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N°24, 152-A**

**LEGISLATIVE ASSEMBLY
LAW N°42
(Of October 2, 2000)**

Which Establishes Measures for the Prevention of the Crime of Laundering of Capitals

THE LEGISLATIVE ASSEMBLY

DECREES:

Article 1. The banks, fiduciary enterprises, houses of exchange or of remission and persons either natural or juridical that exercise activity of exchange or remission of currencies, whether it is the main activity or not, financiers, savings and loans cooperatives, stocks exchanges, stocks centers, stocks houses, stocks brokers and investments administrators, are obligated to keep, in their operations, the diligence and care which are necessary to prevent, that those operations are performed with funds or over funds that arise from activities related to the crime of capital laundering and to prevent its perpetration.

The persons, natural or juridical, here mentioned, are under the following obligations:

1. To adequately identify their clients. To that effect they shall require from their customers all due references or recommendations, as well as the corresponding certifications that attest the incorporation and effectiveness of societies, and also the identification of officials, directors, proxies and legal representatives of those societies, in a manner that enables them to adequately document and determine the real owner or direct or indirect beneficiary.
2. To render declarations to the Financial Analysis Unit and/or require from its clients, proxies or representatives, the declarations that are necessary to achieve the ends of

the present Law and the ends of the regulations prepared for its application, particularly in case of:

- a. Deposits or withdrawals of money in cash for an amount exceeding ten thousand balboas (B/.10,000.00) or successive transactions in close dates that, even though individually they are for an amount lesser than ten thousand balboas (B/. 10,000.00), all together exceed that amount of ten thousand balboas (B/.10,000.00).
- b. Change of bills, lottery tickets, checks, cash checks, traveler checks or orders of payment, or drafts of low amounts for others of high amounts, or viceversa, for an amount exceeding ten thousand balboas (B/.10,000.00).
- c. Change of checks (cash checks, traveler checks, or others), and orders of payment, issued to the bearer, with blank endorsement and issued in the same date or in close dates and/or by a same issuer or by issuers of the same office, for an amount exceeding ten thousand balboas (B/.10,000.00).

Paragraph. The Executive Branch may vary the amounts of money in cash over which the obligation to declare is established.

3. To examine with special attention any operation, without regard to the amount involved, that may be particularly linked to laundering of capitals arising from illicit activities described in this law.
4. To furnish to its respective organisms of supervision the declarations related to the transactions referred to in the numeral 2 of this article, as well as any additional information related to such transactions for their proper analysis.
5. To communicate directly and by their own initiative, to the Financial Analysis Unit, any fact, transaction or operation on which there is suspicion of involvement with the crime of laundering of capitals. Bylaws will determine the suppositions or specific transactions that, obligatorily, must be communicated to the Financial Analysis Unit, as well as the persons that must convey the information and the way to do it.
6. To refrain from disclosing, to the client and to third parties, that information has been transmitted to the Financial Analysis Unit, according to what is set forth in the

present Law, or that a transaction or operation is being examined for suspicion that could be involved in the crime of laundering of capitals. Compliance with this disposition is under the protection of the exemption of responsibility referred to in the article 3 of this Law.

7. To establish procedures and mechanisms of internal control and communication to prevent the perpetration of operations linked with the crime of laundering of capitals. The competence of such procedures and mechanisms of control, will be supervised by the organism for supervision and control of each activity, which will be able to propose the suitable correcting measures, according to the viability of the customary operations of the legitimate usuaries.
8. To take the suitable measures for the employees of the entity to have knowledge of the requirements arising from this Law. The measures will include the elaboration of plans for education and courses for the employees, to enable them to find out the operations that may be related to the crime of laundering of capitals and to know the appropriate procedures in such cases.
9. To keep for a five years period, the documents that properly attest the performance of the operations and the identity of the individuals who accomplished them or who had established business relations, when the obtention of such identification was obligatory.

The Executive Branch is authorized to vary the period of time for keeping documents referred to in this numeral.

Article 2. The Superintendency of Banks, the other organisms for supervision and control of each activity, as well as the obligated persons, are expressly authorized to collaborate with the Financial Analysis Unit, in the exercise of its competence and to furnish to it, at its request or by own initiative, any information that they have, which is of help to prevent the perpetration of the crime of capital laundering, so that the Financial Analysis Unit may examine and analyze this information.

Article 3. All information that is communicated to the Financial Analysis Unit or to the authorities of the Republic of Panama, in compliance with the present Law or the dispositions for its regulation, by natural or juridical persons or their dignitaries, directors, employees or representatives, will not constitute a violation of the professional secret, nor a violation to the restrictions over disclosure of information, derived from the contractual confidentiality or from any legal or regulatory disposition, and neither will it imply any responsibility for the natural or juridical persons mentioned in this Law nor for their dignitaries, directors, employees or representatives.

Article 4. Public servants who receive or have knowledge of information, according to what is set forth in this Law, must keep it under strict reserve and may only furnish such information to the competent authorities, in conformance to the law.

Pecuniary sanctions, established in the article 8 of this Law, will be applied to the public servant who violates this disposition; and these sanctions shall be imposed by the competent authority, without prejudice to the sanctions set forth in the Penal Code for the crime of violation of the professional secret.

Article 5. The respective organisms for supervision and control are expressly empowered to inspect the procedures and mechanisms of internal control, of each one of the juridical or professional persons that are subjected to their supervision, to verify the proper compliance with the dispositions established by the present Law.

Article 6. The activities of the persons obligated in conformance with the present Law, will be supervised and controlled by the respective public entities or organisms of supervision and control, established by law for the correspondent activity.

Article 7. The following entities will be obligated to furnish, to the Financial Analysis Unit, as the Executive Branch determines by regulations, declarations over transactions in cash and cash equivalent (defined in the Executive Decree 234 of October 17, 1996, article 3, numeral 3) referred to in the numeral 2 of article 1, for an amount exceeding ten thousand balboas (B/.10,000,00):

1. Enterprises established in the Colon Free Zone, other free trade zones and processing zones.
2. National Lottery of Beneficence
3. Casinos and other establishments for gambling and games of chance
4. Promoter enterprises or enterprises for real state brokerage
5. Insurance and reinsurance companies, and reinsurance brokerage companies

The entities referred to in this article shall maintain in their registers the name of the client, his/her address and his/her identification number.

The Executive Branch may vary the amounts of money in cash or cash equivalent over which the obligation to declare is established.

Article 8. Without prejudice to the measures set forth in the Penal Code or in other laws, decrees or regulations in force in the Republic of Panama, non compliance with the dispositions established in this Law or the ones prescribed for its application by the respective organisms of supervision and control of each activity, shall be sanctioned only for this deed with fines ranging from five thousand balboas (B/.5,000.00) to one million balboas (B/.1,000,000.00), depending on the importance of the violation and the degree of the recurrence, that will be imposed by the respective entities or public organisms of supervision and control of each activity or the jurisdictional authority, at their own initiative or at the request of the Financial Analysis Unit, which must report to them any evident non compliance.

The amount of the fine will be sent to a special account for the Financial Analysis Unit, as part of the budget of the Security Council, and will be used for the only purpose of training and educating personnel and the acquisition of information equipment and tools and other resources that allow them a high degree of specialization.

For the exclusive effect of this article and the regulations that are adopted in its development, the deeds and behavior of the directives, dignitaries, executives,

administrative or operations staff of the juridical persons established in the article 1 of this Law, are imputable to the juridical persons on whose behalf they perform.

The natural persons who perform such deeds and exhibit such behavior will be subjected to the civil and penal responsibilities, in the terms set forth by law.

Article 9. Article 153-A is added to the Law Decree 1 of July 8, 1999, thusly:

Article 153-A. It will be a requisite for the offering, purchase or sale of securities through any public organized market, such as the stock exchange in or from Panama, the previous deposit of the securities in a center for custody and liquidation, agent of the transference or another financial institution duly registered in the National Securities Commission.

This Commission is authorized to establish the requisites of the register, mentioned in the above paragraph.

The previous deposit may be performed through the immobilization of physical securities, of global titles or macro titles representative of the securities or through the dematerialization of the securities and instrumentation of a system of entries in account, in the way and terms established by this Law Decree.

Article 10. (Temporary). It is recognized the validity of the Agreements No. 5-90 of March 19, 1990; 1-91 of January 15, 1991, 2-96 of October 31, 1996, 2-97 of February 27, 1997 and 3-97 of June 12, 1997 of the National Banking Commission; as well as the Executive Decree 234 of October 17, 1996, which will continue to be effective, in those areas that do not contradict the letter and the spirit of this Law, until they are replaced by the new regulations dictated for the development of the present Law.

Article 11. This Law adds article 153-A to the Law Decree 1 of July 8, 1999 and annuls the Cabinet Decree 41 of February 13, 1990, the Law 46 of November 17, 1995, as well as any disposition that is against it.

Article 12. This Law shall become effective thirty days after its promulgation.

TO BE COMMUNICATED AND COMPLIED WITH.

Approved in third debate, in the Palace Justo Arosemena, city of Panama, the second day of the month of October of the year two thousand.

The President

The General Secretary

LAURENTINO CORTIZO COHEN

JOSE GOMEZ NUÑEZ

**NATIONAL EXECUTIVE BRANCH- PRESIDENCY OF THE REPUBLIC.-
PANAMA, REPUBLIC OF PANAMA, OCTOBER 2, 2000.**

MIREYA MOSCOSO

IVONNE YOUNG

President of the Republic

Minister of the Presidency