

NARRATIVE REPORT ON PANAMA



PART 1: NARRATIVE REPORT

Overview and background

Panama ranks at 14th position on the 2015 Financial Secrecy Index, with a high secrecy score of 72 but a small global scale weighting. Coming within the top twenty ranking, Panama remains a jurisdiction of particular concern.

Long the recipient of drugs money from Latin America, plus ample other sources of dirty money from the U.S.A. and elsewhere, it is one of the oldest and best known tax havens in the Americas. In recent years it has adopted a hardline position as a jurisdiction that refuses to co-operate with international transparency initiatives.

In *The Sink*, a book about tax havens, a U.S. Customs official is quoted as saying:

“The country is filled with dishonest lawyers, dishonest bankers, dishonest company formation agents and dishonest companies registered there by those dishonest lawyers so that they can deposit dirty money into their dishonest banks. The Free Trade Zone is the black hole through which Panama has become one of the filthiest money laundering sinks in the world.”

Panama has over 350,000 secretive International Business Companies (IBCs) registered: the third largest number in the world after [Hong Kong](#) and the [BVI](#). Alongside incorporation of IBCs, Panama is active in forming tax-evading foundations and trusts, insurance, and boat and shipping registration. Violation of financial secrecy is punishable by prison.

A [report](#) by the Panama banking supervisor in 2012 highlights Panama’s heavy focus on the Americas, particular South America (see map p. 2).

History: how Panama became a secrecy jurisdiction

An [in-depth investigation](#) by U.S. journalist Ken Silverstein in *Vice Magazine* in 2014 explains in colourful language how Panama itself came into being, with U.S. help:

“In 1903, the administration of Theodore Roosevelt created the country after bullying Colombia to hand over what was then the province of Panama. Roosevelt acted at the behest of various banking groups, among them J. P. Morgan & Co., which was appointed as the country’s official ‘fiscal agent’.”

Rank: 13

Chart 1 - How Secretive?

72
Secrecy Score

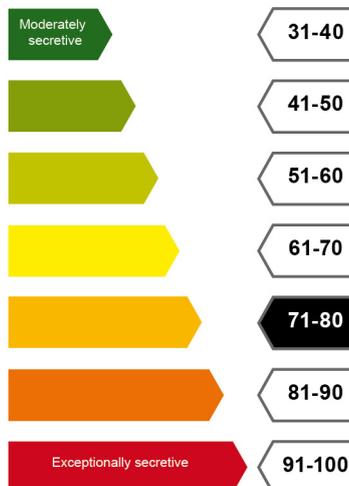
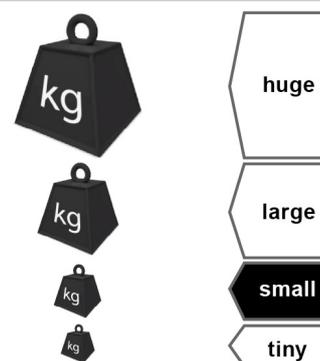


Chart 2 - How Big?



Panama accounts for slightly over 0.1 per cent of the global market for offshore financial services, making it a small player compared with other secrecy jurisdictions.

The ranking is based on a combination of its secrecy score and scale weighting.

Read more
 → Full data
 → Panama on TJN Blog
 → Full Methodology

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This had happened [as a result of](#) a covert operation approved by the Roosevelt administration to foment an armed rebellion to wrest Panama away from the then politically fragile Colombia. Roosevelt achieved this goal with the help of William Cromwell, a well connected U.S. Republican lawyer who was legal council for JP Morgan’s railroad interests. The Administration’s key objective was to ‘liberate’ Panama for the purposes of securing rights over the Panama canal. The result was the [Hay-Bunau-Varilla Treaty](#) of November 1903, establishing permanent U.S. rights to a Panama Canal Zone several miles wide, stretching across the isthmus. Panama became independent that same month. The U.S.-backed project to build a canal through Panama, connecting the Atlantic and Pacific Oceans for trade, went ahead, and the canal opened in 1914.

The secrecy jurisdiction emerged shortly afterwards. As an [academic study](#) summarises:

“The history of Panama as a tax haven started . . . when it began to register foreign ships to help Standard Oil escape US-American taxes and regulations. Offshore finance followed in 1927, when Wall Street interests helped Panama introduce tax company incorporation laws, which let anyone start tax-free, anonymous corporations, with few questions asked. The development of

Panama offshore, however, took place in the 1970s. Panama adopted the familiar tax haven model, based on the three pillars of tax havens: the tax exempt company, bank secrecy laws, and competitive incorporation laws, adopting Swiss-style banking secrecy, abolishing currency controls and setting up tax exempt companies.”

From the very beginning the shipping registry was designed in classic offshore style: minimal taxes, regulations and disclosure requirements, in order to attract foreign shipping owners who wanted to escape these things in their home jurisdictions. (This has been a *leitmotif* of the offshore system from the outset: affording maximum privileges to the owners of capital that would allow them to trample on workers’ rights, tax payments, and disclosure.) The Panama registry reportedly provided offshore escape routes from the outset. As [one account](#) put it:

“The first transfer of ships to Panama’s register in 1922 involved two US passenger ships wishing to serve alcohol to passengers during Prohibition. More followed as shipowners sought to avoid higher wages and improved working conditions secured through US legislation.”

Over the years, however, many Panamanians agitated for the canal zone to come under full Panamanian control, amid a long history of political instability which deterred most offshore activity. Panamanians finally got what they wanted in the 1970s. The U.S. State Department [describes](#) how the U.S. public was slowly persuaded to accept the loss of sovereignty, with the help of the Hollywood actor John Wayne, and warnings from Secretary of State Henry Kissinger that ““If these [Canal] negotiations fail, we will be beaten to death in every international forum and there will be riots all over Latin America.”

The signing of two treaties happened in 1978:

“The first, called *The Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal*, or the *Neutrality Treaty*, stated that the United States could use its military to defend the Panama Canal against any threat to its neutrality, thus allowing perpetual U.S. usage of the Canal. The second, called *The Panama Canal Treaty*, stated that the Panama Canal Zone would cease to exist on October 1, 1979, and the Canal itself would be turned over to the Panamanians on December 31, 1999. These two treaties were signed on September 7, 1977.”

While this was happening, a nascent offshore banking centre was starting to emerge, and legislation was put in place to facilitate it, with copious help from Wall Street operatives. Silverstein’s article summarises:

“Laws attracted a long line of dirtbags and dictators who used Panama to hide their stolen loot, including Ferdinand Marcos, “Baby Doc” Duvalier, and Augusto Pinochet.

When Manuel Noriega, commander of the Panama Defense Forces, took power in 1983, he essentially nationalized the money-laundering business by partnering with the Medellín drug cartel and giving it free rein to operate in the country. Noriega reliably supported

American foreign policy in the region—and for years the CIA had him on its payroll—but the US lost patience when he opposed American efforts to topple the leftist Sandinista government in neighboring Nicaragua. That helped lead to the 1989 invasion of Panama that ousted Noriega and returned to power the old banking elites, heirs of the J.P. Morgan legacy.”

Most activity in Panama related to shipping, rather than offshore banking, for many years. Deposits in the banking sector began to surge, however, from almost nothing in 1970 to around US\$50 billion in 1980 amid a surge in world oil prices and huge flows of Eurodollars through the offshore system ([p8](#)); then deposits in Panama banks fell again to under \$15 billion amid the Latin American debt crises and the political crises in Panama. They grew steadily after that.

Yet Panama trusts and foundations, whose assets are generally not reflected in this data (see below), are likely to be equally if not more important.

Panama as a secrecy jurisdiction today

Panama remains one of relatively few secrecy jurisdictions today that are unashamedly holding out against global transparency measures, and precious little has been done to tighten up. *Vice Magazine* summarises:

“Today, Panama’s financial laws remain extraordinarily lax. Foreign firms can bring unlimited amounts of money into the country without paying taxes, and an IMF report earlier this year said that of 40 recommended steps countries should take to combat money laundering and terrorism financing, Panama had fully implemented only one. In September, the *New York Times* reported that cronies of Russian president Vladimir Putin had funnelled money offshore through shell structures in Panama.

“When it comes to money laundering, we offer full service: rinse, wash, and

dry,” said Miguel Antonio Bernal, a prominent local lawyer and political analyst. “You can go to any law firm in the city, from the smallest to the biggest, and open up a shell company with no questions asked.””

Around the same time [The Economist](#) observed, sardonically, of a particular episode when Colombia was seeking to get more information out of Panama:

“In one of the most remembered scenes of the film *Casablanca*, police chief Louis Renault orders the close of Rick’s Cafe when he is “shocked, shocked” to learn that there was gambling going on in the establishment. Seconds later a waiter presents Renault with his winnings from roulette.

Panama was similarly shocked when Colombia last week included the neighbouring country on its list of tax havens, after the Central American nation failed to meet a deadline to sign a bilateral tax information exchange agreement.”

This was almost certainly the result of Panama courting Colombian drugs money. Of course money from Mexican drugs cartels, and from many other sources, continues to flow into this jurisdiction, with a deliberate lack of attention from Panama’s authorities, egged on by the offshore financial centre.

The shipping registry, providing a ‘flag of convenience,’ is arguably Panama’s most important offshore offering. A [BBC report](#) describes what is effectively a ‘registry for sale’ with a see-no-evil policy:

“Luis Fruto, representative of the International Transport Workers’ Federation (ITF) in Panama, says the country turns a blind eye to its “responsibilities in order to acquire higher registration” . . . International legal requirements insist that countries operating open

registries inspect vessels, comply with international regulations and investigate accidents and corruption. But critics say that Panama cuts corners in all these tasks, putting maritime workers at risk. Indeed, accidents involving Panamanian-registered ships are high.”

A private adviser told TJN in 2014 that Panama was taking what he called a “F*** You” approach to international co-operation:

“Panama remains a big hole, the biggest hole, and a really serious problem.”

IMF reports are littered with criticisms of Panama. For instance, the [IMF’s latest February 2014](#) report noted, in unusually blunt language:

“Panama is vulnerable to money laundering (ML) from a number of sources including drug trafficking and other predicate crimes committed abroad such as fraud, financial and tax crimes. It is a country with an open, dollarized economy and, as a regional and international financial and corporate services center, offers a wide range of offshore financial and corporate services. It is also a transit point for drug trafficking from South American countries with some of the highest levels of production and trafficking of illegal drugs in the world. These factors put the country at high risk of being used for ML. Although the authorities have not conducted a risk assessment, they attribute the largest sources of ML to drug trafficking and other predicate crimes committed abroad.”

Overall, Panama remains a jurisdiction of extreme concern for TJN, and its rank at 14th position in our 2015 Financial Secrecy Index probably understates the harmful nature of Panama’s offshore activity since a significant proportion – such as its shipping registry – is not covered by the IMF data that we use to construct our ranking.

Read more:

- [Full data for Panama](#)
 - [Panama on TJN Blog](#)
 - [Full Methodology](#)
 - A short list of Panama's offerings is here.
- The **IMF** provides a much longer laundry list of problems, notably:
- [ROSC—FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism](#), IMF, Feb 2014
 - [Panama: detailed assessment report](#), IMF, Feb 2014
 - [Panama, Free-Trade Tax Haven](#), Sept 2011
- [Ken Rijock's blog](#): Analysis and commentary on money laundering and financial crime. With endless material on Panama.

Interview on Panama foundations:

From [an interview](#) with an offshore provider of foundations.

[The Law Firm That Works with Oligarchs, Money Launderers, and Dictators – Vice Magazine](#), Dec 2014 (by [Ken Silverstein](#))

PART 2: PANAMA'S SECRECY SCORE

TRANSPARENCY OF BENEFICIAL OWNERSHIP – Panama

- 1 ▶ *Banking Secrecy: Does the jurisdiction have banking secrecy?*
Panama partly curtails banking secrecy
- 2 ▶ *Trust and Foundations Register: Is there a public register of trusts/foundations, or are trusts/foundations prevented?*
Panama partly discloses or prevents trusts and private foundations
- 3 ▶ *Recorded Company Ownership: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies?*
Panama does not maintain company ownership details in official records

KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION – Panama

- 4 ▶ *Public Company Ownership: Does the relevant authority make details of ownership of companies available on public record online for free, or for less than US\$10/€10?*
Panama does not require that company ownership details are publicly available online
- 5 ▶ *Public Company Accounts: Does the relevant authority require that company accounts are made available for inspection by anyone for free, or for less than US\$10/€10?*
Panama does not require that company accounts be available on public record
- 6 ▶ *Country-by-Country Reporting: Are all companies required to publish country-by-country financial reports?*
Panama does not require public country-by-country financial reporting by companies

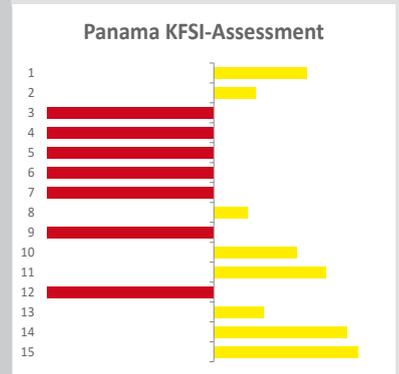
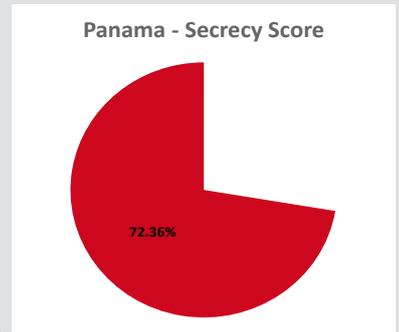
EFFICIENCY OF TAX AND FINANCIAL REGULATION – Panama

- 7 ▶ *Fit for Information Exchange: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents?*
Panama does not require resident paying agents to tell the domestic tax authorities about payments to non-residents
- 8 ▶ *Efficiency of Tax Administration: Does the tax administration use taxpayer identifiers for analysing information efficiently, and is there a large taxpayer unit?*
Panama partly uses appropriate tools for efficiently analysing tax related information
- 9 ▶ *Avoids Promoting Tax Evasion: Does the jurisdiction grant unilateral tax credits for foreign tax payments?*
Panama does not avoid promoting tax evasion via a tax credit system
- 10 ▶ *Harmful Legal Vehicles: Does the jurisdiction allow cell companies and trusts with flee clauses?*
Panama partly allows harmful legal vehicles

INTERNATIONAL STANDARDS AND COOPERATION – Panama

- 11 ▶ *Anti-Money Laundering: Does the jurisdiction comply with the FATF recommendations?*
Panama partly complies with international anti-money laundering standards
- 12 ▶ *Automatic Information Exchange: Does the jurisdiction participate fully in multilateral Automatic Information Exchange via the Common Reporting Standard?*
Panama does not participate in Automatic Information Exchange
- 13 ▶ *Bilateral Treaties: Does the jurisdiction have at least 53 bilateral treaties providing for information exchange upon request, or is it part of the European Council/OECD convention?*
As of 31 May, 2015, Panama had less than 53 tax information sharing agreements complying with basic OECD requirements
- 14 ▶ *International Transparency Commitments: Has the jurisdiction ratified the five most relevant international treaties relating to financial transparency?*
Panama has ratified less than five of the most relevant international treaties relating to financial transparency
- 15 ▶ *International Judicial Cooperation: Does the jurisdiction cooperate with other states on money laundering and other criminal issues?*
Panama partly cooperates with other states on money laundering and other criminal issues

Secrecy Score



Notes and Sources

The ranking is based on a combination of its secrecy score and scale weighting (click [here](#) to see our full methodology).

The secrecy score of 72 per cent for Panama has been computed by assessing its performance on 15 Key Financial Secrecy Indicators (KFSI), listed on the left. Each KFSI is explained in more detail, [here](#).

Green indicates full compliance on the relevant indicator, meaning least secrecy; red indicates non-compliance (most secrecy); and yellow indicates partial compliance.

This paper draws on data sources including regulatory reports, legislation, regulation and news available as of 31.12.2014 (with the exception of KFSI 13 for which the cut-off date is 31.05.2015).

Full data on Panama is available here: <http://www.financialsecrecyindex.com/database/menu.xml>

All background data for all countries can be found on the Financial Secrecy Index website: <http://www.financialsecrecyindex.com>