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## business & economy

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### US State Department report

# Money laundering in Panama and the efforts to suppress it

Panama is a major drug-transit country, and is particularly vulnerable to money laundering because of its proximity to Colombia and other drug-producing countries. Colombian nationals are able to enter Panama without visas, facilitating the investment of drug money into Panama's economy. The economy of Panama is 80 percent service-based, 14 percent industry and 6 percent agriculture. The service sector is comprised mainly of maritime transportation, commerce, tourism, banking and financial services.

Panama's sophisticated international banking sector, Colon Free Zone (CFZ), US dollar-based economy, and legalized gambling sector are utilized to facilitate potential money laundering. The CFZ serves as an originating or transshipment point for some goods purchased with narcotics proceeds (mainly dollars obtained in the United States) through the Colombian Black Market Peso Exchange. There are approximately 1,400 businesses operating in the CFZ, facilitating opportunities for trade-based money laundering. Reports indicate that the amount of money passing through casinos increased by over 200 percent in 2006. The present construction boom also presents opportunities for money laundering. As many as 150 new high-rise buildings are currently being constructed. Some of the new construction is due to construction tax breaks which ended December 31, 2006.

Panama has the second highest number of offshore-registered companies in the world. Panama's large offshore financial sector includes international business companies, offshore banks, captive insurance companies and fiduciary companies. Law No. 42 of October 2000 requires Panamanian trust companies to identify to the Superintendence of Banks the real and

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ultimate beneficial owners of trusts. Executive Decree 213 of October 2000, amending Executive Order 16 of 1984 (trust operations), provides for the dissemination of information related to trusts to appropriate administrative and judicial authorities.

Law No. 41 (Article 389) of October 2000 amended the Penal Code by expanding the predicate offenses for money laundering beyond narcotics trafficking, to include criminal fraud, arms trafficking, trafficking in humans, kidnapping, extortion, embezzlement, corruption of public officials, terrorism, and international theft or trafficking of motor vehicles. Law No. 41 establishes a punishment of 5 to 12 years' imprisonment and a fine. In June 2003, the Panamanian Legislative Assembly approved the Financial Crimes Bill (Law No. 45), which established criminal penalties of up to ten years in prison and fines of up to one million dollars for financial crimes that undermine public trust in the banking system, the financial services sector, or the stock market. The penalties criminalized a wide range of activities related to financial intermediation, including illicit transfers of monies, accounting fraud, insider trading, and the submission of fraudulent data to supervisory authorities. Law No. 1 of January 2004 added crimes against intellectual property as a predicate offense for money laundering.

Law No. 42 requires financial institutions to report to Panama's financial intelligence unit (FIU), the Financial Analysis Unit of the Treasury Ministry (Unidad de Análisis Financiero, or UAF), suspicious financial transactions and currency transactions in excess of \$10,000. Casinos, CFZ businesses, the national lottery, real estate agencies and developers, and insurance and reinsurance companies are also required report to the UAF currency or quasi-currency transactions that exceed \$10,000. Under Law No. 48 of June 2003 and Law No. 16 of May 2005, money remitters and pawnshops are also subject to anti-money laundering regulations. Resolutions Nos. 327 and 328 of August 2004 of the Ministry of Commerce and Industries similarly require promotional companies and real estate agents to identify their clients, declare cash transactions over \$10,000, and report suspicious transactions to the UAF.

In October 2000, Panama's Superintendent of Banks issued Agreement No. 9 that defines requirements that banks must follow for identification of customers, exercise of due diligence, and retention of transaction records. It also increased the number of inspections of finance companies it conducted. In 2005, the Superintendence of Banks modified that Agreement, in order to include fiduciary (offshore) companies within the measures of prevention of illegal use and to bring the Banking Center into line with the highest international standards, thus increasing compliance with the Financial Action Task Force (FATF) Recommendations.

The Autonomous Panamanian Cooperative Institute established a specialized unit for the supervision of loans and credit cooperatives regarding compliance with the requirements of Law No. 42. The National Securities Commission carried out numerous training sessions and workshops for its personnel and regulated entities. The CFZ possesses and issues a procedures manual for the users of the CFZ, outlining their responsibilities regarding prevention of money laundering and requirements under Law No. 42. In 2006, the UAF continued efforts to raise the level of compliance for reporting suspicious financial transactions, particularly by nonbank financial institutions and trading companies within the CFZ.

With support from the Inter-American Development Bank (IDB), the Government of Panama (GOP) is implementing a "Program for the Improvement of the Transparency and Integrity of the Financial System." This Transparency Program is targeted, through enhanced communication and information

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flow, training programs and technology, at strengthening the capabilities of those government institutions responsible for preventing and combating financial crimes and terrorist financed activities. Employees from 14 different institutions have received training, including bank compliance officials, and representatives of the private sector, stock markets and credit unions. In addition, Panama has launched an educational campaign to prevent money laundering and terrorist financing. The program began in 2002 and is intended to raise consciousness of citizens regarding these crimes. This program has included hosting a hemispheric congress on the prevention of money laundering in 2004 and 2006.

In 2005, a pilot program was developed for money laundering prevention training, which was financed by the IDB and executed by the Caribbean Financial Action Task Force (CFATF). The training has reached over 5,000 public and private sector employees. Participants have been from various financial institutions, insurance companies, the CFZ and money order companies.

To increase GOP interagency coordination, the UAF and the Panamanian Customs are developing an office at the Tocumen International Airport to expedite the entry of customs currency declaration information into the UAF's database. This has enabled the UAF to begin more timely investigations. The creation of a joint airport interdiction task force at Tocumen, made up of members from the Panamanian National Police (PNP), Technical Judicial Police (PTJ), National Air Service (SAN), Customs and Immigration has produced significant seizures of undeclared currency. In 2006, a total of \$4.7 million in undeclared currency was seized. The most significant seizures were in two separate incidents where gold bars painted silver were seized from Mexican nationals traveling from Mexico through Panama en route to Colombia. The Task Force also participated in a continuous operation designed to interdict bulk cash smuggling ("Operation Firewall") in coordination with US Embassy Narcotics Affairs Section and US Immigration and Customs Enforcement (ICE).

Executive Order No. 163 of October 2000, which amended the June 1995 decree that created the UAF, allows the UAF to provide information related to possible money laundering directly to the Office of the Attorney General for investigation. Panama has initiated cases for domestic prosecution, and the UAF routinely transfers cases to the PTJ's Financial Investigations Unit for investigation. During 2006, Panama worked with the United States on two large cases. The first involved a gold and jewelry company in the CFZ that was used to launder money. Assets estimated at over \$30 million were seized in connection with this case. The second case was connected to an international narcotics trafficking case in which an entire trafficking organization was taken down. In Panama alone an estimated \$25 million in assets were seized. Both cases have ongoing investigations as a result of information obtained. Panama assists other Central American countries with investigations. For example, Panama assisted Nicaragua with the corruption case against former Nicaraguan President Arnoldo Aleman. Panama also assisted Costa Rica and Peru in investigating allegations against high ranking political figures in each country.

Panama identified the combating of money laundering as one of five goals in its five-year National Drug Control Strategy issued in 2002. The Strategy commits the GOP to devote \$2.3 million to anti-money laundering projects, the largest being institutional development of the UAF. The UAF currently maintains inter-institutional cooperation agreements with the Attorney General's Office and the Superintendence of Banks, and has signed a cooperation agreement with the Public Registry of Panama.

Terrorist financing is a criminal offense in Panama. Decree No. 22 of June 2003 gave the Presidential High Level Commission against Narcotics Related Money Laundering responsibility for combating terrorist financing. Law No. 50 of July 2003 criminalizes terrorist financing and gives the UAF responsibility for prevention of this crime. There are no legal impediments to the GOP's ability to prosecute or extradite suspected terrorists. Public security sources and the judicial system have limited resources to deter terrorists; however, there are several special investigations units capable of carrying out investigations.

In January 2003 the GOP entered into a border security cooperation agreement with Colombia and also increased funds to the Frontier Division of the National Police to assist in border security. The GOP and the Government of Colombia hold quarterly meetings to discuss border security initiatives of mutual interest to the two countries. The GOP has also created the Department of Analysis and Study of

Terrorist Activities. This department is tasked with working with the United Nations and the Organization of American States (OAS) to investigate transnational issues, including money laundering. Panama has an implementation plan for compliance with the FATF 40 Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing.

In May 2005, the International Monetary Fund (IMF) conducted an assessment of Panama's Anti-Money Laundering and Counter-Financing of Terrorism (AML/CFT) under the new FATF methodology. The assessment has also been accepted by the CFATF as its mutual evaluation of Panama. Since its assessment, Panama has taken many steps to implement evaluator's recommendations, including providing adequate training to government officials and issuing new regulations to financial institutions to ensure that they continue filing suspicious transaction reports to the UAF.

The GOP remains active in international anti-money laundering efforts, including the multilateral Black Market Peso Exchange Group Directive. In March 2002, the GOP signed the cooperation agreement issued by the working group as part of a regional effort against the black market system. Panama is a member of the OAS Inter-American Drug Abuse Control Commission (CICAD), and served as the Chair of CFATF and the Central American Council of Superintendents of Banks, Insurance Companies and Other Financial Institutions during 2004 and 2005. Panama is currently the vice-president of the Association of Supervisors of Banks in the Americas (ASBA), with the term running through 2007. The GOP is also a member of the Offshore Group of Banking Supervisors. The UAF is a member of the Egmont Group.

Panama is a party to the 1988 UN Drug Convention, the UN International Convention for the Suppression of the Financing of Terrorism, the UN Convention against Transnational Organized Crime, the UN Convention against Corruption, and the Inter-American Convention against Terrorism. Panama is also a signatory to 11 of the UN terrorism conventions and protocols. Panama and the United States have a Mutual Legal Assistance Treaty that entered into force in 1995. The GOP has also assisted numerous countries needing help in strengthening their anti-money laundering programs, including Guatemala, Costa Rica, Russia, Honduras, and Nicaragua. Executive Decree No. 163 authorizes the UAF to share information with FIUs of other countries, subject to entering into a memorandum of understanding (MOU) or other information exchange agreement. Panama currently has 37 such MOUs with other countries, including the United States.

During 2006, the Government of Panama has continued to make progress in strengthening its anti-money laundering regime. The GOP has been a cooperating partner to the United States and other countries throughout the world in investigating money laundering crimes that have a nexus in Panama. Panama should continue its regional assistance efforts. It should emphasize effective law enforcement actions that address Panama's continuing vulnerabilities such as smuggling, abuse of the real estate sector, trade-based money laundering, and the proliferation of nontransparent offshore companies.

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