

Inactive accounts, their regulation and the procedure for recovering funds

*Author: Jorge Chisaka Contreras
Legal Counselor of the Bank Customer Service Office
Superintendency of Banks of Panama*



Keeping a bank account is one of the many ways we make sure our money or assets are safeguarded. Not surprisingly, it is one of the leading banking services contracted.

Regardless of the type of account we hold (savings, checking, deposits, securities in custody, etc.), it is important to know the regulations related to them and, most importantly, when a bank account becomes inactive, to follow up on them properly in order to avoid losing our assets. For the purposes of this article, we will focus on inactive accounts.

Article 2 of Rule 5-2009 dated 24 June 2009, issued by the Superintendency of Banks, provides the parameters that define inactive assets or accounts as follows:

Inactive accounts:

Are those current accounts, savings accounts or accounts of another nature, in which the holder has made no deposits or withdrawals over five (5) consecutive years and that belong to persons whose whereabouts are unknown after confirmed diligent attempts have been made to locate them. The charges made by the bank and applied to these accounts during the five (5) years mentioned above, as well as any interest that they generate, will not be considered account activity.

For all time deposits whose automatic renewal has not been agreed to, the bank will try to locate the holder at the maturity of the agreed term, providing evidence of these attempts in the

customer's file. Until the customer is located, the funds will be transferred to an "Other On-Demand Deposits" account, and they will be treated pursuant to what is stipulated in the previous paragraph.

It is worth noting that all time deposits whose automatic renewal has been agreed to in the contract will be deemed inactive when they have been automatically renewed for one or more terms that in total add up to five (5) or more consecutive years from the first renewal, and the holder's whereabouts are unknown after confirmed diligent attempts have been made to locate him/her.

In like manner, all certified and cashier checks, money orders and transfers, as well as any other debts that are in liquid form, will be considered inactive if they have not been claimed within five (5) consecutive years after being made available to beneficiaries whose whereabouts are unknown after confirmed diligent attempts have been made to locate them.

Inactive goods and assets:

In the case of inactive goods and assets, when, by virtue of a leasing contract between the parties, the bank has proceeded to open a safety deposit box, those goods and assets that may be found inside will be deemed inactive goods and assets:

When the goods and assets have not been claimed by the interested party after five (5) years have elapsed from when the bank opened the safety deposit box, and when the interested party's whereabouts are unknown after confirmed diligent attempts have been made to locate him/her.

The content of accounts in escrow or in custody that have not had any movement during the five (5) years after the term agreed upon between the parties are also deemed inactive goods when the beneficiary has not been located after confirmed diligent attempts have been made to locate him/her.

It is important to note that for banks, the whereabouts or domicile is the address provided by bank customers or consumers when entering into the contractual relationship. Therefore, it is necessary that we, as bank consumers, keep our contact data updated in the bank's files, because this is where the bank will send us the appropriate notifications related to the contracted product.

The bank where the accounts were opened must use the Inactive Accounts template (SB-CUIN) to report them. The bank will have ten (10) business days after the end of each quarter to submit the form.

The holder of those accounts should go to the bank where the account opening agreement was entered into to find out what means the bank used to inform him/her of the situation, in order to go to Banco Nacional de Panamá with that information to claim the funds from the account.

For its part, Banco Nacional de Panamá is required to return the funds to the holder, as long as those funds are claimed within ten (10) years following the date they were transferred. However, the funds will be returned without interest.