

**Asset Protection – How to structure assets in an anonymous way, while meeting the international transparency requirements.**

**Commission(s) in charge of the Session/Workshop:**  
Private Clients Commission

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**National Report of Panama**

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## 1. Private Clients

### 1.1. Asset Protection – structuring possibilities and other means of asset protection

#### 1.1.1. Does your jurisdiction recognize domestic or foreign trusts? If yes, what types of domestic trusts are there and what type of trusts is usually used for asset protections purposes? Are there any restrictions in your jurisdiction as to the possibility of the settlor to be a beneficiary at the same time?

Yes, The Republic of Panama recognize the domestic and foreign trusts. The first Law comprising the legal regime of Trusts in Panama dates back to 1925 and it was subsequently modified in 1984 with the approval of Law No. 1 of January 5th 1984 by means of which the Trusts are regulated in the Republic of Panama.

The Trust provide organization, protection, perpetuation and disposition of assets, rights and estates of any kind or nature, accepted to be located in the Republic of Panama or abroad, by means of the creation of a separate patrimony that will be managed following the rules established in their constitutive documents.

Trusts in Panama are defined as the juridical act by means of which a person identified as the Settlor transfers assets to another person identified as the Trustee who will manage and allocate them in favor of the beneficiaries appointed by the Settlor.

Trusts are established by means of a private contract by means of which the parties thereto may freely agree the clauses and conditions they deem advisable, including management and disposition clauses, provided that they comply with Panamanian Law, the moral and good customs, without requiring mayor formalities, nor the registration of the Trust Contract nor any governmental approval in the Republic of Panama.

Trusts constituted in the Republic of Panama allow the transmission of assets in a private manner and in strict confidentiality resulting of the execution of the instructions that the Settlor express, usually in a private document to be made effective during his/her life or upon his/her demise, without having to recur to official procedures or to wait for a decision from the Court of Law.

It is important to consider that Panamanian Law is domestic and territorial and that its application by the foreign judge dealing with the process could disregard its scope of application and seize the assets that are part of the Trust patrimony that are located within his/her jurisdiction in the event a family or succession controversy or claim arises within a jurisdiction where the Settlor or Beneficiaries have their domicile or where an asset of the Trust Patrimony is located

### **Types of Trust in in the Republic of Panama**

- Guarantee Trust: The debtor party delivers the asset to the Trust for the benefit of creditors and in order to ensure its obligations with them.
- Real Estate Trust: The owner of a property or developer or promoter or bankers or investors contracts a Trust in order to supervise the assets and investment for a construction development.
- The Securities Trust: Allows who contracts the Trust to issue bonds by means of a Trust that have a payment guarantee.
- Investment Trust: Its purpose is to invest the money or assets by instructions of the Settlor.
- Administration Trust: The Trustee administers assets for the benefit of the Settlor or its/his/her beneficiaries. This Trust is the trust usually used for asset protection purposes.

### **Characteristics of the Trust in the Republic of Panama**

The Panamanian Law allows a physical person or legal entity, of a public or private nature, Panamanian or foreign, domiciled in Panama or abroad, to act as Settlor, Trustee and/or as Beneficiary of the Trusts established in Panama.

The Panamanian Law does require that the signature of the parties thereto be legalized by a Notary Public of the place where they subscribe the document, bearing in mind that it is not necessary to have all parties subscribe the document at the same time nor in the same place.

The Trust Contract must be countersigned by the Trust's Registered Agent (a lawyer or law firm authorized to practice Law in the Republic of Panama), appointed as such in the Trust Contract.

The requirements for setting up a Trust in Panama are very practical since the Trust may be created by means of a contract that may be executed in private form. The sole formalities requested by Panamanian Trust Law are:

- The signature of the parties thereto must be legalized by a Notary Public of the place where the document is subscribed. As mentioned in the previous paragraphs, it is not necessary to have all parties subscribe the document at the same time nor in the same place.
- If the Trust Contract is executed outside of the territory of the Republic of Panama, the Notary Public's signature must be legalized by the Panamanian Consulate of that place or by means of the Apostille.
- The Trust Contract must be countersigned by the Trust's Registered Agent (a lawyer or law firm authorized to practice Law in the Republic of Panama), appointed as such in the Trust Contract.

The Trust Contract must include the following information and details:

- a) The complete description of the person or persons acting as Settlor(s), including the complete name, nationality, passport or national personal identification number and physical address.
- b) The complete description of the Trustee, including the complete name, nationality or place of registration, passport or national personal identification number in the case of physical persons or registration or identification number in the case of legal entities and physical address. The document must also include the complete name, passport or national personal identification number, capacity in which he/she act(s) and the physical address of the person representing the Trustee in this act.
- c) The complete description of the person or persons appointed by the Settlor(s) as Beneficiary (ies) including the complete name, nationality, passport or national personal identification number and physical address. The Settlor can also act as the Beneficiary without any limitation.
  - 1. If the Beneficiary (ies) is/are a legal entity, the document must include its complete description, including the complete name, place of registration, registration or identification number and physical address.
  - 2. In the event that future Beneficiaries or Classes of Beneficiaries will be appointed, sufficient conditions or details must be included in the Trust Contract in order to identify them. As with the future Beneficiaries to be appointed, sufficient conditions or details must be included in the Trust Contract in order to identify the Substitute Beneficiaries (if applicable).
- d) The description of the assets constituting the Trust's object, including the characteristics, location and registration incorporation (if applicable).
- e) The express declaration of the Settlor(s) concerning their decision to constitute the Trust.
- f) The rights, duties and obligations of the Trustee.
- g) The prohibitions and limitations imposed to the Trustee during the exercise of this functions concerning the administration and management of the assets under trust.

- h) The mechanism for appointing a Substitute Trustee in the event that the Trustee may not continue acting as such as well as the complete description of the Substitute Trustee, including the complete name, place of registration, passport or national personal identification number in the case of physical persons or registration or identification number in the case of legal entities and physical address.
- i) The rules for the accumulation, distribution and disposition of the assets under trust as well as of the income and interest earned concerning the Trust's assets.
- j) The place and date on which the Trust is constituted as well as the place and date on which each party will sign the Trust Contract.
- k) The appointment of a Registered Agent that must be a lawyer or law firm authorized to practice Law in the Republic of Panama.
  - 1. It is important to note that the Registered Agent does not have binding obligations, that the Registered Agent may not compel any of the parts thereto nor can the Registered Agent receive notifications.
  - 2. Panamanian Law does not grant any faculty to the Registered Agent and its role is to serve as a guide for all aspects relating to the application and execution of the Trust Agreement.
- l) The Trust's domicile in the Republic of Panama.
- m) The express declaration that the Trust is incorporated in compliance with the applicable Laws of the Republic of Panama.
- n) A clause concerning the resolution of any conflict or dispute concerning the Trust.
- o) Any other clause or information deemed advisable by the parties thereto.

**1.1.2. Does your country recognize private foundations (domestic or foreign) which are suitable for asset protection purposes (such as family foundations or similar)? If yes, what are the main characteristics of such domestic private foundation and are there any restrictions in your jurisdiction as to the possibility of the founder/donor to be a beneficiary at the same time?**

Yes, The Republic of Panama recognize private foundations (domestic and foreign). The legal regime for the Private Interest Foundations in the Republic of Panama is regulated by means of the Law No.25 of June 12th 1995, based on the institution of the “Stiftung” or Family Foundation of the Principality of Liechtenstein. The enactment of Executive Decree No. 417 of August 8th 1995 completes this legal regime with the creation of the Section of Private Interest Foundations in the Panama Public Registry and by providing the rules for the registration of Foundation Deeds, the rules for their amendment and for the extinction of these entities.

The Private Interest Foundations provide organization, protection, perpetuation and disposition of assets, rights and estates of any kind or nature, accepted to be located in the Republic of Panama or abroad, by means of the creation of a separate patrimony that will be managed following the rules established in their constitutive documents.

## **Characteristics of the Private Interest Foundation in the Republic of Panama**

The Panamanian Law does not provide a definition per se of The Private Interest Foundations but the provisions of Law No. 25 of 1995 confirm that they are legal entities created when one or more person(s) identified as the Founder(s), subscribe a document known as the Foundation Deed, that must be registered in the Panama Public Registry (and thus will be in the public domain), by means of which she/he/they is/are obliged to create a patrimony in favor of the Private Interest Foundation, that will be managed by the members of the Foundation Council following the regulations included in the Foundation Deed and/or in the By-Laws in benefit of one or more person(s) identified as the Beneficiary(ies).

The Private Interest Foundation is a legal entity capable of exercising rights and acquiring obligations and it may not pursue commercial activities on a regular basis, but it may hold participation in entities that pursue commercial activities and thus it may exercise the rights arising thereof provided that the income received or the economical product of this activity is exclusively destined to attain the objectives for which the Private Interest Foundation was created.

The Panamanian Law allows a physical person or legal entity, of a public or private nature, Panamanian or foreign, domiciled in Panama or abroad, to act as Founder, who can also be the Beneficiary, as member of the Foundation Council and/or as Beneficiary of the Private Interest Foundation established in Panama. In the case of the members of the Foundation Council, it is important to consider that when legal entities are appointed as members of the Foundation Council, the presence of one or more is permitted by Law, whilst in the case of physical persons, Panamanian Law requires the presence of at least three physical persons.

Panamanian Law allows the possibility of subscribing the Foundation Deed in Panama or abroad. If the Foundation Deed is subscribed abroad, the signatures of the Founder(s) must be legalized by a Notary Public of the place where the document is subscribed and subsequently legalized by the Panamanian Consulate or by means of the Apostille. The

Foundation Deed must be subsequently protocolized by a Notary Public in Panama or by the Panamanian Consulate abroad in order to be registered in the Panama Public Registry.

The registration of the Foundation Deed in the Panama Public Registry grants the Private Interest Foundation its legal personality without requiring any further legal or governmental authorization and it also serves as publicity means in benefit of third parties. Consequently, the Foundation may acquire and possess any type of assets, anywhere in the World, may enter into obligations and be a part in administrative and judicial proceedings of any sort, pursuant to the applicable provisions.

It is important to note that if the assets to be transferred to the Private Interest Foundation's patrimony must comply with a particular procedure in the place where they are located and/or regulated, these conditions must be accomplished in order to complete their transfer. In the case of immovable property located in Panama, Panamanian Law establishes that the transfer documents must be protocolized in a Public Deed by a Notary Public in the Republic of Panama in order to be registered in the Panama Public Registry to complete this transfer.

## **Requirements of the Private Interest Foundation in the Republic of Panama**

The requirements for constituting a Private Interest Foundation in Panama are very practical and they may be created in a "tailor-made" way depending on the characteristics of each case.

The concept of the Foundation Deed is not defined in Panamanian Law, however, from its contents we may confirm that the Foundation Deed is the constitutive document by means of which the Private Interest Foundation is constituted, that is prepared and signed by the Founder(s) or by the person(s) to whom the Founder(s) has/have granted a Power of Attorney to represent her/him/them at the moment of constituting the Private Interest Foundation. The Foundation Deed is the document by means of which the Founder(s) set(s) forth the provisions required by Panamanian Law for the creation of the Foundation.

The provisions that must be included in the Foundation Deed as established by Panamanian Law may be summarized as follows:

- The complete name, nationality, passport or national identity card and the physical address of the physical person(s) acting as Founder(s) of the Private Interest Foundation and in the case of legal entities, the complete name, jurisdiction where it is registered and the registration number of the entity (ies) acting as Founder(s) or of the person(s) acting as their duly authorized representatives for this act. The Founder(s) may be one or more person(s), be them physical persons or legal entities, Panamanian or foreign.
- The Private Interest Foundation's name, which may be expressed in any language with letters from the Latin alphabet. The name must be different from that of the Private Interest Foundations that are already registered in the Republic of Panama. The name must include the word "Foundation" to identify its legal nature.



- The description of the Private Interest Foundation's patrimony, expressed in any legal currency, which in no case shall be less than a sum equivalent to Ten Thousand Dollars, legal currency of the United States of America.
- a) The Private Interest Foundation's patrimony may be composed by any and all type of assets, be them material or not, as money, real estate, securities or rights. There is no requirement to list them nor to identify them in the Foundation Deed nor to precise its valuation since the sole requirement of Panamanian Law is to establish that the Private Interest Foundation's patrimony shall not be less than Ten Thousand Dollars as established above.
- b) Panamanian Law does not require the presentation of any proof nor evidence to any governmental authority of the actual delivery of the Private Interest Foundation's assets nor of its value. As a result, any person claiming to have suffered damages for the non delivery of these assets must present a claim at the Courts of Justice.
- c) The Private Interest Foundation's assets may be increased at any moment, through the contributions made by the Founder(s) or by third parties.
- The complete name, nationality, passport or national identity card, title (if applicable), signature right (if applicable) and the physical address of the physical person(s) appointed as members of the Foundation Council and in the case of legal entities, the complete name, jurisdiction where it is registered and the registration number of the entity(ies). When legal entities are appointed as members of the Foundation Council, the presence of one or more is permitted by Law, whilst in the case of physical persons, Panamanian Law requires the presence of at least three physical persons.
- The Foundation's domicile that for all legal purposes is the Republic of Panama. In any case, it may have as many administrative domiciles in the jurisdiction(s) where the members of the Foundation Council deem it advisable.
- The name and physical address of the Registered Agent in the Republic of Panama. The Registered Agent must be a lawyer or law firm authorized to practice Law in Panama.
- a) The Private Interest Foundation's Registered Agent does not have any rights nor duties, it may not be considered as the legal representative of the Private Interest Foundation in the Republic of Panama, it does not have the power to bind or compel the Private Interest Foundation nor does it have the right to receive notices or legal summons.
- b) The main functions of the Registered Agent are to serve as a means of communication with the Founder, members of the Foundation Council and any other person(s) relating to this structure and to receive the Private Interest Foundation's annual tax to be paid at the Ministry of Economy and Finance in the Republic of Panama.
- The Private Interest Foundation's objects are not required to be detailed in the Foundation Deed, however, in the practice the Founder(s) usually establish that the

objective is to preserve the patrimony in the manner that the Founder(s) has determined in benefit of the Beneficiary(ies).

- a) Private Interest Foundations may not carry out business activities on a regular basis but it may perform acts of commerce sporadically whenever the Foundation Council considers it appropriate for the preservation of the Foundation's patrimony according to the provisions included by the Founder in the Foundation Deed or in the By-Laws. In other words, the Private Interest Foundation may hold real estate and rent it if the income received is to be used for the benefit of the Beneficiary(ies), it may own a bank but it may not carry out banking activities, to mention a few.
- The way in which the Private Interest Foundation's Beneficiaries shall be appointed. In order to preserve the Beneficiary(ies) details in strict confidentiality, it is common practice to establish in the Foundation Deed that the Beneficiary(ies) will be appointed in the By-Laws.
- a) The Beneficiary(ies) may be physical persons or legal entities, Panamanian or foreign, of any age, be them related to the Founder(s) or not. The Founder(s) herself/himself/themselves may be appointed as Beneficiary(ies) of this entity as well.
- The duration of the Private Interest Foundation. It is common practice to establish that the Private Interest Foundation will have indefinite duration or until a certain condition is accomplished after which it will become extinct.
- The procedure for amending the Foundation Deed and the By-Laws. Panamanian Law allows the amendment of these document as approved by the Founder(s) or by means of a resolution of the Foundation Council or of any other person(s) authorized to proceed with the amendments. As a result, the procedure and requirements for amending the Foundation Deed and the By-Laws must be established in the Foundation Deed.
- a) Any amendment to the Foundation Deed or to the By-Laws if this document is registered in the Panama Public Registry must be protocolized by a Notary Public in the Republic of Panama in a Public Deed to be presented to the Panama Public Registry in order to be valid for third parties.
- The way in which the Private Interest Foundation's assets shall be managed and the way to liquidate them once the purposes for which this entity was created are fulfilled, specifying who may approve the decisions relating thereto. It is common practice to include a clause in the Foundation Deed establishing that the details and procedure for managing these assets and for liquidating them will be included in the By-Laws solely.
- Any other clause that the Founder(s) deems appropriate provided that it is lawful, that it is not contrary to the moral nor to the good customs.

## Regulations of the Private Interest Foundations in the Republic of Panama

The By-Laws or Regulation is a private document that the Founder or the Foundation Council implement, or the person in whom she/he/it delegates said power. In the practice this document usually includes the rules and regulations concerning the management of the Private Interest Foundation's assets, their subsequent transfer or investment in favor of the Beneficiary(ies) as well as any other act or procedure that are required for attaining the objectives for which the Private Interest Foundation was created.

Panamanian Law does not require the registration of the By-Laws in the Panama Public Registry and thus this document may be kept in strict confidentiality. In addition, no further requirements are established by Panamanian Law for the preparation of the By-Laws, however, due to the private nature of this document, is always recommended that the signature(s) of the Party(ies) granting this document legalized by a Notary Public in the place where the document is executed as well as to legalize the Notary Public's signature by means of the Apostille if the document is to be used in other countries.

The information that we recommend to include in the By-Laws are:

- The details and characteristics of the rights and/or assets transferred or to be transferred to the Private Interest's Foundation patrimony. Panamanian Law allows the possibility to transfer assets or rights that do not exist at the moment of constituting the Private Interest Foundation or at the moment of issuing its By-Laws provided that they are duly identified when appropriate.
  - a) The Panamanian Law does not establish a time frame to create this patrimony nor to transfer the assets or rights that will compose the Private Interest Foundation's patrimony. At the moment of transferring these assets or rights, there is no obligation to report this to any Governmental Authority in the Republic of Panama.
- The complete name, nationality, passport or national identity card and the physical address of the physical person(s) appointed as Beneficiary(ies) of the Private Interest Foundation and in the case legal entities are appointed as such, the complete name, jurisdiction where it/they is/are registered and the registration number of the entity(ies) appointed as such.
  - a) If there are different categories of Beneficiaries, it is important to describe each of them, including but not limited to, the conditions that are required for each category of Beneficiaries to benefit from the Private Interest Foundation's assets (i.e. age, completing studies, to mention a few), the rights, duties and obligations of each category of Beneficiaries, amongst others.
  - b) The procedure by means of which Beneficiaries may be nominated and replaced in case the ones that have been appointed have died, have not complied with the conditions required to be considered as such and/or do not wish to receive the benefits of this structure, to mention as few.

- The way in which the Foundation Council must manage, invest and/or transfer the assets, rights, interests and/or income produced in favor of the Beneficiary(ies).
  - The complete name, nationality, passport or national identity card and the physical address of the physical person(s) that may be appointed as Protector(s) of the Private Interest Foundation and in the case of legal entities, the complete name, jurisdiction where it is registered, the registration number of the entity(ies) acting as Protector(s) and the details of the person(s) acting as their duly authorized representatives for this task.
- a) If a Protector is appointed, it is important to include in the By-Laws or in the Foundation Deed the rights, duties and obligations inherent to this position as well as the procedure by means of which Subsequent Protectors may be appointed in case the one(s) that has/have been appointed has/have died, has/have not complied with its functions and/or do not wish to continue acting as such, to mention as few.
- Any other clause or regulation deemed advisable for attaining the objectives for which the Private Interest Foundation was constituted.

The members of the Foundation Council of a Private Interest Foundation are obliged, in compliance with the requirements of Panamanian Law, to maintain the details of these structures, of their assets and the parties involved thereto in strict confidentiality. If this confidentiality is breached, fines and prison charges may be applied.

**1.1.3. Are there any other asset protection vehicles which are commonly used in your jurisdiction? What are their specific characteristics?**

No, the Will is the document, public or private, by means of which one sole person includes the way in which his/her assets are to be disposed of upon his/her death.

The execution of this document is materialized post mortem with a judicial decision pronounced by a Court of Law after completing a procedure that lacks any privacy or confidentiality that in addition is usually long because of the bureaucracy that is characteristic of these procedures. These procedure have elevated costs for the heirs as well.

On the other hand, Trusts and Private Interest Foundation constituted in the Republic of Panama allow the transmission of these assets in a private manner and in strict confidentiality resulting of the execution of the instructions that the Founder expresses to the Foundation Council, usually in a private document to be made effective during his/her life or upon his/her demise, without having to recur to official procedures or to wait for a decision from the Court of Law.

It is important to consider that Panamanian Law is domestic and territorial and that its application by the foreign judge dealing with the process could disregard its scope of application and seize the assets that are part of the Trust or of the Private Interest

Foundation's patrimony that are located within his/her jurisdiction in the event a family or succession controversy or claim arises within a jurisdiction where the Founder or Beneficiaries have their domicile or where an asset of the Foundation's Patrimony is located.

The Trust and the Private Interest Foundation are excellent instruments for organizing a family, corporation or group's patrimony as well as their proper succession.

The Private Interest Foundation is differentiated from the Trust in that the latter is a contract not a legal entity and thus it lacks legal personality and capacity.

The Private Interest Foundation is a legal entity with its own identity and legal personality with a patrimony that is separate from that of its Founder, the members of the Foundation Council and that of the Beneficiary(ies). The Private Interest Foundation has legal capacity to acquire rights and enter into obligations.

As a result, these structures are widely used by Panamanians, persons domiciled in the Republic of Panama, other nationals and/or persons domiciled outside of the territory of the Republic of Panama.

The most common use of these entities may be summarized as follows:

- As a hereditary instrument in replacement or in addition to a Will.
- As a replacement of pre-nuptial agreements.
- As an instrument for managing pension funds.
- As a means of protection of our loved ones granting them assets, interests, income received, periodical sums, to mention a few.
- As an instrument for guaranteeing the generational transition of a corporation.
- As an instrument for creating, organizing and/or managing of philanthropic associations.
- As an instrument for receiving the payment of commissions, dividends and taxes as well as to serve as an instrument for paying the applicable taxes.
- As a holding company.
- To be the owner of movable or immovable property, to be the owner of art works, of bank accounts, cattle, yachts, to mention a few.

**1.1.4. Is your jurisdiction asset protection-friendly? E.g. does your jurisdiction typically respect asset protection structures or does it recognize principles such as "sham" or "piercing the corporate veil"? If yes, what are the prerequisites for a court/other administrative body to apply such principles? What is the right balance between settlor control and asset protection?**

It does, the Republic of Panama accepts the asset protection structures as are legally binding.

The Trustee or the Resident Agent is obliged, in compliance with the requirements of Panamanian Law, to maintain the details of these structures, of their assets and the parties

involved thereto in strict confidentiality. If this confidentiality is breached, fines and prison charges may be applied.

In any case, it is important to bear in mind that the Panamanian Legal System has approved strict laws concerning the prevention of the use of the aforementioned structures for terrorism, drug trafficking, money laundering and other crimes as a result, any person (in particular financial institutions, trust companies, to mention a few) that is aware or suspects of any such crime, is obliged to report them with the Panamanian Authorities and thus will be exonerated from the confidentiality obligation without fines or other applicable measures provided by Panamanian Law as well as from any liability arising thereof.

**1.1.5. Are there any other characteristics in your jurisdiction that make it particularly asset protection friendly, e.g. political stability, banking or other secrecy rules, favorable civil procedural rules (e.g. in relation to the (non-)recognition of foreign judgments) and have there been any changes to these principles recently?**

The Republic of Panama have a Right Democratic Government, the country is binding by its law and Constitution. There are laws that protect the investment and any economic activities. The States promote and protects the investments in the country, by any economic activity, legal, in any form, private or public nationally.

**1.1.6. Has there been any recent case law particularly relevant with regard to asset protection structures and what was it about?**

No, there has not been a public recent case law regarding the assets protections structures.

**1.1.7. What, if any, taxes apply to trusts or other asset-holding vehicles in your jurisdiction, and how are such taxes imposed? How is the transfer of assets to trusts/foundation or other asset-holding vehicles taxed in your jurisdiction?**

The Tax System of the Republic of Panama is based on the Territoriality Principle or of the Source of the Income received.

The Territoriality Principle considers taxable the income produced, from any source, within the territory of the Republic of Panama, regardless of the place where it is received.

Consequently, the constitution, amendment or extinction of a Trust or of a Panamanian Private Interest Foundation as well as the assets that compose these structure's patrimony or the interests relating thereto are exempt from the payment of taxes in Panama provided that:

- The assets are located outside of the territory of the Republic of Panama.

- The money deposited by these entities in bank accounts located in Panama or abroad have not arisen from a Panamanian source of income or if they do not generate taxable income in the Republic of Panama.
- Shares or securities of any type or class, issued by entities that do not receive income from a Panamanian source even if said shares or securities are deposited in bank accounts booked in Panama.
- If the transfer of the assets to the Trust or to the Private Interest Foundation and/or from their patrimony to that of the Beneficiaries is made by means of a donation in compliance with what is established in the Trust Deed, Foundation Deed and/or their By-Laws, this transaction is not subject to the payment of taxes in the Republic of Panama since the Panamanian Tax System does not include a Donation Tax.

The exception to this rule is the transfer of immovable property located in the Republic of Panama that must pay the Immovable Property Transfer Tax. This tax must be paid before the transaction is perfected and it does not exempt donations nor transfers of immovable property without receiving any economic earning from paying this Tax.

## **1.2. National and international transparency requirements**

### **1.2.1. What are the developments in your country with regard to the automatic exchange of information? Will your jurisdiction implement the OECD-CRS and if yes, when and how?**

The Republic of Panama adopted the Model of Protocol for the Purpose of Allowing the Automatic and Spontaneous Exchange of Information under the Tax Information Exchange Agreement (TIEA) and signed the TIEA with the United States of America in 2010.

### **1.2.2. Has your country entered into a bilateral FATCA agreement? If yes, what are the main features of such agreement?**

No, the Republic of Panama has not entered, yet, into the bilateral FATCA agreement. It is understood that might enter to the bilateral FATCA agreement this year 2016.

### **1.2.3. FATF (Financial Action Task Force) recommendations and developments: What are the recent developments in your country and what are the specific due diligence obligations in your jurisdiction?**

On April 2015, The Republic of Panama adopted the Law 23, in where the Country adopts the measures of the Prevention of Money Laundering, Terrorism Financing and Financing of Proliferation of Weapons of Mass Destruction and other provisions.

The purpose of this law is to regulate the framework so the supervisory authorities, entities, natural and legal persons, who are able to supervision, measures to identify, assess and understand the risk and consequences of Money Laundering, the Financing of Terrorism and the Financing of the Proliferation of Weapons of Mass Destruction; appropriate controls

for its mitigation, with the purpose of protecting the integrity of the financial system and other economic sectors of the country; and facilitate international cooperation measures.

Regarding the Due Diligence requirements, it is mandatory to know the following and be updated periodically:

- Proper Customer identification and reasonable verification of information and documentation.
- Basic Due Diligence Measures for Natural Persons Clients:
  - a) Full name.
  - b) Physical address.
  - c) Mailing address, if different from the physical address.
  - d) Telephone number.
  - e) Fax number, if any.
  - f) Mobile number, if any.
  - g) E-mail address, if any.
  - h) Main activity to which he is dedicated.
  - i) Copy of a national personal identity document or passport.
  - j) Declaration by the client of the activity for which he will use the juridical entity.
  - k) Contact information of a natural person or juridical entity that could provide banking and commercial references of the client or the third party on which behalf he is acting, when applicable, or the written document that contains such banking and commercial references and of the third party on which behalf he is acting, if applicable.
- Basic Due Diligence Measures for Juridical Persons Clients:
  - a) Full name.
  - b) Jurisdiction and incorporation data.
  - c) Physical address.
  - d) Mailing address, if different from the physical address.
  - e) Telephone number.
  - f) Fax number, if any.
  - g) Name of its legal representative or person responsible for its administration.
  - h) E-mail address of the legal representative or the person responsible of its administration.
  - i) Main activity to which it is dedicated.
  - j) Copy of a national identity document or passport of the person or persons who are direct or indirect owners of at least 25% of its capital. This information would not be required in the case of juridical persons that are registered in an organized stock market.
  - k) Document evidencing its incorporation.
  - l) Declaration from the client about the activity for which the juridical entity will be used.
  - m) Contact information of a natural or juridical person that can provide banking and commercial references of the client or the third party on which behalf he is acting, when applicable, or the written document containing such banking and commercial references.



**1.2.4. Will your country be subject to the Fourth EU Anti-Money Laundering Directive (“4AMLD”) including UBO-register?**

No, the Republic of Panama will not be subject to the Fourth EU Anti-Money Laundering Directive (“4AMLD”) including UBO-register

**1.2.5. If not, does your jurisdiction know similar shareholder registers?**

In Panama, there is no need to register the shareholders, all is taken in private terms, unless it is an LLC, in where the name of the partners must be registered at the Public Registry of Panama.

**1.2.6. Are there any other transparency requirements in your country that pose a threat on the anonymity of asset protection structures?**

No, there are no any other transparency requirements in the Republic of Panama that pose a threat on the anonymity of asset protection structures.

## **BIBLIOGRAPHY**

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- Fabrega Polleri, Juan Pablo, *The Panamanian Private Interest Foundation: As subject to the Banking Relationships for the Estate Planning and Hereditary Succession*, 2d ed. Printed by: Universal Books.

## **LAW**

- Law No. 1, *By which Trusts are Regulated in the Republic of Panama and other Measures are Adopted*, January 5, 1984;
- Law No. 25, *The Panama Private Interest Foundations*, June 12<sup>th</sup>, 1995;
- Law No. 2, *Which regulates the measures to know the client for resident agents of juridical entities existing in accordance with the laws of the Republic of Panama*, February 1<sup>st</sup>, 2011.