

The Deloitte logo, consisting of the word "Deloitte" in a bold, blue, sans-serif font, followed by a small green dot.

# Law 23 of April 27, 2015

## Executive Presentation for Non-Financial Reporting Entities

Deloitte Consultores, S.A.  
February 2016



# Table of Contents

3	Introduction
5	Executive Summary
7	Non-Financial Reporting Entities
9	Main Obligations and Duties
12	Reports to the Financial Analysis Unit
14	Sanctions
16	Other Dispositions



# Introduction

# Introduction

In order to regulate and strengthen the mechanisms for monitoring, control and international cooperation regarding the Prevention of Money Laundering, Terrorism Financing and Financing of Proliferation of Weapons of Mass Destruction in Panama, **Law 23** was enacted on April 27, 2015, and published in Official Gazette No. 27768-B of the same date.



# Executive Summary

# Executive Summary

## Scope of the Law:

The Law creates a national coordination, ordering the introduction of methodologies, establishing principles, obligations, mechanisms for collecting, receiving and analyzing financial intelligence information, as well as criteria for the imposition of sanctions for breaches of the Law.

## To whom it applies?

- The National Commission against Money Laundering, the Money Laundering, Terrorism Financing and Financing of the Proliferation of Weapons of Mass Destruction.
- The Financial Analysis Unit for the prevention of Money Laundering and the Financing of Terrorism.
- The Supervisory Authorities.
- The Non-Financial Reporting Entities, Activities performed by Professionals subject to supervision, as well as the Financial Reporting Entities, branches, their majority-owned branches and subsidiaries of the financial group.

# Non-Financial Reporting Entities

# Non-Financial Reporting Entities

## Non-Financial Reporting Entities

The Non-Financial Reporting Entities Supervised by the Regulatory Body for the Prevention of Money Laundering, Terrorism financing and Financing of Proliferation of Weapons of Mass Destruction of the Ministry of Finance:

- Companies in the Colon Free Zone, companies established in the Panama Pacific Agency, the Baru Free Zone, the Diamond's Market of Panama and Free Zones.
- Money remittance companies, whether it is or not their main activity.
- Casinos, games of changes and betting system organizations, and other physical or telematics facilities developing these businesses through internet.
- Promotion, Real Estate and Real Estate Brokers, companies when involved in transactions for their customers concerning the buying and selling of real estate.
- Companies engaged in the Construction field, namely: general contractors and specialized contractors.
- Securities Transportation Companies.
- Pawnshops.
- Companies engaged in the trade of precious metals and companies engaged in the trade of precious stones, in any form, either by physical delivery or the purchase of future contracts.
- The National Lottery.
- The Panama National Post and Telegraph.
- Savings and Loans Corporations for housing.
- Exchange houses, in any form, whether by physical delivery or the purchase of future contracts, whether or not their main business.
- Companies engaged in the buying and selling of new and used cars.
- The Agricultural Development Bank (Banco de Desarrollo Agropecuario).
- The National Bank of Mortgages (Banco Hipotecario Nacional).
- Those activities performed by professionals as described in Article 24.



# Main Obligations and Duties

# Main Obligations and Duties

Article	Description
<a href="#">Article 12</a> Link	Appoint a person or unit responsible for serving as liaison between the Financial Analysis Unit for the Prevention of the Crimes of Money Laundering and the Financing of Terrorism and the corresponding Supervisory Entity.
<a href="#">Article 26</a> <b>Proper Customer identification and reasonable verification of information and documentation</b>	Maintain, in their operations, due diligence and care to reasonably prevent that these operations are carried out with funds or resulting from Illegal Activities. The mechanisms for customer and/or final beneficiary identification; as well as the verification of information and documentation, will depend on the risk profile of the Non-Financial Reporting Entities. The Law develops the basic due diligence measures for both natural person and legal person on time ( <b>Articles 27 and 28</b> ).
<a href="#">Article 29</a> <b>The updating of records as well as their safekeeping</b>	Keep all records of information and documentation of due diligence for both natural persons as well as legal persons; protect records of transactions for a period of five years counted as of the date of the termination of the business relationship.
<a href="#">Article 34</a> <b>The amplified knowledge of customers under the classification of Politically Exposed Persons</b>	Adopt measures of enhanced due diligence for individuals that come under the category of foreign Politically Exposed Person and Domestic Politically Exposed Person (either a customer of a Final Beneficiary). The article also stipulates the aspects that the enhanced due diligence must include.
<a href="#">Article 36</a> <b>Prohibition of establishing a relationship or conduct a transaction</b>	When the customer does not facilitate compliance with the relevant Due Diligence measures, the Non-Financial Reporting Entities shall not open the account nor begin the business relation, or shall not make the transaction and may submit a report on suspicious activities.

# Main Obligations and Duties

Article	Description
<b>Article 40</b> <b>Control designs for the Implementation of Preventive Measures on a Risk-Based Approach</b>	Implement a risk-based approach, which involves an assessment of the products and services offered and to be offered to the Customers, as well as the geographic location in which the reporting Entities offers and promotes its services and products.
<b>Article 41</b> <b>Special assessment</b>	Analyze with special attention to, any fact, operation or transaction, regardless of its amount, which is considered unusual as provided in this Law.
<b>Article 42</b> <b>Know your employee policy</b>	Properly select and monitor the conduct of employees, especially those in positions related to the management and analysis of customers, money receiving, information control and key controls. Additionally, a profile of the employee must be established, and must be updated throughout the period of employment.
<b>Article 44</b> <b>Control measures for the free zones</b>	Companies in the Colon Free Zone, the Panama Pacific Agency, the Baru Free Zone, the Diamond's Market of Panama and companies in Free Zones, shall design controls that allow them to secure the reasonableness of their operations in terms of knowing the identity of their counterparts in the chain of foreign trade.
<b>Article 47</b> <b>Obligation to provide Training</b>	Give continuous and specific training to employees in positions related to the treatment, communication and managing relations with Customers and suppliers, receiving money, processing transactions, designing products and services and others personnel working in sensitive areas, enabling them to stay updated on the different typologies, cases and lodging on Money Laundering, Terrorism financing and Financing of Proliferation of Weapons of Mass Destruction.

# Reports to the Financial Analysis Unit

# Reports to the Financial Analysis Unit

## Report of Transactions



Non-Financial Reporting Entities, **when applicable**, within the period established by the regulations must report the statement of transactions or operations listed in the Article 53 of the Law 23, whether conducted in or from the Republic of Panama, as well as any additional information related to such transactions or operations for their proper analysis.

## Report of Suspicious Operations



Non-Financial Reporting Entities must communicate directly to the Financial Analysis Unit for the Prevention of the Crimes of Money Laundering and the Financing of Terrorism of any fact, transaction, operation, in which there is suspicion that it may be related to the Crimes of Money Laundering, Terrorism financing and Financing of Proliferation of Weapons of Mass Destruction, regardless of the amount that cannot be justified or supported, as well as control weaknesses.

# Sanctions

# Sanctions

## Sanctions for non-compliance:

Considering the seriousness of the offense, second offense, extent of damage, and the damage caused to third parties; disciplinary and financial sanctions, will be imposed gradually, as follows:

- **Generic Sanctions:** fines from five thousand dollars (US\$5,000.00) to one million dollars (US\$1,000,000.00).
- **Specific Sanctions and Progressive Fines:** Shall be established by the Supervisory Entities regulations.

The sanctions for which collection has not been possible for reasons attributable to the sanctioned subject, will be collected through the compulsory jurisdiction of each Supervisory Entity or the General Direction of Revenue (DGI), of the Ministry of Economy and Finance.

# Other Dispositions



# Other Dispositions

## **Preventive Freezing:**

Reporting Entities must proceed to carry out a preventive freezing of funds, property or assets immediately received the lists for that purpose issued by the United Nations Security Council and which are identified in this Law (Article 49). They also shall immediately notify the Financial Analysis Unit, that they have made a precautionary freeze on funds, property or assets.

## **Corporate Responsibility:**

Acts and behavior of the management, executive and administrative personnel are attributable to the Reporting Entities and persons exercising activities on whose behalf they act.

## **Exemption of civil and criminal responsibilities:**

The Reporting Entities, when applicable, their directors, officers and employees will not be subject to criminal and civil liability for filing suspicious transactions reports or related information.



© 2016 Deloitte. All rights reserved.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/about](http://www.deloitte.com/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte has in the region of 200,000 professionals, all committed to becoming the standard of excellence.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte Network”) is, by means of this publication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

**A member firm of Deloitte Touche Tohmatsu Limited**