Finance Companies of the Ministry of Commerce and Industry (MICI) through a notice of operation.*

## DUE DILIGENCE

1. **Should all customer files kept by the Company before the enactment of Law 23 of April 2015 be updated?**

*Answer: Financial reporting entities must keep a record of the updated customer information and documentation, while the contractual relationship lasts. Pursuant to Article 29 of Law 23 of April 2015 (records updating and recordkeeping), Article 4, paragraph 12 of the law (risk-based approach) and Article 12 of Rule 5-2015 ("Document updating and recordkeeping):*

- a. *Customers file are updated as follows:*
  - i. *HIGH RISK every 12 months*
  - ii. *MEDIUM RISK every 24 months*
  - iii. *LOW RISK every 48 months*
- b. *According to the risk-based approach, financial reporting entities must adopt prevention measures to update customers files in accordance with the risk classification.*
- c. *In connection with the above, the financial reporting entities must have procedures for updating and maintaining their customers' documents; additionally, they must have a plan and file updating chronogram including all customers' files. This plan must prioritize updating high-risk customers and finish with low-risk customers.*

## CIRCULARS

1. **Can the reporting entity request the Superintendency of Banks send them all the circulars (e.g. related to finance, leasing and factoring companies)?**

*Answer: The reporting entity should visit the Superintendency of Banks of Panama's website, Laws and Regulations node, and consult "Circulars."*

**2. What is the meaning of the circulars reference number?**

*Answer: The circulars reference number begins with the acronym of the regulator (SBP), followed by the acronym of the division issuing them (DPC: Prevention & Control of Illicit Operations Division), then the acronym of the business model of the reporting entity, the consecutive circular number and finally the year that it was issued.*

**Example:** SBP-DPC-FINAN-0182-2015.

## MONEY LAUNDERING

**1. What is money laundering?**

*Answer: Money laundering is an illegal activity consisting of hiding the origin of funds coming from illegal or criminal activities in order to give them a legal appearance. The crimes committed through money laundering in our country are those contained in Article 254 of the Panamanian Criminal Code.*

**2. What are the stages of money laundering?**

*Answer: The stages are:*

**1. Placement phase:**

*The first phase is generally carried out near the place where the crimes were committed and consists of introducing the money obtained from the illegal activity into the financial system. This action is conducted through different methods, although the common denominator is that the illegal capital is split into smaller amounts that are slowly introduced into the financial system.*

**2. Stratification phase:**

*Once the money from illegal activities is placed in the financial system, the second phase of the money laundering process is started. The objective of this stage is to blur any relationship of the funds with its source. For this, the "launderers" make numerous wire transfers through accounts located in other countries, purchasing or selling investment products or making fictitious trades.*

**3. Integration phase:**

*After blurring any relationship of the money with its origin and source, it goes to the last phase of money laundering, called integration, which is when the funds obtained through illegal activities go back to its owner and reenters the real economy. There are different instruments to make this integration, through investing in legal businesses, purchasing real estate or purchasing luxury goods or art objects, among others.*

**3. What negative effects does money laundering pose for the country?**

*Answer: The consequences that money laundering pose for the country are: weaknesses in financial markets integrity, unfair competition, loss of control of economic policy, loss of public income and risk towards the country's reputation, among others.*

#### 4. What are the predicate offenses of money laundering?

*Answer: According to the Criminal Code of the Republic of Panama and the new reforms to Article 254 of the Criminal Code, the predicate offenses are:*

- *International bribery*
- *Copyright and related crimes*
- *Industrial property rights*
- *Migrant trafficking*
- *Human trafficking*
- *Organ trade*
- *Environmental crimes*
- *Commercial sexual exploitation crimes*
- *Crimes against the State*
- *Crimes against the laws on electronic media security*
- *Forgery*
- *Omission or falsehood on the traveler's customs declaration with respect to monies, securities or negotiable instruments*
- *Terrorism and the financing of terrorism*
- *Organized crime*
- *Gang-related crimes*
- *Trafficking and receiving things from crimes*
- *Smuggling*
- *Customs fraud*
- *Aggravated Fraud*
- *Theft*
- *Financial crimes*
- *Kidnapping*
- *Extortion*
- *Contract killing*
- *Embezzlement*
- *Corruption of public servants*
- *Illicit enrichment*
- *Pornography and corruption of minors*
- *International theft or trafficking in stolen vehicles and spare parts*
- *Counterfeiting of currency and other securities*
- *Crimes against the nation's historical heritage*
- *Crimes against international security and peace*
- *Drug-related crimes*
- *Piracy*
- *Illicit association*
- *Receipt and trafficking in weapons and explosives and the appropriation and violent removal of illicit material*

#### 5. What is the criminal sanction or legal consequence for money laundering crimes?

*Answer: The criminal sanction imposed for money laundering is 5 to 12 years imprisonment.*

## UNUSUAL AND SUSPICIOUS TRANSACTION

#### 1. What is an unusual transaction?

*Answer: An unusual transaction is one not conforming to the customer financial or transactional profile that was reasonably declared and confirmed by the entity when*

*starting the contractual relationship or that exceeds the parameters fixed by the entity when conducting the customer due diligence, and which must therefore be duly justified.*

**2. What is a suspicious transaction?**

*Answer: A suspicious transaction is one that cannot be justified or supported by the customer's financial or transactional profile, or an operation that could be related to money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction, and which must be reported to the UAF.*

**3. What is a Suspicious Transaction Report (STR)?**

*Answer: A suspicious transaction report is the result of a thorough review for which the support and involvement of the entity's Compliance Officer and the decision of the Anti-Money Laundering Committee, if any, is recommended.*

*The Suspicious Transaction Report is not a criminal complaint of the existence of a money laundering crime. This report only fulfills the duty to cooperate with the authorities to report irregular situations. It reports on inconsistencies in handling an account or product when compared to the client's known activity and financial profile.*

## REPORTING ENTITIES

**1. Who are the reporting entities?**

*Answer: Law 23 dated 27 April 2015 establishes two types of reporting entities for the prevention of money laundering: the reporting entities conducting financial activities and the nonfinancial reporting entities engaging in nonfinancial or commercial activities.*

**2. What are the reporting entities' minimum requirements?**

*Answer: The minimum requirements of the reporting entities are as follows:*

- 1. Identify customers properly. For this purpose, the reporting entities must ask their customers for references or recommendations, as well as the relevant certifications verifying the incorporation and validity of corporations, as well as the identification of dignitaries, directors, agents, and legal representatives of these corporations, in order to properly document and establish the true direct or indirect owner or beneficiary.*
- 2. Report to the Financial Analysis Unit and/or request customers, agents or representatives [provide] the necessary affidavits to comply with the law and the regulations for its application, particularly in the event of:*
  - a. Cash deposits or withdrawals greater than ten thousand balboas (B/.10,000.00) or successive transactions close together that, although each is under ten thousand balboas (B/.10,000.00) total more than ten thousand balboas (B/.10,000.00);*

- b. *The exchange of bills, lottery tickets, checks, cashier's checks, traveler's checks or money orders for an amount greater than ten thousand balboas (B/.10,000.00) of low denominations for high denominations or vice-versa;*
  - c. *The exchange of (cashier's, traveler's or other) checks and money orders drawn to the bearer, with blank endorsements or issued on the same date or dates that are close together and/or by the same drawer(s) in the same market, for amounts greater than ten thousand balboas (B/.10,000.00).*
3. *Closely examine any transaction, regardless of its amount, that could be linked particularly to laundering money coming from activities classified as illegal by law.*
  4. *Supply the affidavits related to cash and quasi-cash transactions to the relevant supervisory bodies.*
  5. *Directly inform the Financial Analysis Unit on its own initiative of any event, transaction or operation suspected of being related to money laundering. In accordance with the provisions of Law 23, refrain from informing the customer or third parties that the information was reported to the Financial Analysis Unit or that any transaction or operation is being examined due to suspicions that it could be linked to money laundering.*
  6. *Establish procedures and internal control and reporting mechanisms to prevent conducting operations linked to money laundering. The appropriateness of these procedures and control mechanisms will be supervised by the relevant supervisory and control body for each activity, which can propose timely corrective measures according to the viability of the regular operations of legitimate users.*
  7. *Adopt timely measures for ensuring the entity's personnel are aware of the requirements of Law 23. The measures will include preparing training programs and courses for employees to train them to detect transactions that could be related to money laundering and to learn how to proceed when these cases occur.*
  8. *Keep, for five years, the records appropriately documenting the performance of the transactions and the identity of the persons that have or would have established business relationships when getting that identification would have been compulsory.*

## SUPERVISORY BODIES

### 1. Who are the supervisory bodies?



Answer: *The supervisory bodies are:*

- ✓ ***The Superintendency of Banks of Panama:*** *for banks and trust companies, including any other activities engaged by them; finance companies, leasing companies, factoring companies; debit, credit and prepaid card issuers and processors; payment instrument and electronic money issuers; Banco de Desarrollo Agropecuario (BDA), Banco Hipotecario Nacional (BHN), money service businesses, exchange bureaus and savings and mortgages corporations.*
- ✓ ***The Superintendency of the Securities Market:*** *for self-regulated organizations, brokerage houses, pension fund administrators, investment corporations, self-managed investment corporations, investment advisors, suppliers of administrative services for the stock market.*
- ✓ ***The Superintendency of Insurance and Reinsurance of Panama:*** *for insurance and reinsurance companies, insurance brokers, reinsurance brokers, insurance adjustors and inspectors, insurance agents, insurance account or sales officers, marketing channels, insurance companies administrators, captive insurance companies, captive insurance administrators, insurance broker administrators.*
- ✓ ***The Panamanian Institute of Autonomous Cooperatives (IPACOOOP, for its acronym in Spanish):*** *for Savings and loan unions, multiple services or integral cooperatives engaging in savings and loans and any other cooperative organization conducting immediate financial activity.*
- ✓ ***The Intendancy for the Supervision and Regulation of Nonfinancial Reporting Entities of the Ministry of Economy and Finance:*** *for Colon Free Trade Zone companies, companies established inside Agencia Panamá Pacífico, the Baru Free Trade Zone, the Panama Diamond Exchange, Free Trade Zones; casinos, gambling games, betting system organizations and other physical or telematics establishments developing these businesses through the Internet; real estate developers and real estate agents and realtors, when involved in sale and purchase transactions for their clients; companies engaged in construction, companies providing transportation of valuables, pawnshops, companies engaged in trading precious metals and stones, The National Lottery, the National Postal Service, companies engaged in purchasing new and used cars and the activities engaged in by professionals as described for in Article 24.*

## POLITICALLY EXPOSED PERSONS (PEP)

### 1. What does PEP stands for?

Answer: *They are Politically Exposed Persons.*

**2. Who are considered PEP?**

*Answer: They are the national or foreign persons in prominent high-level or public positions in a State, e.g. (but not limited to): chiefs of State or government, high-profile politicians; government, judiciary and senior military officials, senior executives of state companies and corporations, public officials holding elective office, among others engaging in decision-making in public entities.*

**3. What is the enhanced due diligence for PEP customers?**

*Answer: The enhanced due diligence is the set of more demanding standards, policies, procedures, processes and arrangements reasonably designed to know the customer, which are intensified according to the results of the risk identification, assessment and diagnosis the entity applies to prevent ML, FT, PWMD.*

*The following enhanced due diligence measures must be applied for PEP customers:*

- 1. PEP customer relationships must be approved by top management;*
- 2. Intensified follow-up on the customer's transactions;*
- 3. Tools that permit conducting reviews to determine whether the customer or final beneficiary is a PEP.*

**4. Does the SBP have a list of PEPs that could be provided to reporting entities?**

*Answer: No. The SBP does not have a list of PEPs to be provided to reporting entities. The SBP has prepared an in-house PEP list that it uses during the onsite examinations to check the customer database of the financial reporting entities.*

**5. According to Law 23 dated 27 April 2015, what is the timeframe during which a person could be considered a PEP?**

*Answer: The timeframe in which a person could be consider a PEP is from his/her appointment until his/her departure from office and for a subsequent period no greater than two (2) years from the moment he/she finishes discharging the duties and obligations for which he/she was initially classified as a PEP.*

**6. According to Law 23 dated 27 April 2015, would an honorary consul be classified as a Politically Exposed Person (PEP)?**

*Answer: Yes. According to the provisions of paragraph 18 of Article 4 of Law 23 of April 2015, of Article 9 of Rule 5-2015 and according to the duties performed by an honorary consul, we believe that an honorary consul is a politically exposed person (PEP) and is subject to enhanced or reinforced due diligence for high-risk customers in accordance with the provisions of the aforementioned Law 23, Rule 5-2015 and the risk management system in place in the financial reporting entity.*

## REGULATIONS ACCORDING TO CATEGORY

**1. "KNOW YOUR CUSTOMER" MANUAL**

- ✓ Article 39 of Law 23 dated 27 April 2015
- ✓ Article 13 of Rule 5 dated 26 May 2015

- ✓ For finance companies: Circular SBP-DPC-FINAN-0097-2016
- ✓ For leasing companies: Circular SBP-DPC-LSN-0096-2016
- ✓ For factoring companies: Circular SBP-DPC-FACT-0098-2016

## 2. OFAC

- ✓ Law 23 dated 27 April 2015
- ✓ Rule 5-2015 dated 26 May 2015
- ✓ Circular SBP-DPC-FINAN-0077-2016
- ✓ Circular SBP-DPC-FINAN-0090-2016
- ✓ Circular SBP-DPC-FINAN-0114-2016
- ✓ Circular SBP-DPC-LSN-0078-2016
- ✓ Circular SBP-DPC-LSN-0091-2016
- ✓ Circular SBP-DPC-LSN-0115-2016
- ✓ Circular SBP-DPC-FACT-0079-2016
- ✓ Circular SBP-DPC-FACT-0092-2016
- ✓ Circular SBP-DPC-FACT-0116-2016

## 3. REGISTERING A FINANCIAL REPORTING ENTITY (FRE) AT THE SBP

- ✓ Law 23 dated 27 April 2015

## 4. COMPLIANCE OFFICER

- ✓ Article 12, Law 23 dated 27 April 2015
- ✓ Article 18, Rule 5 dated 26 May 2015

## 5. REPORTING TO THE SBP

- ✓ Law 23 dated 27 April 2015
- ✓ General Resolution SBP-RG-003-2017 dated 22 August 2017.

## 6. ACTION PLAN RESULTING FROM AN AML EXAMINATION

- ✓ Law 23 dated 27 April 2015

## 7. UAF

- ✓ Articles 53, 54 and 55, Law 23 dated 27 April 2015

## 8. PENALTIES FOR FINANCIAL REPORTING ENTITIES (FRE)

- ✓ Articles 59, 60, 61, 62, 63, 64, 65, 66 in Title IX of Law 23 dated 27 April 2015
- ✓ Rule 9-2015 dated 27 July 2015

## 9. CUSTOMER RISK MATRIX

- ✓ Article 40 of Law 23 dated 27 April 2015
- ✓ Article 13 of Rule 5-2015 dated 26 May 2015

## 10. FINANCIAL INFORMATION

- ✓ Article 20, paragraph 4 of Law 23 dated 27 April 2015

**11. LICENSING**

- ✓ The licenses for starting operations by reporting entities are authorized by the Directorate of Finance Companies of the Ministry of Commerce and Industry (MICI).

**12. DUE DILIGENCE**

- ✓ Articles 26, 27, 28, 29 of Law 23 dated 27 April 2015
- ✓ Articles 4, 5, 6, 7, 8 of Rule 5 dated 26 May 2015

**13. CIRCULARS**

- ✓ Law 23 dated 27 April 2015
- ✓ FRE-related circulars are posted on our website under “Laws & Regulations”, Circulars section.

**14. MONEY LAUNDERING**

- ✓ Law 23 dated 27 April 2015

**15. UNUSUAL AND SUSPICIOUS TRANSACTIONS**

- ✓ Article 4, paragraphs 16 and 17 of Law 23 dated 27 April 2015
- ✓ Article 16 of Rule 5-2015 dated 26 May 2015

**16. REPORTING ENTITIES**

- ✓ Law 23 dated 27 April 2015

**17. SUPERVISORY BODIES**

- ✓ Law 23 dated 27 April 2015

**18. POLITICALLY EXPOSED PERSONS**

- ✓ Article 4, paragraph 18, Law 23 dated 27 April 2015
- ✓ Article 34 of Law 23 dated 27 April 2015
- ✓ Article 9 of Rule 5 dated 26 May 2015