

Jurisdiction update: Venezuela ? AML

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Member of the Financial Action Task Force? Venezuela is member of the "Caribbean Financial Action Task Force" (CFATF)

On FATF blacklist? No

Member of Egmont? Yes

Venezuela's AML framework is defined and governed by a combination of international conventions and treaties, domestic laws, and administrative decisions. On June 21, 1991, Venezuela ratified the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. This treaty required signatories to issue legislation criminalizing the offense of money laundering as described in Article 3 of the UN Convention.



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Prior to the enactment of this treaty, money laundering was typically grouped with drug trafficking offenses. This treaty resulted in the creation of a separate category of offenses. Inspired by this treaty, Article 271 of the Venezuelan Constitution of 1999 provided for extradition of foreign nationals in any case where the citizen of another country committed a money laundering offense.

Venezuela enacted the UN Convention through its Fundamental Law Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of September 30, 1993. In addition, the law proposed a partial reform that was later ratified. That partial reform created Title X, exclusively dedicated to Prevention, Control and Supervision of Money Laundering. Section 37 of the law described money laundering as a felony consistent with Article 3 of the UN Convention. This reform was the first step of the evolution of the Venezuelan Regulations on Money Laundering. However, money laundering was defined as related to drug trafficking only.

The Fundamental Law was amended on December 16, 2005. It was republished again on January 23, 2006 due to the government's confusion regarding the contents of articles 96 and 97, which repealed article 101. According to article 101, companies with more than 30 employees were compelled to set apart one percent of their net gains in order to use them in public interest programs for the prevention of drug consumption within their employees. Articles 96 and 97 superseded article 101 and compelled companies to give that same one percent to the government ? specifically, to the National Anti-Drug Office of the Department of Internal Affairs and Justice ? which would manage and administer the funds.

Venezuela's initial attempts to penalize money laundering proved problematic. Efforts to regulate money laundering offenses were complicated by the persistent link to drug offenses.

Of course, as law makers in Venezuela soon realized, money laundering crimes are not, strictly speaking, simply a by-product of the narcotics trade. The extent of transnational, organized crime operations clearly illustrated the point. These organizations ? many of which were more organized and powerful than the traditional Mafia ? were engaged in a multitude of criminal offenses which included money laundering, but not drugs. Smuggling of counterfeit goods, human trafficking, and even crimes of violence all involved a money laundering component.

Indeed, money laundering offenses by themselves could lead investigators and prosecutors to the discovery of other criminal

offenses. Recognizing this "new reality," Venezuela finally cut the cord linking money laundering and drug offenses and began defining the latter as a stand-alone offense.

On October 26, 2005, Venezuela enacted its Fundamental Law against Organized Crime. This law, based on the UN Convention Against Transnational Organized Crime, significantly modified the manner in which Venezuela defined and, ultimately, prosecuted money laundering offenses. The Fundamental Law repealed Title X of the Law Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. One of the Law's most important innovations was the inclusion of money laundering as an independent crime. The Law included conspiracy to commit a criminal offense as a transnational crime organization ? recognized in other legal systems as conspiracy (as the RICO statute in the US) as well as the crime of aiding and abetting a money laundering offense. Finally, the Law created the crime of Terrorism.

Financing, following the UN Convention of 1997 in NY on Terrorist Financing. As part of its efforts to prevent and regulate money laundering offenses, Venezuela's Office of Banks and Other Financial Institutions (SUDEBAN) issued Resolutions N° 203-03 G.O., N° 37.748 of August 4, 2003 and N° 333-97 G.O. N° 36.259 of July 31, 1997. These resolutions have since been repealed by the current Resolution 185-01 on "Norms on the Prevention, Control and Supervision of the Money Laundering Transactions." This successor regulation is applicable to all entities regulated by the Superintendent's Office of Banks and Other Financial Institutions, namely, the Guaranty Fund of Banking Deposit and Bank Protection (FOGADE), Banks, Financial Lessors, Money market Funds, Savings and Loan Entities, Brokerage Firm, Municipal Credit Institutes, Municipal Credit Companies, Representation Offices of Foreign Banks established in the Country, and Financial Groups regulated through the General Law of Banks, Operators of Currency Exchange Houses, and other companies under the Superintendent's office.

The Superintendent's Office also issued Resolution 136-03 of June 3, 2003 on the "Comprehensive Administration of Risks" as well as Resolution N° 23603/203.03, dealing with "Norms about Auditor Registration, Consultants and Instructors in the matter of Prevention of Money Laundering and Terrorism Financing" G.O. N° 37.777 of September 17, 2003, and its amendment G.O. 37.748 of August 7, 2003.

Within the Venezuelan financial system there are several laws and administrative rulings that regulate anti-money laundering activities. Most notably, the Foreign Exchange Crimes Act of September 14, 2005, amended on February 27, 2008, creates a legal system that limits and restricts the free currency exchange and defines foreign exchange crimes. In addition, Executive Law 6287 amends the General Law of Banks and other Financial Institutions on December 28, 2009 G.O. N° 5.947, creating the Financial Intelligence National Unit. The ruling of the Venezuelan Securities and Exchange Commission 178-2005 of December 16, 2005, G.O. 38.354 of January 1, 2006 requires a Document of Good Corporate Government Standing for Brokerage Firms.

A list of Administrative Resolutions is outlined below:

- The Superintendent's Office of Insurance issued Ruling 1.150 of October 1, 2004, G.O. N° 38.065 of November 15, 2004.
- The National Casinos, Bingos and Slot Machines Commission issued Administrative Ruling N° 5 G.O, 37630 of February 12 , 2003, repealed by the Administrative Ruling N° 28 G.O. 39. 337 of December 30, 2009.
- Executive Law N° 4. 220 that creates the National Anti-Drugs Office G.O. N° 38.363 of January 23, 2006.
- Executive law N° 4. 806 that creates the Office Against Organized Crime, G.O. N° 38.522 of September 14, 2006.
- Partial rules that develop articles 96 and 97 of the Fundamental Law against Illicit Traffic in Narcotic, Drugs and Psychotropic Substances.
- Executive Law N° 6.776 G.O. N° 39.211 of July 1, 2009 on Destiny of Contributions Registry, Project Approval, Declaration of Annual Net Gains, Certification of performance of obligations and non performance of tax obligations.
- Executive law N° 6.777 on Approval of National Anti-Drugs Plan 2009-2013 of July 1, 2009, G.O. 39.211.
- Executive Law on National Anti-Drugs Fund of July 1, 2009, G.O. 39.211.

In the category of Lex Ferenda, or proposed legislation, SUDEBAN has proposed a resolution to repeal the current Resolution 185-01 and adapt it to the new requirements of the Fundamental Law against Organized Crime in relation with corrupt politically

exposed persons. The proposed resolution also includes a risk-based approach to the prevention and control of money laundering.

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