

**Republic of Panama  
Superintendency of Banks**

**OTHER FINANCIAL REPORTING ENTITIES AML RULE N°. 1-2018  
(dated 21 August 2018)**

**“Whereby the registration process for money service businesses at the Superintendency of Banks for the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction is established”**

**THE BOARD OF DIRECTORS**  
in use of its legal powers and,

**WHEREAS:**

Due to the issuance of Decree Law 2 dated 22 February 2008, the Executive Branch re-edited Decree Law 9 dated 26 February 1998 and all its amendments as a consolidated text, and this text was approved by means of Executive Decree 52 dated 30 April 2008, hereinafter referred to as the Banking Law;

Article 112 of the Banking Law establishes that banks and other entities under the supervision of the Superintendency are required to establish policies, procedures and internal control structures to prevent their services being misused for the crimes of money laundering, the financing of terrorism and other related crimes or [crimes] of a similar nature;

Article 113 of the Banking Law provides that banks and other entities under the supervision of the Superintendency will provide the information required by current laws, decrees and other regulations for the prevention of money laundering, the financing of terrorism and other related crimes or [crimes] of a similar nature in the Republic of Panama. Similarly, this article indicates that they will be required to provide the Superintendency that information whenever it so requires;

By means of Law 23 dated 27 April 2015, the measures to prevent money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction are adopted;

Article 19 of Law 23 dated 27 April 2015 establishes the Superintendency of Banks as a supervisory body;

In addition to the banks and trust companies that are already under its supervision, Article 22 of Law 23 of 2015, amended by Law 21 dated 10 May 2017 requires the Superintendency of Banks to supervise and regulate other financial reporting entities, among them money service businesses, whether or not that is their main activity, for the prevention of money laundering;

By means of Law 48 dated 23 June 2003, money service business operations are regulated;

Paragraph 1 of Article 20 of Law 23 of 2015 provides that in order to verify due compliance with the provisions of this Law and its regulations, ensuring that the financial reporting entities have the policies, mechanisms and procedures of internal control of each of the natural and legal persons subject to supervision is among the duties of the supervisory bodies;

Paragraph 4 of Article 20 of Law 23 of 2015 establishes that having access to financial information related to the crime of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction associated with customers, products and services provided by financial reporting entities is among the duties of the supervisory bodies;

Paragraph 7 of Article 20 of Law 23 of 2015 stipulates that issuing guidance and feedback standards necessary for enforcement to the financial reporting entities, nonfinancial reporting entities and activities of professionals subject to supervision, as well as the procedures for the identification of the final beneficiaries of legal entities and other legal structures, is a duty of the supervisory bodies;

During the Board of Directors' working sessions it was determined that it was necessary and advisable to establish the registration process at the Superintendency of Banks for money service

businesses in matters of prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction.

## RESOLVES:

**ARTICLE 1. SCOPE.** The provisions herein are applicable to all individuals or legal entities providing money service services, either through funds transference or transmission systems, funds clearance or any other means, inside and outside the country, whether or not it is their main activity, pursuant to the provisions of Law 48 dated 23 June 2003.

**ARTICLE 2. REGISTRATION OF MONEY SERVICE BUSINESSES.** Money service businesses must be registered with the Superintendency of Banks as financial reporting entities, in order to comply with the stipulations of Law 23 of 2015 adopting measures to prevent money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction.

The Superintendency of Banks may formally request the Ministry of Commerce and Industry cancel the authorization to engage in the money service business of any money service entity that has not registered with the Superintendency as a reporting entity for preventing money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction.

**ARTICLE 3. DEFINITIONS.** For the purpose of the provisions herein, the following terms will be understood as:

1. **Money service business.** Any individual or legal person holding an authorization issued by the Ministry of Commerce and Industry to run operations as a money service business rendering money transference services inside and outside the country, whether or not it is its main activity.
2. **Sub-agent or related agent.** Any individual or legal entity providing money transference services on behalf of a money service business, either through a contractual relationship or with instructions from the money transference service provider.
3. **Compliance Officer.** An officer in the money service business responsible for preventing money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction. This officer will be responsible for overseeing the implementation of the compliance program, i.e. the set of policies and procedures guiding the employees of that company in meeting the existing legal provisions and internal policies on prevention.

**ARTICLE 4. REQUIREMENTS FOR REGISTRATION.** Money service businesses must be registered as financial reporting entities with the Superintendency of Banks of Panama, for which they must submit a registration application through a suitable lawyer or law firm, along with the following documents:

1. For legal entities: a copy of the articles of incorporation and documentation verifying the shares and the names of the shareholders and/or final beneficiary of the money service business through the individual person (e.g. copy of the share registry, copy of the share certificates, copy of the personal identification card of the shareholders, affidavit). Additionally, the legal entities must provide the name and a copy of the personal identification cards of the directors, officers and legal representative of the money service business. For individuals, the submittal of a copy of the personal identification card (or passport, when applicable) will suffice.
2. Complete address of the place where the firm directly provides its services and, if the firm has various branch offices (shops and/or customer service posts), clearly describing each one of them. Branch offices will be understood as all of the customer points of service the money service firm has, including sub-agents or related agents.
3. Affidavit (Appendix A) duly signed by the firm's legal representative, containing and certifying the following information:
  - a. Type of remittances managed and services provided to the market;

- b. If using bank accounts to manage operations, provide information on the account number, the bank and the branch where the account was opened. For international accounts, the money service firm must attach the country, contact information and account identification information. In both cases, the firm must attach a copy of the last three monthly account statements.
  - c. The type of system used for processing the identification, monitoring, red flags, consolidation of red flags pending processing and follow-up of operations. Attach a copy of the contract signed with the service supplier.
  - d. Statement of the source and origin of resources included in the working capital of the firm. This statement must have supporting documents on the allocations and other capitalization schemes, e.g. those listed on a stock exchange.
  - e. Electronic means or computer applications used for marketing services. If none, provide a certification of this fact.
4. If the money service business receives **international wire transfers**, it must provide information on its international agents or counterparties serving as transmitters and from which they use the information to pay in Panama. For money service businesses sending international wire transfers, the information on the international agents or counterparties must be provided. In both cases, the money service business must inform the Superintendency of Banks of whether or not its international agents or counterparties are under the supervision of a supervisory body and its general data.
  5. If the money service business conducts only **domestic transfer** operations using other money service businesses, the former must provide the aforementioned information along with the full identification of these companies and whether or not these companies are under the supervision of the Superintendency of Banks of Panama.
  6. Full name, a copy of the personal identification document and résumé of the Compliance Officer for the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction.
  7. Enclose the manual and all of the existing policies and procedures for the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction. The Superintendency of Banks of Panama can request money service businesses change their manuals, systems, policies and procedures for the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction.
  8. Provide information on the money service business' financial statements for the last two fiscal periods, when applicable.
  9. Answering the questionnaire on the management or risks related to money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction prepared by the Superintendency of Banks in accordance with the parameters the latter provides.

**ARTICLE 5. COMPLIANCE FUNCTION.** All money service businesses must appoint a senior-level officer as Compliance Officer to perform the duties established in paragraph 3 of Article 3 herein. The Compliance Officer will also be the contact person with the Superintendency of Banks and the Financial Analysis Unit (UAF, for its acronym in Spanish), as appropriate, to prepare the reports on the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction.

**ARTICLE 6. HIGH-RISK TRANSACTIONS.** Money service businesses must pay special attention to customer transactions when remittances are addressed or came from persons located in territories or countries that are not members of the Financial Action Task Force (FATF) or any of the FATF style regional bodies, or are under special measures for not applying or not sufficiently applying FATF Recommendations for preventing the financing of terrorism.

Additionally, money service businesses must pay special attention and conduct enhanced due diligence measures to customer transactions made to countries or jurisdictions deemed high-risk for the financing of terrorism and those having relations with those countries. Moreover, money

service businesses must retain evidence of the efforts made for high-risk transactions, which must be made available for the examinations conducted by the Superintendency of Banks.

**ARTICLE 7. REGISTRATION AND UPDATE.** Once the documentation submitted is to the satisfaction of the Superintendency of Banks, the latter will issue a registration certificate. The information submitted for obtaining the certificate must be updated once a year. The Superintendency may issue the application form and updates.

**ARTICLE 8. GROUNDS FOR CANCELLING THE REGISTRATION.** The Superintendency of Banks of Panama may cancel the registration of any money service business incurring in any of the following grounds:

1. Not having the manuals, systems, policies and procedures for the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction. These documents must be effective in assessing risks for the products, jurisdictions, distribution channels and type of customer they serve;
2. Not having efficient software enabling the identification, monitoring, detecting red flags, consolidation of red flags pending processing, and follow-up on the operations and compliance with the regulations for the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction;
3. Not having a Compliance Officer meeting the characteristics of operating independence and the skills necessary to correctly perform his/her duties;
4. Not reporting to the Financial Analysis Unit (UAF) as provided for in Law 23 of 2015;
5. Conducting operations prohibited or unauthorized for money service businesses;
6. Not updating the information referred to in Article 7 herein in a timely manner.

When cancelling the registration at the Superintendency of Banks, the Superintendency of Banks may request the Ministry of Commerce and Industry cancel the authorization granted by that Ministry to the money service business.

**ARTICLE 9. REQUEST FOR CANCELLING THE AUTHORIZATION GRANTED BY THE MINISTRY OF COMMERCE AND INDUSTRY.** In view of the provisions of Article 15-A2 of Rule 9-2015 by means of which the disciplinary punitive procedure for potential breaches to the regulations on the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction, the Superintendency of Banks may request the Ministry of Commerce and Industry the cancellation, removal or annulment of the license or other authorizations granted to the money service business that has not conducted the registration referred to herein.

**ARTICLE 10. ENGAGING IN THE REMITTANCE BUSINESS WITHOUT REGISTERING AT THE SUPERINTENDENCY OF BANKS.** In accordance with the powers provided in Law 23 of 2015 on the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction and the authority granted to supervisory bodies in Article 20 of that Law, the Superintendency of Banks is responsible for exercising the supervision and regulation of financial reporting entities on the prevention of money laundering. The purpose of the aforementioned Law is for supervisory bodies and individuals or legal entities subject to supervision for the prevention of money laundering to establish measures for identifying, assessing and understanding risks and the consequences of money laundering and to establish appropriate controls for preventing them.

With regard to the legal powers aforementioned, in the event the Superintendency of Banks knows or has well-founded reasons indicating that an individual or legal entity is engaging in the money service business without the relevant certification, the Superintendency may examine its books, accounts and other documents to determine that fact.

The refusal to provide the books, accounts and documents can be considered proof of engaging in the money service business without Superintendency certification and the potential infringement of the regulation on the prevention of money laundering.

If necessary, the Superintendency may adopt measures it deems advisable against the establishments that are allegedly engaging in the money service business without a certification issued by the Superintendency of Banks. The above is without prejudice to the actions the Ministry of Commerce and Industry may take in accordance to the powers granted by Law for cases in which the money service business is engaged without a license granted by this Ministry, or actions by the Public Ministry or any other government agency.

**ARTICLE 11. REPORTING.** Money service businesses must report the information referred herein to the Superintendency in the form and frequency it may determine.

**ARTICLE 12. ENACTMENT.** This Rule will become effective upon its promulgation. Businesses currently running money service operations will have up to ninety (90) days from the enactment of this Rule to start the registration process at the Superintendency of Banks.

Given in the city of Panama on the twenty-first (21<sup>st</sup>) day of August, two thousand eighteen (2018).

**FOR COMMUNICATION PUBLICATION AND ENFORCEMENT.**

**THE CHAIRMAN,**

**THE SECRETARY, a.i.**

Luis Alberto La Rocca

L.J. Montague Belanger

**APPENDIX A**

**AFFIDAVIT (LEGAL ENTITY)**

Superintendency of Banks of Panama  
Panama City

\_\_\_\_\_, an adult (**man/woman**), of \_\_\_\_\_ nationality, domiciled at \_\_\_\_\_, Panama City, holding personal identification card/passport N° \_\_\_\_\_, acting as LEGAL REPRESENTATIVE of \_\_\_\_\_, a Panamanian corporation, duly filed in Microjacket N° \_\_\_\_\_, Document N° \_\_\_\_\_, or Page N° \_\_\_\_\_ of the Microfilm (Mercantile) Section of the Public Registry of Panama, domiciled at \_\_\_\_\_, Panama City, with trade name \_\_\_\_\_, pursuant to the provisions of Article 20 of Law 23 of 2015, I hereby declare under oath and in accordance with Article 385 on False Testimony of the Criminal Code:

1. The type of remittances managed and the services rendered to the market:

\_\_\_\_\_  
\_\_\_\_\_;

2. If using bank accounts to process operations, submit information on the account number, bank and branch office where the account was opened:

\_\_\_\_\_  
\_\_\_\_\_;

For international accounts please enclose the country, contact telephone data and information on the account identification:

\_\_\_\_\_  
\_\_\_\_\_;

**\*In both cases, a copy of the last 3 monthly statements of accounts must be attached thereto.**

3. The type of system used for processing the identification, monitoring, detection of red flags, consolidation of red flags pending processing, and follow-up on the operations:

\_\_\_\_\_  
\_\_\_\_\_;

**\*Enclose a copy of the agreement entered into with the service supplier.**

4. Statement on the source and origin of the resources input in the working capital of the corporation: \_\_\_\_\_;

**\*This statement must have the supporting documentation on the allocations and other capitalization schemes. E.g. those listed on a stock exchange**

5. Electronic means or computer applications used for marketing services in the marketplace. If none, provide a certification on that fact:

\_\_\_\_\_.

Aware of the responsibility I hold when signing, I sign this affidavit on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Sincerely yours,

\_\_\_\_\_  
Name and surname  
Legal Representative of \_\_\_\_\_ (Company Name)  
ID Card/Passport N° \_\_\_\_\_