

## TC Document

### I. Basic Information for TC

▪ Country/Region:	Panama
▪ TC Name:	Improving the Integrity, Financial and Fiscal Transparency in Panama
▪ TC Number:	PN-T1176
▪ Team Leader/Members:	Roberto de Michele (Team Leader IFD/ICS); Joan Oriol Prats Cabrera (IFD/CMF); Alberto Barreix (IFD/FMM); Francesco de Simone, Melissa Gonzalez and Pamela Valderrama (IFD/ICS); Dana King (ICS/CTT); Ezequiel Cambiasso, Juan Carlos Dugand (FMP/CPN) David Ochoa (VPC/FMP) and Enrique Barragan (LEG/SGO)
▪ Indicate if: Operational Support, Client Support, or Research & Dissemination	Client Support
▪ Date of TC Abstract authorization:	June 15, 2017
▪ Beneficiaries	Republic of Panama Ministry of Economy and Finances, Superintendence of Banks, General Revenue Directorate, Financial Intelligence Unit, National Customs Agency.
▪ Executing Agency and contact name	Inter-American Development Bank
▪ Donors providing funding:	Transparency Fund (AAF)
▪ IDB Funding Requested:	US\$170.000
▪ Local counterpart funding, if any:	No
▪ Disbursement period:	30 months (execution period 24 months)
▪ Required start date:	November, 2017
▪ Types of consultants:	Individual consultancies
▪ Prepared by Unit:	IFD/ICS, IFD/CMF, IFD/FMM
▪ Unit of Disbursement Responsibility:	IFD/ICS
▪ TC Included in Country Strategy (y/n):	Yes. The TC is duly aligned with the Country Strategy, specifically with the dialogue area of macro financial and fiscal stability
▪ TC included in CPD (y/n):	Yes
▪ Alignment to the Update to the Institutional Strategy 2010-2020:	Institutional capacity and rule of law

### II. Objectives and Justification of the TC

- 2.1 The overall objective of this project is to support Panama in enhancing the level of transparency of its financial and fiscal sector, particularly by implementing measures that help the country improve compliance with international standards in this area. These include the Standards on Combatting Money Laundering and Financing of Terrorism & Proliferation of the Financial Action Task Force (FATF Standards), the OECD Convention on Mutual Administrative Assistance in Tax Matters (MAC), and the Standards from the Basel Committee on Banking Supervision, among others. It is expected that the commitment to financial and fiscal transparency can also help Panama maintain and consolidate its position in the global economy as a

financial, corporate and logistics center.

- 2.2 Specifically, this TC aims at supporting activities in for main areas: (i) strengthening financial transparency, (ii) strengthening fiscal transparency, and (iii) strengthening the regulation and supervision of the financial system.
- 2.3 The negative effects associated with the lack of fiscal and financial transparency are known and include a higher risk of money laundering, economic distortion, tax evasion, monetary instability, negative financial reputation, misallocation of resources, and greater volatility in international capital flows, interest rates and exchange rates, among others. In recognition of the growing importance of improving transparency in critical sectors of government action and of the economy, in recent years there has been a proliferation of international standards in this area. These include, but are not limited to the UN Convention against Corruption, the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, the Financial Action Task Force Recommendations, and the Standards issues by the Basel Committee on Banking Supervision.
- 2.4 Panama is a recognized international center for financial, corporate, and logistics services. Maintaining the country's competitiveness and credibility as an international hub requires, among other factors, ensuring that the country is up to speed with the highest international standards on fiscal and financial transparency. Precisely for this reason, the country is signatory and member of a series of international agreements that regulate these issues, such as the FATF and MAC -both from the Organization for Economic Co-operation and Development - and the Basel standards, among others.
- 2.5 Regarding financial transparency, in 2014, the FATF put Panama on a grey list of countries with significant AML/CFT deficiencies. Since then, Panama has adopted significant measures to remedy those deficiencies (see below), and has subsequently been removed from the FATF grey list. Panama is currently being evaluated as part of the 4th round of FATF's Mutual Evaluations and the results of the new evaluation are expected by the end of 2017. In terms of fiscal transparency, Phase 2 of Global Forum on Transparency and Exchange of Information for Tax Purposes from the OECD, rated Panama overall as non-compliant with the international standard, for the review period of July 1st, 2012 to June 30th, 2015. Since then, the country has adopted some corrective measures and in July 2016 it signed the MAC agreement, which will be entering into force in July of this year.
- 2.6 Precisely as part of its effort to comply with international commitments, Panama has implemented a series of reforms directed at improving its regulation and supervision in the areas of integrity, financial and fiscal transparency. Most recently, Panama convened an International Commission of Experts to elaborate a roadmap to help consolidate the country's role as a financial, corporate, and logistical center, while at the same time ensuring high standards of integrity and transparency. This Commission delivered, in November 2016, the results of its work to the Panamanian Government. In the conclusions of its report, it highlighted the need for long term solutions to prevent tax evasion and money laundering. It also encouraged the Government to apply a comprehensive approach to this issue, focusing not only on regulation, but also on the availability of human and technological resources, as well as institutions with the adequate

capacity for implementation, supervision, and sanction. Finally, the report emphasized the relevance of an appropriate communication strategy, so that future advancements can be effectively communicated to the international community.

- 2.7 In the critical areas of financial transparency, tax transparency, and risk supervision, Panama has already made significant progress. Regarding financial transparency, between 2014 and 2016, Panama adopted a number of key measures, to address the weaknesses that had been detected by the FATF in its 2014 evaluation of the country; these included: (i) adopting a new law (23 of 2015) that includes measures to prevent ML and comply with the FATF technical standards for financial and non-financial actors;
- (ii) updating the competencies of the Comisión Presidencial de Alto Nivel contra el Blanqueo de Capitales, Financiamiento del Terrorismo y Financiamiento de la Proliferación de Armas de Destrucción Masiva (CPAN); (iii) amending laws required to comply with UN resolutions on financing of terrorism; (iv) establishing a Superintendence for supervision of designated non-financial business and providers; and (iv) strengthening the FIU through regulations aimed at improving its capacity to generate red flags for the financial system.
- 2.8 In financial risk supervision, Panama has taken important steps forward, as it relates to regulation and supervision of the financial system to manage risks, both systemic and related to financial entities. Regarding the prudential management of the system, regulation has been adopted to align standards for capital requirements and credit risk with those established under Basel III, as well as to define the basic elements for macro-prudential management. Secondly, the country introduced new regulation to supervise compliance risk for financial entities, including those operating in the banking, insurance, securities, and payment systems. Finally, Panama launched an effort to modernize its payment systems, a key step to modernize and make more efficient the financial system.
- 2.9 In the tax and fiscal transparency area, Panama has also adopted important reforms. In March of 2017 it signed on to the Convention for Mutual Administrative Assistance on Tax Matters, which requires countries to commit to the automatic exchange of information, and in parallel it has also approved the OECD Common Reporting Standard. In addition, Panama made progress in updating its legal framework to comply with these standards, including by establishing an obligation for all legal entities to maintain an updated registry of their shareholders, and eliminate bearer shares.
- 2.10 Regardless of these important steps forward, Panama is still facing pending tasks to strengthen its the level of transparency and supervision of its financial and fiscal sector, particularly as it relates to the implementation of the standards described above. In the area of financial integrity, pending measures include the adoption of a National Risk Assessment (NRA), the approval of a National Action Plan to prevent ML, and the adoption of a new regime for producing and managing statistics related to AML. In financial sector risk and supervision, the main pending challenges are related to strengthening the level of transparency and risk monitoring strategies of those government entities tasked with supervising the financial sector. Finally, in the tax transparency area, the main task is related to incorporating the new conventions in the Panamanian system, particularly to meet commitments for automatic exchange taken under both the

Foreign Account Tax Compliance Act (FATCA) and the OECD Convention, as well as to adopting additional pieces of regulation necessary to comply with those agreements. Also, the jurisdiction has already implemented the financial information exchange agreed under the FATCA with the US tax administration.

- 2.11 The IDB has already supported Panama in the process of strengthening transparency in the financial and fiscal sector. For example, project ATN/AA-13696-RG, supported the design of Panama as new Anti-Money Laundering law (Law 23, approved in May of 2015), which is regarded among specialists as one of the most comprehensive AML laws in the region. Currently, the IDB is providing technical assistance in the prevention of money laundering, working along with the Ministry of Economy and Finance and the Financial Analysis Unit. More precisely, the technical assistance is directed at enhancing the technological capacity of the Panamanian Financial Intelligence Unit, so that it can maintain comprehensive statistics on matters relevant to the effectiveness and efficiency the AML/CFT system. The main lessons learned from this support are related to the need to further build on the milestones achieved in the previous phases, particularly by deepening implementation of approved laws and regulations.
- 2.12 Challenges remain in Panama, particularly related to ensuring that regulation is issued to complement the new AML law, and that the relevant government agencies have the capacity to adequately implement it. Furthermore, as noted above, the evolving landscape of international standards also sets important bars for Panama to meet. The objective of this project is precisely to continue supporting the Panamanian government in its effort to strengthen financial and fiscal transparency, particularly with a focus on enhancing the level of compliance with the main international standards in this area.
- 2.13 This TC is aligned with the cross-cutting theme Strengthen institutional capacity and the rule of law selected in the Update to the Institutional Strategy 2010- 2020 (AB- 3008). Additionally, the TC is aligned with the Transparency Fund's objective to strengthen the capacity of IDB member countries to prevent and control corruption by implementing transparency policies, tools, and mechanisms. Particularly, the TC is aligned with the Fund's Financial Integrity pillar. Furthermore, the TC is also aligned with the IDB Country Strategy with Panama 2015-2019, which recognizes financial transparency as one of the key areas of dialogue with the country, and with the country's 2015-2019 Government Action Plan, which focuses on competitiveness as one of the key tenets of Panama's economic development.

### III. Description of activities/components and budget

- 3.1 This TC is organized in four components: (i) strengthening financial transparency, (ii) strengthening fiscal transparency, and (iii) strengthening the regulation and supervision of the financial system. Since each area has a different level of compliance with the international standards, interventions will follow a custom-made approach.
- 3.2 **Component 1: Reforms for enhancing financial transparency.** This component supports reforms aimed at helping Panama with improving its level of compliance with the FATF Recommendations. Potential counterparties beneficiated from this component are the Ministry of Economy and Finances, the Superintendence of Banks and the Financial Intelligence Unit. Specific activities

include:

- (i) Providing technical cooperation for the design of regulations and procedures to apply a Risk-Based Approach (RBA) to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate with the risks identified in the already conducted National Risk Assessment (NRA). This applies particularly to sectors such as those covered by the Intendency of Supervision and regulation of Non-Financial Services, which was recently created and has a mandate to cover thousands of service providers.
- (ii) Supporting the government in translating the findings of the NRA into national AML/CFT policies, which entails (a) conducting gap analysis to determine legal and regulatory shortcomings, and (b) identifying and prioritizing reforms accordingly.

3.3 **Component 2: Measures related to fiscal transparency.** Given that Panama is a member of the Global Forum (GF) on Exchange of Information for Tax Purposes, this component is designed to support the full implementation of the MAC requirements together with its Common Reporting Standard for information sharing. Potential counterparties benefitted from this component are the Ministry of Economy and Finances, the General Revenue Directorate and the National Customs Agency. For these standards to become operative it is necessary that Panama implements a series of measures reforming its regulation and procedures. These include:

3.4 Supporting Panama with updating procedures related to: (a) availability of information on property, guaranteeing control over corporations and foundations; (b) implementation of mechanisms for enforcing the obligation to maintain complete and updated information and accounting records regarding legal persons which do not carry out operations in the country; (c) establishment of an agreement's network with relevant jurisdictions (partners); and (d) timely response to requests for information from partner countries (90 days). These steps will be instrumental in helping Panama comply with the standards established by the GF members in their reviews.

3.5 **Component 3: Measures for strengthening the regulation and supervision of the financial system.** Since Panama is undergoing the implementation of the Standards from Basel I and II, this component will support the strengthening of the Panamanian financial system's regulation and supervision, together with preventing risk- accumulation. Consequently, the country needs to implement measures that will improve the transparency and stability of its financial system. The beneficiary counterpart for this component will be the Superintendence of Banks and corresponding supervised institutions. Specifically, this project will support activities aimed at:

- (i) improving the prudential regulation and the instruments for systemic liquidity risk's management, and
- (ii) enhancing the risk monitoring of money laundering and financing of terrorism, in the banking, securities, and insurance sectors.

3.6 To ensure that the results of the work conducted are adequately collected and communicated to relevant stakeholders, the project will also include a final report.

- 3.7 The total amount of this TC is US\$170,000, to be provided by the Transparency Fund (AAF).

### Budget

Component	Description	IDB/Fund Funding	Counterpart Funding	Total Funding
<b>Component I: Enhancing financial Transparency (US\$55,000)</b>	Consultancy to design of regulations and procedures to apply a RBA.	15,000	0	<b>15,000</b>
	Consultancy to support the government in translating the findings of the NRA into national AML/CFT policies.	40,000	0	<b>40,000</b>
<b>Component II: Enhancing fiscal transparency (US\$55,000)</b>	Consultancy to support the government in updating procedures related to tax transparency to improve alignment with international standards.	55,000	<b>0</b>	<b>55,000</b>
Component	Description	IDB/Fund Funding	Counterpart Funding	Total Funding
<b>Component III: Strengthening the regulation and supervision of the financial system (US\$55,000)</b>	Consultancy to improve the prudential regulation and the instruments for systemic liquidity risk's management.	23,000	0	<b>23,000</b>
	Consultancy to enhance the risk monitoring of money laundering and financing of terrorism, in the banking, securities, and insurance sectors.	32,000	0	<b>32,000</b>
<b>Final Report (US\$5,000)</b>	Final report of activities and results	5,000	0	<b>5,000</b>
<b>Total</b>		<b>170,000</b>	<b>0</b>	<b>170,000</b>

## IV. Executing agency and execution structure

- 4.1 Upon request from the Panamanian government (see Annex I), this TC will be executed by the Bank jointly through IFD/ICS, IFD/CMF, and IFD/FMM Divisions. The execution by the Bank is justified in this case for several reasons. First, the bank is an observer or otherwise participates in various of the international mechanisms that establish the international standards mentioned above, particularly the FATF and the Global Forum. From this perspective, bank execution ensures better alignment between the activities to be implemented and those international standards. Secondly, the Bank coordinates closely with other providers of technical assistance in this area, such as the GF, as well as with the FATF, among others, which is essential to avoid duplication and overlap of efforts. Finally, the Bank will be responsible for the execution of this TC since it has: (i) a proven track record in providing technical assistance in these areas, supported by extensive technical and operational expertise in the execution of projects of this kind in the region; and (ii) experience in selecting consultants that are experts in these fields which is key for the successful of the activities part of the components proposed.
- 4.2 Throughout the implementation of the project, the Bank will ensure close coordination among the various beneficiary institutions.

- 4.3 **Procurement.** The Bank will contract individual consultants, consulting firms and non- consulting services in accordance with Bank's current procurement policies and procedures (GN-2765-1; OP-1155-4, applicable to the selection and contracting of consulting firms in Bank-executed operational work).

**V. Major issues**

- 5.1 The main risk identified for this project is related to coordination: the team will coordinate closely with the Panamanian Government to ensure, that, when applicable, non-governmental actors, particularly the private sector, are adequately consulted and informed regarding the relevant activities and results. From this perspective, there is a pre-existing trajectory on the Panamanian Government side of working closely, particularly with industry associations.

**VI. Exceptions to Bank policy**

- 6.1 There are no exceptions to the Bank's policies.

**VII. Environmental and Social Strategy**

- 7.1 According to the results of the IDB "Safeguards Policy Filter Report", and the safeguard and Environmental Policies (OP-703), this operation is classified as Category "C", given the low impact on environmental and social issues.

**Required Annexes**

- [Annex I: Request from the client](#)
- [Annex II: Results Matrix](#)
- [Annex III: Terms of Reference](#)
- [Annex IV: Procurement Plan](#)

IMPROVING THE INTEGRITY, FINANCIAL AND FISCAL TRANSPARENCY IN PANAMA

PN-T1176

CERTIFICATION

I hereby certify that this operation was approved for financing under the **Transparency Fund (AAF)** through a communication dated June 16, 2017 and signed by Goro Mutsuura (ORP/GCM). Also, I certify that resources from said fund are available for up to **US\$170,000** in order to finance the activities described and budgeted in this document. This certification reserves resource for the referenced project until December 13, 2017. If the project is not approved by the IDB within that period, the reserve of resources will be cancelled, except in the case a new certification is granted. The commitment and disbursement of these resources shall be made only by the Bank in US dollars. The same currency shall be used to stipulate the remuneration and payments to consultants, except in the case of local consultants working in their own borrowing member country who shall have their remuneration defined and paid in the currency of such country. No resources of the Fund shall be made available to cover amounts greater than the amount certified herein above for the implementation of this operation. Amounts greater than the certified amount may arise from commitments on contracts denominated in a currency other than the Fund currency, resulting in currency exchange rate differences, represent a risk that will not be absorbed by the Fund.

CERTIFIED BY:

*(Original Signed)*

*Dec 8*

*2017*

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Sonia M. Rivera

Chief

Grants and Co-Financing Management Unit

ORP/GCM

\_\_\_\_\_  
Date

APPROVED BY:

*(Original Signed)*

*Dec 12 2017*

\_\_\_\_\_  
Carlos Santiso

Division Chief

Institutional Capacity of State Division

IFD/ICS

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Date