

BULLETIN

PANAMA IMPLEMENTS SYSTEM TO PROTECT THE PRIVATE
INFORMATION OF FINAL BENEFICIARIES OF LEGAL ENTITIES

Through Law No. 129 of March 17, 2020, it has been approved the transfer of the custody of the information on the identity of the Final Beneficiaries of legal entities to the Superintendence of Non-Financial Subjects. The obligation on the part of the Resident Agents to identify the final beneficiaries of all the entities for which they provided their services was already in place before the Law was adopted.

The Superintendence must keep the information in a restricted access database. Only Panamanian public investigation entities expressly authorized by the Law, namely the Financial Analysis Unit, the Public Ministry, the Ministry of Economy and Finance, the Superintendence of Banks and the Superintendence of the Securities Market, may request the Superintendence information about the Final Beneficiaries through the submission of a formal request related to specific cases within investigative processes related to money laundering, terrorism financing and weapons of mass destruction, or of assistance under treaties or international agreements signed by Panama.

The Superintendence shall only exercise custody, conservation and access functions of the information it receives from the Resident Agents and it is not allowed to carry out investigative functions, nor will it allow third parties to have access to said information.

In addition, the Law prohibits the adoption of precautionary or discovery measures in cases of judicial proceedings between individuals, so that a third party may not have access or obtain such information as a result of legal disputes.

The system is designed so that the Resident Agents directly files the information in the Superintendence database. The Registered Agent is obliged by law, and is responsible for, updating the information, under penalty of sanction.

The information shall only be made available to Panamanian public investigation entities expressly authorized by the Law, by the two officials appointed by the Superintendence to have access to the information and who must go through a rigorous investigation process before their appointment in order to give certainty to the reservation and confidentiality of the information.

The Resident Agents must file with the Superintendence the following minimum information on the Final Beneficiaries, which they must have collected during their due diligence process and which they must keep in their files along with updates:

- (i) full name;
- (ii) personal identification document number;
- (iii) date of birth;
- (iv) address;
- (v) date as of having the condition of Final Beneficiary of the entity;
- (vi) main activity.

This information must be filed into the system within 30 business days following the constitution of the entity, its establishment in Panama or since the change in the previously registered information occurred. The Resident Agent is obliged to resign if the client does not provide the information required to complete its due diligence process and from which the Resident Agent shall obtain the information with which the Superintendence database must be fed.

The law defines as the Final Beneficiary of an entity, in general terms, the person or individuals who, directly or indirectly, own or control 25% or more of the shares or voting rights in the legal person, or whoever owns, control and/or exercise significant influence over the account relationship, contractual and/or business relationship or the natural person in whose name or benefit a transaction is made, which also includes natural persons who exercise final control over a legal person.

The Resident Agents must have completed the filings at the database of the Superintendence of all their clients within a period of 6 months from the date on which the Superintendence has informed them that the database is enabled for access.

With the adoption of this legislation, Panama implements a technological platform already used and tested by other competing countries, which puts us at the forefront of new corporate trends providing an adequate balance between the duty to know the identification information while avoiding abuses of the corporate system and maintaining a high degree of confidentiality for those who use legal persons for commercial, inheritance and estate planning purposes that are not contrary to the Law.

Please contact us at panama@arifacorporate.com
for additional information or clarification
regarding your Panama entity.