

**Panama: Report on Observance of Standards and Codes—FATF Recommendations for
Anti-Money Laundering and Combating the Financing of Terrorism**

This report on the Observance of Standards and Codes on the FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism for Panama was prepared by a team of the International Monetary Fund using the assessment methodology adopted by the FATF in February 2004 and endorsed by the Executive Board of the IMF in March 2004.

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**International Monetary Fund
Washington, D.C.**

INTERNATIONAL MONETARY FUND

PANAMA

**Report on Observance of Standards and Codes (ROSC)—FATF Recommendations for
Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT)**

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January 30, 2014

ABBREVIATIONS

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
CDD	Customer Due Diligence
CTR	Currency transaction reporting
DNFBP	Designated Non-Financial Businesses and Professions
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FSRB	FATF-style Regional Body
GCB	Gaming Control Board from the MEF of Panama
TF	Terrorism Financing
IPACOOOP	Panamanian Autonomous Institute for Cooperatives
KYC	Know your customer/client
LEA	Law Enforcement Agencies
LEG	Legal Department of the IMF
MEF	Ministry of Economy and Finance
MOU	Memorandum of Understanding
ML	Money laundering
MLA	Mutual legal assistance
MLAT	Mutual Legal Agreements in Criminal Matters
MTR	Multiple linked transactions
NPO	Nonprofit organization
OEM	Other enforceable means
PEP	Politically exposed person
RETB	Real Estate Technical Board
ROSC	Report on Observance of Standards and Codes
SBP	Superintendence of Banks of Panama
SMV	Superintendency of the Securities Market of Panama
SRO	Self-regulatory organization
SSRP	Superintendency of Insurance and Reinsurance of Panama
STR	Suspicious Transaction Report
UAF	Panama FIU (Unidad de Análisis Financiero)
UNSCR	United Nations Security Council Resolution

A. Introduction

This Report on the Observance of Standards and Codes for the FATF 40 Recommendations for Anti- Money Laundering (AML) and 9 Special Recommendations on Combating the Financing of Terrorism (CFT) was prepared by the Legal Department of the IMF.¹ The report provides a summary of the AML/CFT measures in place in Panama and of the level of compliance with the Financial Action Task Force (FATF) 40+9 Recommendations,² and contains recommendations on how the AML/CFT system could be strengthened. The assessment is based on the information available at the time of the on-site mission conducted from October 15 to 29, 2012, and other verifiable information subsequently provided by the authorities. It was conducted using the 2004 Methodology as updated. The Detailed Assessment Report (DAR) on which this document is based will not be adopted by any other assessor body. The views expressed here, as well as in the full assessment report, are those of the staff team, and do not necessarily reflect the views of the Government of Panama or the Executive Board of the IMF.

B. Key Findings

1. **Panama is vulnerable to money laundering (ML) from a number of sources including drug trafficking and other predicate crimes committed abroad such as fraud, financial and tax crimes.** It is a country with an open, dollarized economy and, as a regional and international financial and corporate services center, offers a wide range of offshore financial and corporate services. It is also a transit point for drug trafficking from South American countries with some of the highest levels of production and trafficking of illegal drugs in the world. These factors put the country at high risk of being used for ML. Although the authorities have not conducted a risk assessment, they attribute the largest sources of ML to drug trafficking and other predicate crimes committed abroad. No information or estimates were provided on the extent of domestic and foreign predicate crimes and the amount of related ML in Panama. No terrorism financing (TF) cases have been detected so far.
2. **Panama has criminalized ML and TF, but its AML/CFT framework is not fully in line with the FATF Recommendations.** Some CFT requirements are included in subsidiary instruments but these, like other provisions contained therein, appear to go beyond the AML Law and, therefore, inconsistent with the legal principles established under the Constitution. This creates uncertainty as to their validity, if challenged. There are inadequate statistics on ML investigations, prosecutions, and convictions to properly assess the effectiveness of implementation of the ML/TF legislation.

¹ The assessment consisted of Manuel Vasquez (team leader) and Carolina Claver (both LEG); Emily Reinhart Marianne Mathias, Alejandro Montesdeoca, and Gonzalo Alvarado (all LEG consultants).

² As updated until 2008.

3. **The AML Law covers most of the core financial sectors but does not fully apply to the insurance sector and does not extend to a number of other financial activities as required under the FATF standard.**³ This Law applies to bureau de change but this high-risk sector is not subject to licensing or registration nor, in practice, is it regulated and supervised.

4. **Of the designated non-financial businesses and professions (DNFBPs), only trustees are fully covered under the AML Law, while casinos and real estate brokers (legal persons only) are only subject to currency transaction reporting (CTR) obligations.** Other DNFBPs including lawyers, accountants, notaries, corporate services providers (including resident agents who must be lawyers), and dealers in precious metals and stones are not covered. Resident agents providing corporate services are covered under a specific law that provides a limited range of customer identification requirements and are subject to strict secrecy provisions that severely limit or prohibit access to information by supervisors and the financial intelligence unit (FIU).

5. **The substantial gaps in coverage of financial activities and DNFBPs in the AML/CFT framework pose significant ML/TF risks to the country and other jurisdictions.** At the time of the mission, the authorities had no concrete plans to address these shortcomings.

6. **Competent authorities, including law enforcement and the FIU, do not have timely access to information on legal persons and arrangements as required under the FATF standard.** In turn, this limits their capacity to cooperate nationally and internationally. A law was passed in July 2013 to provide for the custody of bearer shares and facilitate access to information on the owners of such shares. The law will not come into force for two years (2015), and for bearer shares issued prior to the law coming into effect, a three-year transition period for compliance is provided ending during 2018.

7. **The FIU's operational effectiveness is hampered by restrictions on its access to information on legal persons and arrangements and by limited resources.** The FIU has identified only a few significant ML cases and has provided limited cooperation to its foreign counterparts. In addition, its operational independence could be enhanced through amended administrative reporting arrangements.

C. Legal Systems and Related Institutional Measures

8. **Panama has ratified the main AML-related UN Conventions and has legal provisions in its Penal Code with respect to ML that are broadly in line with the FATF standard, but a number of significant deficiencies remain.** ML has been criminalized as an autonomous offense relating to a large number of FATF-designated categories crimes, but counterfeiting of currency, smuggling, forgery, and piracy are not covered, and illicit association and trafficking in stolen

³ Post mission, the authorities informed that they have drafted amendments to the AML Law (Law 42 of 2000) that would include requirements consistent with the new FATF standard.

goods are only partially covered. In addition, criminal liability of legal persons is limited as it does not cover situations where a legal person is used to launder assets but does not benefit from it. There are no parallel civil proceedings when such person is convicted of ML.

9. **The sanctions provisions for ML offenses are consistent with those for other serious criminal offenses under Panamanian law and are largely in line with the international standards.** However, the assessment of effective implementation cannot be properly ascertained due to the lack of adequate statistics. The number of prosecutions seems to be relatively low, taking into account the size of the financial and economic system of Panama, its status as an international financial and corporate center, and its geographic location as a transit country for drugs. This also suggests that implementation is weak.

10. **Panama has ratified the UN TF Convention and the Penal Code criminalizes TF but does not cover all of the required designated offenses.**⁴ The TF offense does not explicitly cover the financing of a terrorist organization or an individual terrorist, the collection of funds, and the indirect provision of funds for TF. Weaknesses in the AML regime also affect the CFT framework including those related to the liability of legal persons. In addition, the criminalization of TF has not been implemented in the primary preventive measures legislation as was done for ML. The AML Law does not include CFT provisions and certain provisions have only inconsistently been included in subsidiary instruments raising constitutional uncertainty as to their validity if challenged. This is a significant shortcoming.

11. **The sanctions for TF are consistent with the sanctions applicable to other serious criminal offenses in the Penal Code and are broadly in line with international practice.** However, as for ML, the lack of adequate statistics does not allow for a proper assessment of effective implementation. The authorities indicate that they are not aware of any TF cases in the country.

12. **The legal framework of Panama allows for the freezing, seizure, and confiscation of the instruments and proceeds of crime including ML and TF; however, it does not provide for the confiscation of property of corresponding value and the application of other measures.** The procedures extend to property that is directly or indirectly derived from proceeds of crime, including income, profits, and other benefits. There are no provisions for freezing and seizure on an ex-parte basis or without prior notice, and for voiding of contracts and arrangements. Key limitations to the effective implementation of these procedures are the secrecy and confidentiality provisions and practices afforded to the beneficial owners and controllers of legal persons and arrangements that hamper access to information for purposes of tracing and locating illicit assets. In addition, the volume of confiscated assets associated with ML seems small taking into account the abovementioned risks of ML faced by Panama.

⁴ Post mission, the authorities informed that in September 2013, new anti-terrorism provisions were added to the Criminal Code.

13. **Even though Panama has provisions for freezing assets, it does not have effective laws and procedures to freeze without delay terrorist funds or other assets in accordance with the relevant UN Security Council resolutions.** Terrorist funds can only be frozen in the context of a criminal trial, through the application of the general rules for seizing the instruments and proceeds of crime.

14. **Panama has established a financial intelligence unit as the center for receiving, analyzing, and disseminating information related to suspicious transactions, but its effectiveness is constrained by inadequate resources and access to information, including on legal persons and arrangements.** While the law establishes reporting obligations on a number of financial and non-financial entities, it does not cover all of the FATF financial activities and DNFBPs which deprive the FIU of important sources of information for analyzing and disseminating cases suspected of ML and TF. Most suspicious transaction reports (STRs) are filed by the banking sector and the number of reports has been declining, partly attributed to onerous documentation requirements.

15. **The legal framework for the FIU provides for its operational and budgetary independence, but its analytical and case dissemination capacity could be improved.** The detection of potential ML cases by the FIU through its analysis of STRs is uncommon and its support for law enforcement mainly involves reactive assistance in the conduct of drug-related financial investigations. In addition, the FIU's dissemination reports to law enforcement lack sufficient supporting documentation which limits their value to, and impairs the effectiveness of investigations and prosecutions. More specific feedback and guidance to reporting entities could also improve the quality of STRs.

16. **The FIU has mechanisms for domestic and international cooperation but does not provide a full range of cooperation and information exchange to its foreign counterparts, despite the high demand.** In practice, the FIU only shares public data and information contained in its database. Unlike the number of requests it receives from abroad, the FIU's requests to foreign counterparts is relatively low.

17. **Panama has established law enforcement authorities (LEAs) that are responsible for ML and TF investigations and prosecutions, but their activities are mainly concentrated on drug-related offenses.** Moreover, the lack of adequate statistics does not allow for a proper determination of whether law enforcement measures are being effectively implemented, and to ascertain whether ML has been investigated or prosecuted as a stand-alone offense. Limited resources and training also hamper the effectiveness of LEAs. Shortcomings in the legal framework for the conduct of investigations (such as a 60-day limitation for preliminary investigations and a 10-day window before having to disclose to a suspect the existence of undercover operations) limit the LEAs' capacity to conduct complex and lengthy financial investigations. Limitations on the timely and efficient access to information held by financial institutions, particularly banks, and on information on legal persons and arrangements, also impact their effectiveness.

18. **Panama has established a system for the declaration and monitoring of cross-border transportation of currency and bearer instruments, but the measures in place are not comprehensive or effective.** The measures apply only to inbound cash movements, and mostly at the Tocumen International Airport. There are no specific legal provisions for restraining and seizing currency that may be related to ML/TF. Parallel administrative and criminal sanctions can be applied for noncompliance but the absence of statistics does not allow for a determination of how well the system operates in practice. Some sanctions for breaches of the declaration requirement are relatively low, and there are no apparent arrangements that would allow for cooperation with foreign counterparts.

D. Preventive Measures – Financial Institutions

19. **Panama has implemented an AML Law but it does not cover CFT and many financial activities subject to the FATF standard are not included or only partially covered.** In particular, the AML Law does not cover the following entities and activities: (i) insurance companies and intermediaries (insurance companies, reinsurance companies, and reinsurance brokers are only subject to CTR requirements); (ii) savings and loan associations; (iii) the national mortgage bank; (iv) multi-service cooperatives; (v) issuance and managing means of payment; (vi) financial leasing; (vii) factoring; and (viii) safekeeping/custody of cash and other liquid assets (e.g., gold). The AML Law covers bureau de change but this active sector is not subject to licensing or registration requirements, and in practice is not effectively supervised.

20. **The AML Law has broad provisions that are further supported by more detailed regulations, but many of the requirements that should be in law or regulations are included in other enforceable means (OEMs).** In addition, many of the provisions contained in regulations and OEMs appear to go beyond the primary AML Law contrary to constitutional provisions and their validity could be challenged. The authorities maintain that under Panamanian jurisprudence, they are enforceable until declared illegal or unconstitutional. Notwithstanding, potential challenges to their validity may have a dissuasive effect on compliance by financial institutions and enforcement by supervisors. A number of the preventive measures are not fully in line with the FATF Recommendations including in the areas of: identification and verification of beneficial owners and controllers, conduct of ongoing due diligence, enhanced due diligence for high-risk customers, cross-border banking relationships, provisions for reliance on third parties, and non face-to-face business relationships. In addition, there are limited customer due diligence (CDD) requirements and guidance for trustees and foundation clients. In particular, identification and verification of beneficial owners or controllers of bearer share companies and the settlors and ultimate beneficiaries of trusts is weak.

21. **Internal AML/CFT controls are stronger in the banking sector but weaker in others.** In particular, shortcomings were identified in CDD procedures, internal audit, and employee due diligence requirements. Implementation of AML/CFT requirements is generally weak in the nonbanking sectors partly due to weak oversight.

22. **All covered financial institutions are subject to recordkeeping requirements that are broadly in line with the FATF standard.** Records must be retained for 10 years or more but there are limited requirements to maintain records of both domestic and international transactions, business correspondence, and to make available such information in a timely manner to competent authorities. Deficiencies in the CDD requirements also limit the effectiveness of recordkeeping requirements.

23. **Although ordering banks are required to obtain and maintain information on the originator of wire transfers, there is no explicit requirement that they and any intermediary banks transmit this information in the payment message.** Beneficiary banks are prohibited from processing wire transfers when the name of the originator and the originator bank are not included in the payment message. However, the prohibition does not extend to wire transfers lacking other originator information as required by the standard. Beneficiary banks are not required to apply a risk-based approach for identifying and handling wire transfers that lack complete originator information or, in such circumstances, to consider filing a STR, restrict or terminate business relationships.

24. **Financial institutions are required to report transactions they suspect involve ML but the requirements apply only to a narrow range of financial institutions designated in the AML Law.** Moreover, the reporting obligation under this law does not extend to suspicion that a transaction may be related to terrorist financing as required under the standard. There is a 60-day reporting timeframe for institutions to report suspicious transactions after they are identified. This period may be too long for purposes of the standard that requires suspicion to be reported promptly. The effectiveness of the STR reporting regime is also weakened by an overemphasis on currency transaction reporting (CTRs).

25. **Overall, financial institution secrecy laws do not overly inhibit the implementation of the FATF Recommendations but confidentiality provisions and supervisory practices limit access to information on trusts held by FIs and others acting as trustees.** Such limitations also restrict effective interagency and international cooperation, and information exchange.

26. **There are five supervisory authorities responsible for AML/CFT supervision and enforcement, but the absence of CFT requirements in the AML Law (some CFT provisions are included in regulations and OEMs) limits the overall scope and effectiveness of supervision.**⁵ Supervisors generally have powers to supervise financial institutions and ensure compliance with the AML/CFT requirements, but the effectiveness of implementation varies significantly across sectors. While supervision of the banking sector is more advanced, the systems

⁵ In their response to the assessment, the authorities indicated that the assessment reports do not take account of amendments to the laws for the Superintendencies of the securities and insurance sectors markets. However, since these laws predate the mission date, the assessors took them into account in the assessment and are reflected in the Detailed Assessment Report.

and capacity for AML/CFT supervision of other sectors is weak, especially with respect to on-site inspections. In addition, there is a more limited scope of supervision of trust business conducted by financial institutions. The scope and depth of supervisory methodologies and procedures used, including for applying a risk-based approach, are absent or inadequate for the nonbank sector. Most inspections mainly focus on regulatory compliance and do not sufficiently take account of off-site supervision activities and ML/TF risks.

27. **The human, financial, and technical resources allocated to the supervisory authorities for their AML/CFT functions are generally inadequate.** Regular AML/CFT training for staff conducting AML/CFT inspections should be strengthened particularly with respect to the identification of high-risk activities and the application of related supervisory tools.

28. **An important number of financial institutions operating in Panama that are captured under the FATF standard are not covered, or only partially covered under the AML Law, and are, therefore, not subject to effective AML/CFT supervision. (See paragraph 21 above).** Bureau de change are covered under the AML Law and subject to supervision by the Ministry of Commerce and Industry (MICI) for AML purposes only, but their activities are not licensed or registered and, in practice, their supervision is negligible. The licensing requirements for financial institutions are generally broad with respect to the banking and securities sector. However, the licensing procedures for all other financial institutions can be improved and lack a system of ongoing and periodic review of fit and proper tests for owners and key officials of licensees. In addition, bureau de change should be licensed or registered and subject to effective supervision.

29. **There are no explicit provisions in the Banking Law or elsewhere for banks to have meaningful mind and management located in Panama as a key requirement for physical presence.** There are some requirements and measures in place to prevent the establishment of shell banks in Panama, but these could be strengthened by specific mind and management requirements for physical presence.

30. **A broad range of sanctions can be applied by supervisors for noncompliance with AML/CFT requirements (with the exception of MICI) but implementation cannot be regarded as effective overall.** The AML Law allows for sanctions to be imposed on financial institutions as well as their executives and other employees. Most of the sanctions applied are moderate monetary fines for failure to comply with the CTR obligations and not with the broader range of AML obligations. The fines that have been imposed are relatively low and may not be sufficiently dissuasive or proportionate to be deemed effective.

E. Preventive Measures – Designated Non-Financial Businesses and Professions

31. **The AML Law imposes the full range of obligations that are applicable to financial institutions only on trustees, whereas casinos (including internet casinos) and real estate brokers (legal persons only) are only subject to CTR obligations.** The remaining DNFBPs (i.e., lawyers, notaries, accountants, company services providers/resident agents, real estate brokers (natural persons), and dealers in precious metals and stones) are not covered by the AML Law. This

is a significant systemic gap given the important role they play in Panama's financial and economic system, and the risks they pose.

32. **Trustees place far more effort in complying with their CTR obligations than on compliance with the rest of the AML requirements.** Notably, trustees have filed a very low number of STRs and few sanctions have been applied. Other than the Superintendency of Banks of Panama (SBP) which supervises trustees, the supervisors for casinos and real estate agents have relatively limited supervisory resources. Overall, the effectiveness of implementation of AML requirements and supervision of covered DNFBPs is weak.

F. Legal Persons and Arrangements & Nonprofit Organizations

33. **Panama registers legal persons and arrangements in its Public Registry but information on the ownership and control of such entities is not generally available, including with respect to bearer share companies.** Panamanian companies can issue bearer shares and at the time of the mission, there were no requirements for their immobilization or custody.⁶ In addition, corporate information is generally held by resident agents (each corporate entity and arrangement requires the appointment of a resident agent in Panama who must be an attorney), but access to such information is restricted and available only to a narrow range of designated competent authorities. The FIU and AML/CFT supervisors do not have access to information held by resident agents. These limitations adversely affect the ability of the FIU and LEAs to effectively and efficiently obtain information, and trace and locate assets held by legal entities. The weaknesses are compounded when documentation is held overseas. Because resident agents, accountants and attorneys (as corporate services providers) are not subject to the AML Law, there are no established efficient procedures for the FIU and other competent authorities to access information on the ownership and control of legal entities. In addition, financial institutions providing services to these entities, especially bearer share companies, do not sufficiently verify the identity of beneficial owners which further limits availability and access to such information to competent authorities.

34. **Trusts are the main form of legal arrangement present in Panama (trustees are supervised by the Superintendency of Banks of Panama (SBP)), but the availability and access to information by competent authorities is limited.** There are no provisions in place to provide efficient access to information on the beneficial ownership and control of trusts (including protectors). In addition, while the SBP conducts AML/CFT supervision of trustees on a regular basis, the scope of supervision does not fully extend to reviewing compliance with customer due diligence requirements regarding ultimate beneficial ownership and control, especially when beneficiaries and/or settlors of trusts are other legal persons or arrangements.

⁶ Post mission, a law was passed in July 2013 providing for their custody. The law comes into force in two years (2015) and for shares issued prior to the law coming into effect, there is a three-year transition period ending in 2018 for compliance.

35. **Nonprofit organizations (NPOs) are registered in the Public Registry and are subject to authorization and supervision by a specialized unit of the Ministry of Government.** However, this specialized unit is not operational. There have been no domestic reviews on the activities, size, and other features of the nonprofit sector for TF purposes, and no assessment of their vulnerabilities and TF risks has been conducted.

G. National and International Cooperation

36. **Panama has national coordination bodies for AML/CFT but effective mechanisms for implementation are lacking.**⁷ There is a need to establish operational level contacts for cooperation between the Panama FIU and LEAs, and a system of regular reviews of the effectiveness of national AML/CFT measures. To this end, access and sharing of information would be required but would be limited by the lack of availability of and access to comprehensive statistics on e.g., corporate entities and other legal arrangements.

37. **There is a legal framework for international cooperation, including mutual legal assistance treaties (MLATs) on criminal matters.** However, shortcomings in the range of predicate offenses to ML and TF offense limit the effectiveness of the system. Panama applies the principle of dual criminality in a very strict manner and it does not provide legal assistance when the offense is also considered to involve fiscal matters.

38. **The limited range of entities that are subject to the AML Law, and the absence of CFT obligations for financial institutions and DNFBPs limit the ability of competent authorities to effectively cooperate with foreign counterparts.** In practice, the FIU unduly limits the types of information it shares with foreign counterparts and it cannot share information in the absence of memoranda of understanding (MOUs). The FIU makes comparatively fewer requests for cooperation than it receives. The lack of statistics on cooperation by other competent authorities (e.g., LEAs) does not allow for a proper assessment of effectiveness. Supervisory agencies have concluded a number of MOUs with foreign counterparts but not all of these arrangements explicitly provide for cooperation on AML/CFT matters and effectiveness cannot be properly assessed in the absence of adequate statistics.

⁷ In their response to the assessment, the authorities indicated that the assessment reports do not take account of amendments to the law that created the Council of Financial Coordination. However, this law predates the mission date and the assessors took them into account in the assessment and are reflected in the Detailed Assessment Report.

Summary Table of Observance and Key Recommendations

<p>Compliant (C): the Recommendation is fully observed with respect to all essential criteria.</p> <p>Largely compliant (LC): there are only minor shortcomings, with a large majority of the essential criteria being fully met.</p> <p>Partially compliant (PC): the country has taken some substantive action and complies with some of the essential criteria.</p> <p>Non-compliant (NC): there are major shortcomings, with a large majority of the essential criteria not being met.</p> <p>Not applicable (NA): a requirement or part of a requirement does not apply, due to the structural, legal or institutional features of a country.</p>	
FATF 40+9 Recommendations and Ratings	Key Assessor Recommendations
Legal System and Related Institutional Measures	
<p>Criminalization of Money Laundering</p> <p>R.1: PC R.2: LC</p>	<ul style="list-style-type: none"> ● Include as predicate offenses to ML counterfeiting of currency, smuggling, forgery, and piracy; expand the scope of the crime of illicit association to cover non-drug-related crimes; widen criminal liability of legal persons when they are used for ML; and establish clear parallel legal proceedings for legal persons convicted for money laundering. ● Strengthen statistics for ML offenses from investigation stage to court decisions.
<p>Criminalization of Terrorist Financing</p> <p>SR.II: PC</p>	<ul style="list-style-type: none"> ● Extend the terrorist financing offense to cover persons who willfully collect funds for terrorism, the financing of a terrorist organization or individual terrorist, and the indirect provision of funds for terrorism purposes. ● Cover in the terrorism offense all the offenses established in the TF Conventions and Protocols.
<p>Confiscation, freezing, and seizing of proceeds of crime</p> <p>R.3: PC</p>	<ul style="list-style-type: none"> ● Include in confiscation provisions property of corresponding value, and provisions to freeze or seize property on an ex-parte basis or without prior notice. ● Permit voiding contracts and arrangements entered into prior to trial. ● Enhance prosecutions and confiscation for non-drug-related ML and the powers of competent authorities to efficiently access information on legal persons and arrangements.
<p>Freezing of funds used for terrorist financing</p> <p>SR.III: NC</p>	<ul style="list-style-type: none"> ● Strengthen laws and procedures to freeze terrorist funds or other assets of persons designated by the relevant UN Resolutions without delay and prior notice. ● Implement an effective system for communicating actions taken under the freezing mechanisms to financial institutions and issue clear instructions to such institutions.
<p>The Financial Intelligence Unit and its functions</p> <p>R.26: PC</p>	<ul style="list-style-type: none"> ● Strengthen FIU (UAF) access to the information held by legal persons and arrangements, lawyers, company resident agents, accountants, and other DNFBPs. ● Enhance case dissemination procedures. ● Strengthen international cooperation and the maintenance of statistics. ● Provide more guidance to reporting entities.
<p>Law enforcement, prosecution and other competent authorities</p> <p>R.27: PC R.28: PC</p>	<ul style="list-style-type: none"> ● Allow sufficient time for the conduct of complex ML/TF investigations. ● Enhance access by competent authorities to information held by legal persons and arrangements, lawyers, company resident agents, accountants, and other DNFBPs. ● Strengthen statistics on investigations, prosecutions, seizures, and confiscations. ● Provide enhanced training for law enforcement and the judiciary on financial investigations.
<p>Cross-Border Declaration or disclosure</p> <p>SR. IX: NC</p>	<ul style="list-style-type: none"> ● Extend cross-border declaration requirements to outbound flows, and implement the requirements at all ports of entry and exit. ● Strengthen sanctions regime for cross-border reporting violations and maintain more comprehensive statistics for the same. ● Provide for the restraint and seizure of assets suspected of ML/TF. ● Enhance national and international cooperation on cross-border currency activities.
Preventive Measures: Financial Institutions	
<p>Customer due diligence, including enhanced or reduced measures</p>	<ul style="list-style-type: none"> ● Extend AML/CFT requirements to all financial institutions required by the standard. ● Strengthen the legal framework for CDD including for beneficial owners, bearer share

R.5: PC R.6: PC R.7: PC R.8: PC	<p>companies, trusts, and enhanced CDD for other high-risk clients including PEPs.</p> <ul style="list-style-type: none"> • Issue comprehensive AML/CFT requirements for bureau de change. • Enhance CDD provisions for correspondent banking business.
Third parties and introduced business R.9: NC	<ul style="list-style-type: none"> • Issue comprehensive CDD requirements for intermediary/introduced business arrangements including for cross-border clients.
Financial institution secrecy or confidentiality R.4: PC	<ul style="list-style-type: none"> • Provide access to information on legal entities held by Resident Agents to all competent authorities including the FIU (UAF). • Allow the Ministry of Commerce and Industry and the cooperatives supervisor to share information on institutions they supervise with other competent authorities.
Record keeping and wire transfer rules R.10: PC SR.VII: NC	<ul style="list-style-type: none"> • Clarify that recordkeeping requirements apply to both domestic and international transactions and business correspondence, and clarify the commencement and duration of the retention period. • Require that all records be made available on a timely basis to competent authorities. • Require that full originator information be included and transmitted with wire transfers. • Expand the prohibition on processing wire transfer in cases when full originator information is lacking. • Require a risk-based approach for the handling of wires lacking the required information, including filing STRs, restricting or terminating business relationships.
Monitoring of transactions and relationships R.11: NC R.21: NC	<ul style="list-style-type: none"> • Require FIs to pay special attention to complex, unusually large transactions and unusual patterns of transactions, examine and document such transactions. • Require FIs to pay special attention to transactions involving countries that do not or insufficiently apply the FATF Recommendations and that they keep records of transactions with no apparent economic or visible lawful purpose. • Implement a system to notify FIs of countries that do not or insufficiently apply the FATF Recommendations. • Implement a system for the application of counter-measures for countries with weak AML/CFT regimes.
Suspicious transaction reports and other reporting R.13: PC R.14: LC R.19: C R.25: NC SR.IV: NC	<ul style="list-style-type: none"> • Require STRs to be filed promptly including for attempted transactions and irrespective of whether they may involve tax matters. • Simplify STR documentation and emphasize timeliness and quality of STRs over CTRs. • Enhance guidance and feedback to reporting entities. • Explicitly require in law filing of STRs for TF.
Internal controls, compliance, audit, and foreign branches R.15: PC R.22: PC	<ul style="list-style-type: none"> • Require specific CFT internal control requirements for all FIs. • Explicitly require that compliance officers have full and timely information relating to FIs' trust business. • Establish internal audit requirements for entities regulated by the securities supervisor and the Ministry of Commerce and Industry, as appropriate. • Require FIs to inform Panama home supervisors when a foreign branch or subsidiary is unable to apply appropriate AML/CFT measures.
Shell banks R.18: PC	<ul style="list-style-type: none"> • Require meaningful mind and management requirements as part of the physical presence requirements for banks. • Explicitly require that FIs ensure that respondent financial institutions do not permit their accounts to be used by shell banks.
Supervisory and oversight system—competent authorities and SROs Role, functions, duties and powers (including sanctions)	<ul style="list-style-type: none"> • Increase the range of available sanctions under the AML Law to ensure that they are effective, dissuasive, and proportionate. • Ensure that sanctions under the AML Law also apply to directors and senior management of legal entities.

<p>R.17: NC R.23: PC R.25: PC R.29: PC</p>	<ul style="list-style-type: none"> Supervisors should more rigorously implement the available sanctioning powers. Enhance fit and proper licensing criteria for nonbank FIs and require ongoing monitoring of compliance with fit and proper criteria. Bureau de change should be licensed or registered, and subject to an adequate regulatory and supervisory regime. Supervisors of FIs conducting trust business directly or indirectly should have access to and in practice review all information relating to such business. Nonbank supervisors should generally strengthen AML/CFT supervision including on-site inspections. Broaden inspection powers of the securities supervisor and extend access by insurance supervisor to information by insurance entities. Supervisory authorities should enhance guidelines issued to FIs.
<p>Money value transfer services SR.VI: NC</p>	<ul style="list-style-type: none"> Establish procedures to identify and close down unauthorized money remitters. Fully apply the market entry, CDD, and other applicable AML/CFT requirements established under the FATF standard. Strengthen the AML/CFT supervisory capacity of the Ministry of Commerce and Industry to properly supervise this sector including on-site AML/CFT inspections.
Preventive Measures: Non-Financial Businesses and Professions	
<p>Customer due diligence and record-keeping R.12: NC</p>	<ul style="list-style-type: none"> Extend the scope of the AML/CFT framework to all designated non-financial businesses and professions (DNFBPs) required by the FATF standard. Include CTF obligations for DNFBPs and enhance the existing AML requirements. For trustee companies, explicitly extend CDD, recordkeeping, and other AML/CFT provisions to associated nontrust activities such as corporate services. Enhance CDD requirements for all parties to a trust including settlors and beneficiaries and for legal persons involved in a trust arrangement. Ensure that there are no restrictions on timely access to information held by trustees including by the FIU (UAF). Internet casinos should be subject to the full range of AML/CFT requirements of land based casinos.
<p>Suspicious transaction reporting R.16: NC</p>	<ul style="list-style-type: none"> Explicitly include TF STR obligations, including attempted transactions, and regardless of whether they involve tax matters. STRs should be required to be filed in a timelier manner. DNFBPs should be required to have appropriate internal control, compliance, and training programs.
<p>Regulation, supervision, monitoring, and sanctions R.24: NC R.25: PC</p>	<ul style="list-style-type: none"> Increase supervisory resources. Expand scope of supervision of trustees. Review and strengthen licensing or registration requirements for DNFBPs, including for internet casinos. Issue guidelines to all DNFBPs to facilitate compliance.
<p>Other designated non-financial businesses and professions R.20: NC</p>	<ul style="list-style-type: none"> Consider applying the AML/CFT framework to other businesses and professions including e.g., foreign trading and re-invoicing firms, pawn shops, currency transportation firms, safety box and custody businesses, dealers in high-value goods.
Legal Persons and Arrangements & Nonprofit Organizations	
<p>Legal Persons—Access to beneficial ownership and control information R.33: NC</p>	<ul style="list-style-type: none"> Require the recording of and the efficient access to information on beneficial ownership and control of legal person, including by the FIU (UAF).
<p>Legal Arrangements—Access to beneficial ownership and control information</p>	<ul style="list-style-type: none"> Require the recording of and the efficient access to information on beneficial ownership and control of trusts and other legal arrangements, including by the FIU (UAF).

R.34: NC	
Nonprofit organizations SR.VIII: NC	<ul style="list-style-type: none"> • Fully establish and operationalize the Supervision, Monitoring, and Evaluation Unit of the Ministry of Government. • Review and document the vulnerabilities and TF risks related to the nonprofit sector. • Raise awareness about the risks of TF in the NPO sector.
National and International Cooperation	
National cooperation and coordination R.31: PC	<ul style="list-style-type: none"> • Establish clearer channels of communication and operational cooperation between national agencies responsible for AML/CFT.
The Conventions and UN Special Resolutions R.35: PC SR.I: PC	<ul style="list-style-type: none"> • Fully implement the UN Vienna and Palermo Conventions. • Fully implement the UN CTF Convention and relevant Resolutions relating to the criminalization of TF.
Mutual Legal Assistance R.36: PC R.37: PC R.38: PC SR.V: PC	<ul style="list-style-type: none"> • Establish explicit legal provisions for international legal cooperation in the absence of treaty. • Do not refuse requests for legal assistance on the ground that the offense may involve fiscal matters. • Where possible, provide legal assistance in the absence of dual criminality.
Extradition R.39: LC R.37: PC SR.V: PC	<ul style="list-style-type: none"> • Address the shortcomings identified above for mutual legal assistance to allow for extradition requests.
Other Forms of Cooperation R.40: NC SR.V: PC	<ul style="list-style-type: none"> • The UAF should improve the extent to which it cooperates internationally. • Extend the scope of supervisory MOUs to cover AML/CFT specifically. • Address the deficiencies identified under SR. II to facilitate international cooperation.
Other Issues	
Resources & Statistics R.30: NC R.32: NC	<ul style="list-style-type: none"> • Supervisory resources, especially for the nonbanking sector, should be strengthened. • Enhance statistics maintained by law enforcement and the FIU (UAF). • Require current and sufficiently detailed statistics for legal entities and arrangements and NPOs formed in Panama.

Authorities' Response to the ROSC

Thank you for giving Panama the opportunity to provide its views on the final versions of the Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism (the "DAR") and the related Report on Observance of Standards and Codes ("ROSC"). We remain grateful for your team's expertise and professionalism in assisting Panama as it continues to strengthen its AML/CFT regime in accordance with international standards and best practices.

Given that the DAR and the related ROSC have been finalized and will shortly be published pursuant to the authorization sent by this Ministry, we write to inform you of the following concerns that Panama has with these reports and any follow-up processes that these reports may entail:

1. Panama is not in agreement with the results and ratings concerning compliance with the Forty Recommendations (2003) and the Nine Special Recommendations on Terrorist Financing (2001) of the Financial Action Task Force ("FATF"). Following a review of these reports, institutions such as the National Customs Authority, the Ministry of Government, the Attorney General of the Nation, the Ministry of Foreign Relations, the Superintendency of Banks and the Financial Intelligence Unit reported that many of their responses and submissions were not taken into account, resulting in unfavorable conclusions in the evaluation.
2. Panama is concerned that these reports do not reflect the current state of the Panamanian AML/CFT system, due to several improvements that Panama has made since the time of the assessment upon which these reports are based. We note in particular that the preface to the DAR states that the report provides a summary of the AML/CFT measures in place in Panama at the time of the mission, which took place from October 15–29, 2012. Since that time, Panama's significant steps to strengthen its AML/CFT system have included:
 - The draft Amendment to Law No. 42 of 2000, implementing the new FATF standards;
 - Law No. 47 of August 6, 2013, which adopts custody requirements for bearer shares;
 - New provisions in the Terrorism Law in the Criminal Code - Law No. 62 of September 18, 2013, and amendments to the Law of the Superintendency of the Securities Market, the Law of the Superintendency of Insurance and Re-insurance and Law No. 67, which created the Council of Financial Coordination.

Accordingly, we respectfully request that the published version and any published summary of the Detailed Assessment prominently reflect this important temporal dimension, namely, that the Detailed Assessment does not reflect the considerable advances in Panama's AML/CFT regime since October 2012.

3. The evaluation by the International Monetary Fund was undertaken at the initiative and request of the Government of the Republic of Panama but was based on the 40 plus 9 recommendations no longer in effect from February 2012, when 40 new recommendations were approved by FATF. While we do not criticize this fact, it nonetheless presents challenges as Panama continues to move forward in its AML/CFT efforts. Panama is presently focused on further improving its AML/CFT system in accordance with the newly revised FATF recommendations. For example, Panama is taking initial steps in the formulation of a National Risk Assessment and Corresponding Strategy Against Money Laundering and Terrorism Financing. We believe these efforts will significantly strengthen the effectiveness of Panama's AML/CFT system, in part by focusing our attention and resources on those risks and issues of greatest AML/CFT concern. We do not wish for these priorities to become subordinated to parallel concerns associated with fully meeting the technical requirements of the old FATF 40+9 recommendations.

We do recognize that the newly revised FATF standards enhance the prior standards, and that technical compliance with the old 40+9 recommendations provides a necessary foundation for effectively meeting the new recommendations. However, we wish to underscore the importance of maintaining Panama's AML/CFT focus on those actions that will most effectively strengthen its AML/CFT system moving forward. We urge that any follow-up processes associated with finalization of the DAR and the ROSC (including the recommended actions contained therein) respect this fundamental point, for the benefit of Panama and all AML/CFT authorities with interests in Panama.

We are aware that our country, like many other nations, confronts significant challenges in meeting the standards for addressing the scourge of money laundering and terrorist financing, but we wish to reiterate and highlight our strong commitment to meet these challenges through the actions we are continuing to take, including those noted above.