Panama Analysis

ATU (Panama) SA

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1. "Panama" Papers

The so-called "Panama" Papers are a set of 11.5 million documents consisting of certain client information and specific details regarding offshore companies of various jurisdictions that were leaked from the database of Mossack Fonseca, one of the world´s biggest offshore law firms with the headquarter in Panama.

The leaked records were obtained by the German newspaper, Süddeutsche Zeitung, which distributed the same to the International Consortium of Investigative Journalists ('ICIJ'). The first release of the news came on April 3, 2016 and it has been announced that on May 9, 2016 further and more detailed information shall become public.

The inconvenient name given to the leak has been a hit to Panama´s image. Despite this, the country has made continuous efforts and changes to fight money laundering and remains dedicated to do so. During the last weeks of April, Panama on various occasions announced its continued commitment to automatic information exchange - but in bilateral form - for 2018. However, the possible implementation of this commitment is still very vague and unknown. We will be monitoring all further developments in this area and keep you informed.

2. Removal from Grey List

Panama's exit from the grey list was approved by the FATF on February 18, 2016. The Financial Action Task Force (FATF) included Panama in its grey list on June 2014 after certain vulnerabilities in the fight against money laundering were identified. According to its standards, the country's money laundering regime was considered unsatisfactory. Since then, the current Panamanian government had adopted several measures and strategies with the objective of exiting this list.

On October 2015 a 'visit on site' (from the FATF) was agreed upon with the primary objective of evaluating the developments made in Panama. This visit materialized from January 12–14 of the present year and consisted of a team of technical specialists that met with regulatory entities and other representatives of the private sector (such as law firms, banks but also trust companies).

The report (prepared by the FATF team) based on this 'visit on site' played a major role in the decision making process during the FATF meeting that took place in mid-February 2016 in Paris. During this meeting it was recognized that Panama made significant progress in combating money laundering and further decided that Panama would be removed from the grey list.

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3. Panama and FATCA

The Intergovernmental Agreement ('IGA') in respect to FATCA was signed on April 27, 2016 between the U.S. and Panama. The implementation of the same was originally scheduled for September 2015 but the Ministry of Economy and Finance ('MEF') and the U.S. Department of Treasury had agreed to postpone it for one year as the negotiations of the IGA had not been finalized at the time.

The General Directorate of Revenue ('DGI') together with its U.S. counterpart will be defining the guidelines that should be applied in order to comply with the recently signed agreement. The exchange that corresponds to FATCA will be done between the DGI and the U.S. Internal Revenue Service ('IRS').

4. Treaties & Agreements

4.1 Free Trade Agreements (FTAs)

In our previous report, we discussed that the negotiations for an FTA between Panama and Israel were well advanced. A fourth round of negotiations concluded towards the end of November 2015 and both parties finally reached an agreement.

A preliminary document stipulating the initial conditions was drafted between the teams of each government. It represents the first FTA of the country with a Middle East Nation as Panama currently explores the potential of this region (see also point 4.4).

An FTA between South Korea and six Central American countries (Panama, Guatemala, Nicaragua, El Salvador, Honduras, Costa Rica) as a whole - organized in the Secretariat for Central American Economic Integration ('SIECA') - seems to be heading in the right direction. A third round of negotiations concluded on February 26th 2016. This would mark the first time that SIECA as a group establishes an FTA with another country and the first time that South Korea establishes an FTA with Central America.

4.2 Double Tax Treaties (DTTs)

The number of negotiated DTTs remains at 20. Panama has negotiated DTTs with the following countries:

Mexico	Spain
South Korea	Singapore
Italy	Qatar
Ireland	Israel
Belgium	Portugal
Czech Republic	Bahrain
Barbados	Luxembourg
Netherlands	France
U.A.E.	U.K.
Austria	Vietnam

At the moment, 15 DTTs are in effect. These are the DTTs with Mexico, Barbados, Spain, Qatar, Luxembourg, Holland, Singapore, France, South Korea, Portugal, Ireland, Czech Republic, U.A.E., U.K., and Israel.

4.3 Tax Information Exchange Agreements (TIEAs)

Since our last report, the situation remained unchanged. Panama has signed nine (9) TIEAs, namely with the U.S., Canada and the Nordic Countries.

The only TIEA which has not been ratified by both countries and is currently not in force is the one with Denmark. All the remaining eight (8) are currently being enforced (U.S., Iceland, Canada, Finland, Norway, Sweden, Greenland, and Faroe Islands).

4.4 International Relations

Panama is working on expanding its relations with the United Arab Emirates (UAE). A Joint Committee on Cooperation was set up by Panamanian Vice President and UAE's Minister of Foreign Affairs during his visit to Panama. This committee will promote programs of interest for both countries and it will set the base for various future projects, taking into consideration the opportunities which the new direct flight of Emirates Airlines between Panama and Dubai will be establishing.

Furthermore, Panama is currently evaluating commercial possibilities in West Africa as well. There is a reported interest to establish a Panamanian embassy in Ghana. The same would act as a gateway to the entire western region of Africa opening the door for new trade opportunities.

5. Economy

The economic situation in the Central American country remains rock solid as it keeps enjoying a stable environment defined by sustainable and steady growth.

According to numbers from the International Monetary Fund (IMF), Panama closed 2015 with an economic growth of 6% leading Latin America, Central America and the Caribbean. It is expected that Panama continues to lead the region since the economic growth for the present year is projected at 6.2%.

Several infrastructure projects announced earlier this year will be contributing to this projection. Among them we have: The Metro expansion (project envisions 8 new lines for 2040), the construction of a new bridge over the Panama Canal connecting the city with the Western Canal area (which will be of importance for the future Line 3 of the Metro system), the expansion of the main highway that connects the city with the Western part of Panama, and resuming a number of projects that were initiated during the previous administration but had been placed on hold.

One of the most interesting in this category is the construction of the new convention center which had been 'abandoned' since December 2014 due to legal and financial problems that the construction consortium in charge faced. Approximately 33% of the work had been completed at the time. Since then, many sectors that would benefit from this new convention center have been urging the authorities to reactivate the project. The Hotel Industry in particular pointed out that with this project 'on hold' Panama was becoming less competitive in the tourism sector which connects to conventions and congregations.

On February 18, 2016, the Tourism Authority of Panama ('ATP') finally announced that the construction of the new convention center would be resumed and it is expected to be ready in two years from now. They acknowledged that the current convention center (ATLAPA) is outdated and has fallen short on many occasions with its approximate capacity of 10'500 persons.

Design of the new convention center in Amador

The new convention center will be able to welcome over 20'000 persons. The ATP reported that conventions and congregations already generate an annual income of over USD 700 million for Panama. This amount will increase substantially once the new convention center is finalized and enabled to host such events.

6. Tip of the day: Tax Residence Certificate

Due to an increased interest of natural and legal persons in obtaining tax residence in Panama over the past years, Resolution No. 201-0354 (whereby the application of Tax Residence Certificates is regulated) entered into effect as of January 19, 2016.

The major points that apply to legal persons: The application and request must be presented by a lawyer (who must be empowered to do so through a power of attorney) and that the applicant himself fulfills the requirements to be considered a Tax Resident in Panama.

Important to note is that having Board of Directors meetings and decisions being taken in Panama alone will not be sufficient proof any longer that the management and administration is held in Panama: The legal entity needs to have office(s) and employee(s) in Panama as well.

Ultimately, it remains at the disposal of the DGI (Panamanian Tax authority) to determine whether the applicant complies with all the legal requisites and provides enough substance to be considered a Tax Resident in Panama.

Should you require any further information, please contact:

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