United States Department of the Treasury
Financial Crimes Enforcement Network

FinCEN Advisory

Subject:
Transactions Involving Panama

Date:
July 2000

Advisory:
Issue 23

This Advisory is being issued to inform banks and other financial institutions operating in the United States of serious deficiencies in the counter-money laundering systems of the Republic of Panama. The impact of such deficiencies on the scrutiny that should be given to certain transactions or banking relationships involving Panama, in light of the suspicious transaction reporting obligations of financial institutions operating in the United States, is discussed below.

Panama occupies a critical strategic and economic position between Central and South America. Its population is roughly 2.8 million.

Panama's well-developed services sector accounts for roughly three-quarters of its GDP. The services sector includes the Panama Canal, shipping and container port activities, and local and offshore banking and insurance services. Panama's free trade zone (the Colon Free Zone) is the world's second largest free trade zone and plays an important part in Panama's service economy. The U.S. dollar is legal tender in Panama.

Panama's geographic proximity to the world's largest cocaine producer, combined with its developed international banking sector, canal, and free trade zone make Panama particularly vulnerable to persons who seek to launder the proceeds of narcotics trafficking and other crimes. Panamanian companies, like other offshore vehicles, can form layers within intricate chains of ownership of assets in other countries. In addition, specialized money laundering mechanisms, such as the so-called "Black Market Peso Exchange," have developed in an attempt to take illegal advantage of the Colon Free Zone. See FinCEN Advisories 9 (November 1997) and 12 (June 1999).

The counter-money laundering regime embodied in the legal, supervisory, and regulatory systems of Panama suffers from serious systemic problems.

- Money laundering is a crime in Panama only if it is linked to narcotics trafficking.

- Panama's procedure for reporting suspicious transactions is of limited effectiveness; any report of suspicious activity must be sent to the Office of the President of Panama before it is referred for investigation to Panama's Attorney General.

- Panama's financial intelligence unit, the Unidad de Analisis Financiero, is unable to share information with similarly situated units in other countries.

These deficiencies, among others, have caused Panama to be identified by the Financial Action Task Force on Money Laundering (the "FATF") as non-cooperative "in the fight against money laundering." The FATF, created at the 1989 G-7 Economic Summit, is a 29 member international group that works to combat money laundering.

Panama, at the highest levels of its government, has recently given clear evidence that it recognizes the need to correct the deficiencies in its counter-money laundering systems noted above. Its government has announced its intention to expand the scope of criminalization of money laundering under Panamanian law and to explore how Panama can strengthen its international cooperation by allowing its financial intelligence unit to share information with similar agencies in other countries. It is actively seeking United States support and technical assistance in designing and implementing the necessary changes.

Such changes would, if carried through, complement the work Panama has done in the past decade to fight money laundering and represent significant improvements in Panama's counter-money laundering systems. Nonetheless, Panama's legal, supervisory, and regulatory systems at present increase the possibility that transactions involving Panama will be used for illegal purposes.

Thus, banks and other financial institutions operating in the United States should carefully consider, when dealing with transactions (especially those involving large sums of money, whether in cash, third-party check or wire transfer) originating in or routed to or through the Colon Free Zone or Panama, or involving entities organized or domiciled in the Colon Free Zone or Panama, or persons maintaining accounts in Panama, how the deficiencies of counter-money laundering controls in Panama affect the possibility that those transactions are being used for illegal purposes. A financial institution subject to the suspicious transaction reporting rules contained in 31 C.F.R. 103.18 (formerly 31 C.F.R. 103.21) (effective April 1, 1996), and in corresponding rules of the federal financial institution supervisory agencies, should carefully examine the available facts relating to any such transaction to determine if such transaction (of $5,000 or more, or its U.S. dollar equivalent) requires reporting in accordance with those rules. Institutions subject to the Bank Secrecy Act but not yet subject to specific suspicious transaction reporting rules should consider such a transaction with relation to their reporting obligations under other applicable law. All institutions are particularly advised to give enhanced scrutiny to transactions or banking relationships that do not involve established, and adequately identified and understood, commercial or investment enterprises.

It should be emphasized that the issuance of this Advisory and the need for enhanced scrutiny for certain transactions or banking relationships, does not mean that U.S. financial institutions should curtail legitimate business with Panama.

To dispel any doubt about application of the "safe harbor" to transactions within the ambit of this Advisory, the Treasury Department will consider any report relating to a transaction described in this Advisory to constitute a report of a suspicious transaction relevant to a possible violation of law or regulation, for purposes of the prohibitions against disclosure and the protection from liability for reporting of suspicious transactions contained in 31 U.S.C 5318(g)(2) and (g)(3).

United States officials stand ready to provide appropriate technical assistance to Panamanian officials as they work to remedy the deficiencies in Panama's counter-money laundering systems that are the subject of this Advisory.

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