



BANKING IN PANAMA: OPENING AN ACCOUNT AND MORE

Please note that requirements are subject to change without notice and it is recommended that you confirm the current requirements with us. Please also note that we only process accounts if other services are also being provided.

The Republic of Panama continues to introduce legislation that will enhance its image as an international financial services centre or, to use the usual nomenclature, offshore finance centre. Legislation covering Private Foundations (an alternative to trusts) and Captive Insurance (first such legislation in Latin America) as well as a new banking law have been promulgated. The new and comprehensive banking law provides the last building block in a structure of services that makes Panama South America's all-round offshore finance centre.

Background

Panama introduced a new and comprehensive banking law (which covers local trust companies as well) in February, 1999, replacing one that had been in place since 1970. The National Banking Commission that previously issued licences has been replaced by a Superintendency which comprises a Board of 5 Directors and a Superintendent. In addition to increased investigative powers, the new law has tightened general controls and regulations and brought the country's supervision more in line with the regulatory standards found in the European and American banking centres. The new law uses the guidelines of the Basle Committee on Banking Supervision. The Superintendent oversees the soundness and efficiency of the banking system and endeavours to strengthen it as part of the continuing development of Panama not only as a regional, but as an international, banking centre. The Board of Directors of the Superintendency function as a policy committee and are responsible for the establishment and implementation of the general policies of the Superintendency.

A bank must have a minimum of US\$10 million in capital and the Superintendent, whose office is independent of central government, has wide powers of examination and investigation, but that authority is subject at all times to strict compliance with the country's firm rules of confidentiality. Harsh criminal and civil sanctions can be imposed on bankers as well as the Superintendent for wrongful disclosures. Although, however, confidentiality is enshrined in the new law, a prima facie case proving funds are illicit will not protect criminals from exposure. The banking laws of offshore finance centres have to be especially mindful of concerns over confidentiality, which have to be balanced against the inherent risks of deposits being derived from illegal activities such as money



laundering and drug trafficking, often via corporations registered in the same or another offshore finance centre. The law must be flexible, but should not allow licenses to be issued to a class of banks that, according to a United Nations report, are little more than “closets with computers” and are commonly known as brass plate banks. They are not permitted in Panama and the banks that do operate here are fully staffed and functional.

The Government of Panama recognises its responsibilities as a leading South American banking centre and has introduced stringent monitoring and vetting procedures that must be followed by the banking and trust company community and other related businesses as well. As a former offshore banking regulator for the United Kingdom government, I can appreciate the efforts which Panama has made. The Government has created a special financial intelligence unit and the country’s commitment to proper banking controls is reflected in the process for opening up a corporate account. Re-published below are guidelines issued by Trust Services, S.A.:

OPENING CORPORATE BANK ACCOUNTS IN PANAMA

Panama recognises its responsibilities in support of the international concerns regarding drug trafficking, money laundering and other illicit funds activity. Stringent monitoring and vetting procedures have been introduced and both licensed trust companies and banks are required to comply with the appropriate provisions of the Panamanian banking law as well as the provisions of Law 23 which covers in general the prevention of money laundering, terrorism financing and financing of weapons of mass destruction, plus related matters. Accordingly, the following information and documentation should be given when a local corporate bank account is to be opened:

1. A notarised copy of the photo page of your passport and copies of all pages, including blank ones as well as a notarised copy of a similar photo ID (driver’s licence, for example). Only the photograph page has to be notarised.
2. A utility bill (not older than 2 months) confirming your address.
3. Two commercial or personal references and two bank references are required for each beneficial owner and account signatory to be addressed to either the bank or yourself. The bank references should confirm the satisfactory conduct of the accounts and that the relationships have been of at least two years duration. Each bank letter must:
 - (a) Be provided within a month from the date it was issued.



- (b) Mention the approximate account balance (for example: 5 low figures)
 - (c) Mention the period of the relationship.
 - (d) Mention if the relationship has been satisfactory
4. Brief details of the applicant/s business. This is reviewed by every local bank's Compliance Officer who is required to vet all new account applications in accordance with the monitoring procedures laid down. The information needed is:
- (a) The nature/line of the company's business, or intended business, and the approximate annual volume of business which the company does or will do.
 - (b) The location/s of the business.
 - (c) The origin/source of the funds to be deposited in the new account. Please provide specific details of the assets as well as any documentary evidence, such as financial statements, contracts, bank statements.
 - (d) The reason for opening the new account in Panama .
 - (e) The approximate annual volume of funds which will pass through the new account.
5. Resumé of each beneficiary of the account as well as all signatories on the account. The resumé should be brief, providing academic and work experience details.

It is recommended that you include an additional \$40 with the minimum deposit to cover any bank transfer charges.

In some cases, additional information/documentation may be required, but we will always use our best endeavours and attempt to have the new account opened as quickly as possible. We charge a minimum special \$400 fee for opening each bank and any other type of investment account unless the work involved is beyond normal processing and in which case the fee will be increased. The fee is payable whether or not an account can be opened. If credit or debit cards are required there is a fee of \$150 for each one (\$75 for each additional card). Credit or debit cards issued in Panama can be used at ATM machines anywhere in the world where the Plus sign appears. In order to obtain a credit card, a savings account must be opened and a deposit equivalent to 150% of the credit card limit made.



IMPORTANT NOTE: These requirements are subject to change (hence the minimum set fee of \$400) without notice by the banks and/or the Panamanian banking authorities and whilst every effort is made to ensure that they are current, it is recommended that you contact us before proceeding. We cannot guarantee that an account will be approved as this is solely at the discretion of the bank. Once an account is opened if we are not the authorized signatories on the account then you will have to deal directly with the bank concerning all matters.

Panama's location makes it a natural conduit for banking between North and South America, besides being home to the Panama Canal which generates a considerable amount of bank-related international shipping business. Panama's confidentiality laws are also a magnet for some, even in this era of heightened transparency. The United Kingdom, as an example, has several dependencies which are offshore financial services centres (including the Cayman Islands, the British Virgin Islands and the Channel Islands) and they have experienced regulatory and supervisory changes that align them closer with the systems found in the European Union. Consequently, the strict privacy which has been the backbone of their offshore business for decades is being diluted to a point which displeases a vast number of honest individuals and corporations who have, for many years now, taken it for granted.

Only those offshore financial services centres which are not bound through sovereignty to the political and social agenda of another country will have the best chance to counter the inevitable pressures which will be applied. Panama is one of those jurisdictions. The debate about offshore confidentiality is too complex to either discuss or summarise in this brief summary, but it is fair to say that many feel that Panama's position reflects a balanced approach. It is an approach that is undoubtedly going to continue to attract more and more business to this offshore banking centre. Our newsletter, *Offshore Pilot Quarterly*, will keep you up to date with developments related to offshore financial matters. Visit our website or ask to be placed on our mailing list.

In conclusion, we quote below from an International Monetary Fund report which discusses Panama's money laundering controls:

"The authorities and the banking industry are very aware of the prudential risks associated with money laundering and have in place adequate safeguards to deter improper use of the banking system for illegal purposes. While no system is infallible, the mission team concludes that the legal, regulatory and supervisory systems in place in the banking sector compare favourably with internationally accepted prudential supervision practices... The



legal and regulatory requirements are strict and many requirements exceed those in place in industrial countries.”

Nothing since that report has changed the local banking system’s controls which, if anything, have been strengthened further.

MANAGEMENT OF YOUR INTERNATIONAL AFFAIRS BY LICENSED, QUALIFIED AND EXPERIENCED PRACTITIONERS

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