

**LAW 47**  
**(dated 6 August 2013)**

**That adopts a custody regime applicable to  
bearer shares**

**THE NATIONAL ASSEMBLY**

**DECREES:**

**Chapter I**  
**General Provisions**

**Article 1. Purpose.** The purpose of this Law to adopt a custody regime applicable to bearer share certificates.

**Article 2. Definitions.** For the purposes of this Law, the following terms will be understood as follows:

1. *Lawyer.* A law professional holding a certificate issued by the Fourth Chamber (General Business Matters) of the Supreme Court of Justice of the Republic of Panama, practicing law individually, and those civil associations legally established by law professionals to practice law within the Republic of Panama.
2. *Server.* Lawyers, general license banks and trust companies established in the Republic of Panama that have been appointed by an authorized foreign custodian to receive notifications and requirements in connection with any matter or obligation related to the custodial activity referred to herein on behalf and in representation of the custodian.
3. *Resident Agent.* A lawyer that has been appointed as a resident agent by a corporation existing according to the laws of the Republic of Panama.
4. *Competent authority:*
  - a. The Public Ministry and the Judicial Branch in the investigation of acts related to money laundering, the financing of terrorism, or any other illegal activity in accordance with the laws of the Republic of Panama.

# TRANSLATION

- b. The National Revenue Authority in enforcing international agreements and covenants signed by the Republic of Panama and in full force.
5. *Authorized custodian.* The authorized domestic custodian or the authorized foreign custodian of bearer share certificates.

Each of the terms provided herein include both the plural and the feminine.

## Chapter II

### Obligation to Place Bearer Share Certificates in Custody

**Article 3.** Appointment of an authorized custodian. As of the enactment of this Law, any holder of bearer shares must appoint an authorized custodian to hold the relevant bearer share certificates in custody in accordance with the provisions herein.

**Article 4.** Surrender of bearer share certificates issued prior to the entry into force of this Law. Bearer share certificates issued before the enactment of this Law must be surrendered to an authorized custodian along with the affidavit referred to in Article 8, within the transition period established in Article 24.

**Article 5.** Surrender of bearer share certificates issued after the entry into force of this Law. Any corporation issuing bearer share certificates after the entry into force of this Law shall deliver them to the authorized custodian appointed by the owner, along with the affidavit referred to in Paragraph 1 of Article 9, within twenty days following the approval of the issuance of the bearer shares.

For the purposes of appointing the authorized custodian, the owner must provide the full name of the authorized custodian to the issuing corporation, along with the custodian's physical address and the data on a person that the issuing corporation can contact if necessary, including the telephone number and e-mail address or fax number. The corporation must void the issuance of the bearer shares if the owner does not provide the information and the affidavit referred to within the period established herein.

## Chapter III Authorized Custodian

**Article 6.** Authorized domestic custodians. General license banks and trust companies established in the Republic of Panama, regulated by the Superintendency of Banks of Panama, as well as securities houses and central securities depositories established in the Republic of Panama, regulated by the Superintendency of the Securities Markets, may act as authorized domestic custodians of bearer share certificates.

Similarly, lawyers registered in a special registry with the Fourth Chamber (General Business Matters) of the Supreme Court of Justice may act as authorized domestic custodians. Notwithstanding any other information the Fourth Chamber (General Business Matters) of the Supreme Court of Justice may request to formalize the registration, those lawyers that wish to act as custodians must furnish their full name, the physical address where they will secure the bearer share certificates, a telephone number and e-mail or fax number.

The relevant superintendency and the Fourth Chamber (General Business Matters) of the Supreme Court of Justice must certify, upon competent authority's request, the registry of authorized domestic custodians. Similarly, they must maintain an updated list of persons and entities registered an authorized to act as domestic bearer share custodians on their websites. In the case of the Fourth Chamber (General Business Matters) of the Supreme Court, the list must indicate the effective registration date.

**Article 7.** Authorized foreign custodians. Banks, trust companies, and finance intermediaries that hold licenses to engage in their activities in member countries of the Financial Action Task Force on Money Laundering or its associate members and are registered with the Superintendency of Banks of Panama in a special registry that will be kept for that purpose, may act as authorized foreign custodians. Notwithstanding any other information the Superintendency of Banks of Panama may request, banks, trust companies, and finance intermediaries meeting the above requirements must submit the following information to formalize their registration:

# TRANSLATION

1. General establishment data, name, physical address, telephone number, and e-mail or fax number.
2. A certification issued by the supervisory body certifying the bank, trust company or finance intermediary is under its supervision, including the name, physical address, telephone number, and e-mail address or fax number of the organization, translated, if necessary.
3. Proof of the appointment of a server, including the full name, physical address, telephone number and e-mail address or fax number, translated, if necessary.
4. Affidavit indicating the following:
  - a. They take measures to know their customers in terms at least as stringent as those required by Law 2 of 2011.
  - b. They commit themselves to providing to the resident agent of the issuing corporation the full name, citizenship or country of incorporation, current ID card or passport number or incorporation information, physical address, telephone number and e-mail address or fax number of the owners of the issued bearer shares whose certificates will be held in custody.

The Superintendency of Banks of Panama must certify the registry of authorized foreign custodians upon the request of competent authority, and maintain an updated list of persons and entities registered and authorized to act as authorized foreign custodians, on its website, indicating their effective registration date.

## Chapter IV Information

**Article 8.** Information that must be provided on the bearer share certificates issued before the enactment of this Law. Notwithstanding any other information that the authorized custodian may require, when surrendering into custody the bearer share certificates referred to in Article 4, they must be accompanied by an affidavit providing the following information:

1. Full name, citizenship or country of incorporation, current ID card or passport number or incorporation data, physical address, telephone number, and e-mail address or fax number of the owner of the bearer shares.

# TRANSLATION

2. Full name, physical address, telephone number, and e-mail address or fax number of the resident agent of the issuing corporation.

The authorized custodian will be considered appointed and therefore the custody consummated, with the surrender of the bearer share certificates and the affidavit referred to herein.

The owner of the bearer shares will be the person listed as such in the affidavit referred to herein, except as established in Article 13.

**Article 9.** Information that must be provided with respect to bearer share certificates issued after the enactment of this Law. Notwithstanding any other information the authorized custodian may require, the issuing corporation must provide the following documentation and information when surrendering into custody the bearer share certificates referred to in Article 5:

1. An affidavit from the owner of the bearer shares confirming the owner's full name, citizenship or country of incorporation, current ID card or passport number or incorporation data, physical address, telephone number, and e-mail address or fax number.
2. The full name, physical address, telephone number, and e-mail address or fax number of the resident agent of the issuing corporation.

The authorized custodian will be considered appointed and therefore the custody consummated, with the surrender of the bearer share certificates and the documentation and information referred to herein.

The owner of the bearer shares will be the person listed as such in the affidavit referred to herein, exception as established in Article 13.

## Chapter V Priority Rules

**Article 10.** Obligations of the Authorized domestic custodian. The authorized domestic custodian must:

# TRANSLATION

1. Maintain all documentation related to the provision of custodial services at its offices in the Republic of Panama. The records related to the provision of custodial services must be maintained for a five-year period after the service is terminated.
2. Maintain the physical custody of the bearer share certificates at its offices in the Republic of Panama while the duties as authorized custodian last.
3. Maintain the strict confidentiality of the information received under this Law.
4. Provide information referred to herein when required by competent authorities. Furnishing this information upon request of competent authority will not be considered a non-compliance of the obligation to maintain strict confidentiality of the information or a breach of the obligation of confidentiality or right to privacy.
5. Issue certifications attesting to the identity of the owner of the bearer share certificates when required by court order or by their owner or a lienholder.

The lawyers registered to act as authorized domestic custodians must maintain the information referred to in the second paragraph of Article 6 current.

**Article 11.** Authorized foreign custodian obligations. The authorized foreign custodian must:

1. Maintain all documentation related to the provision of the custodial service at the physical address it has provided to the resident agent of the issuing corporation per Article 17 at the time the agent was notified of custodianship. The records related to the provision of custodial services must be maintained for a five-year period after the service is terminated.
2. Maintain the physical custody of bearer share certificates at the physical address it provided the resident agent of the issuing corporation per Article 17 at the time the agent was notified of custodianship, while its duties as authorized custodian last.
3. Maintain the strict confidentiality of the information received under this Law.
4. Provide the full name, citizenship or country of incorporation, current ID card or passport number or incorporation data, physical address, telephone number, and e-mail address or fax number of the owners of the bearer shares whose certificates are kept in custody and the notification of appointment as custodian, to the resident agent of the issuing corporation. Furnishing this information to the resident agent

# TRANSLATION

will not be considered a non-compliance of the obligation to maintain strict confidentiality or a breach of the right of confidentiality or right to privacy.

5. Issue certifications attesting to the identity of the owner of the bearer shares when required by court order or by their owner or a lienholder.

The banks, trust companies and financial intermediaries that consign a bond in the amount of twenty-five thousand balboas (B/.25,000.00) in the National Treasury along with the information and documentation referred to in Article 7 are exempt from the obligation in Paragraph 4. This bond must be issued by an insurance company or a bank established and licensed to operate in the Republic of Panama.

Authorized foreign custodians that choose to consign this bond must provide the resident agent of the issuing corporation the full name, citizenship or country of incorporation, current ID card or passport number or incorporation data, physical address, telephone number, and e-mail address or fax number of the owners of the bearer share certificates kept in custody when required by competent authority. In case of non-compliance, the competent authority may execute the bond referred to in this paragraph in accordance with the procedures established for that purpose.

The Executive Branch will regulate the requirements with which this bond must comply.

## Chapter VI Transfer of Bearer Shares

**Article 12.** Transfer of bearer shares. In addition to the provisions of Article 30 of Law 32 of 1927, the transfer of bearer shares will be consummated when the owner formally notifies the authorized custodian of such a transfer in writing, and the transferee surrenders the affidavit referred to in Paragraph 1 of Article 9 to the authorized custodian.

**Article 13.** Bearer shares given in inheritance. Any hereditary disposition regarding the ownership of bearer shares made by the owner of the shares while alive and of which the authorized custodian was notified in writing following the requirements in the regulation

drafted for that purpose, will be valid and will supersede all other succession rights, whether or not testamentary.

The appointment of an heir to the bearer shares does not grant property rights on them. As a result, the person or persons designated as heirs will be considered owner(s) of the shares only once the person that provided the hereditary disposition referred to herein is dead. This transfer will not require a court order.

The existence of legal provisions on inheritance in the domicile of the owner of the bearer shares given in custody cannot be used to impugn the authorized custodian or the validity of the designation of the heir of those shares made by the person who provided the hereditary disposition referred to herein, once that person is deceased.

## Chapter VII Pledges

**Article 14.** Pledgees. The pledgees that hold bearer share certificates at the time of the enactment of this Law must comply with the requirements in Articles 6 and 7 within the period established in Article 24 to serve as authorized custodians. Otherwise, they must surrender the bearer share certificates, within the stipulated period, to an authorized custodian that will act as the depositary, along with the affidavit referred to in Article 8. The pledgee must notify the owner of the bearer shares of his/her condition as authorized custodian or of the appointment of another custodian.

**Article 15.** Pledged bearer shares. The use of bearer shares issued after the enactment of this Law as pledges will be confirmed by the owner's written notification of the pledge of the shares to the authorized custodian, indicating the full name, physical address, telephone number, and e-mail address or fax number of the pledgee. Upon notification, the authorized custodian will formalize his relationship with the pledgee and pledger as depositary.

**Article 16.** Execution of the pledge. The execution of the pledge will not be considered consummated until the pledgee notifies the authorized custodian of the execution in writing and submits the affidavit referred to in Paragraph 1 of Article 9.

## Chapter VII Additional Provisions

**Article 17.** Notification of the appointment of the authorized custodian. Within no more than ten days from being appointed as authorized custodian, the custodian must notify the resident agent of the issuing corporation in writing of his appointment. This notification must contain the custodian's full name, physical address, and the data on the person who the resident agent of the issuing corporation may contact if necessary, indicating the telephone number and e-mail address or fax number.

All authorized custodians must, along with the notification of their status as custodians, indicate to the resident agent the name of the issuing corporation, so that within no more than ten days after this notification, the resident agent can advise the issuing corporation of the surrender into custody of the bearer share certificates, indicating the name of the person the issuing corporation may contact, if necessary, including a telephone number and e-mail address or fax number.

The authorized foreign custodian must provide the resident agent the following information and documentation along with the notification of its status as custodian,:

1. Proof of its registration with the Superintendency of Banks of Panama.
2. The exact physical address where it will secure the bearer share certificates.

If the resident agent of the issuing corporation was appointed as authorized custodian, it must proceed with only the notification referred to in the second paragraph of this Article, within the period established from the date of its appointment as such.

**Article 18.** Notification on the change of resident agent. When, for any reason, the issuing corporation changes its resident agent, the corporation is required to notify the authorized custodian of the change in writing within no more than ten days after the effective date of the change, providing the full name, physical address, telephone number, and e-mail address or fax number of the new resident agent. Once this notification is received, the authorized custodian must notify the new resident agent of the custodian's status within no more than ten days from the date the custodian received the notification.

The authorized foreign custodian must provide the following documentation and information the new resident agent along with its status as custodian,:

1. Proof of its registration with the Superintendency of Banks of Panama.
2. Exact physical address where it will secure the bearer share certificates.

In case the resident agent of the issuing corporation has been appointed as authorized custodian and the issuing corporation replaces the resident agent, the replaced resident agent, acting as authorized custodian, must notify the owner of the bearer shares of his replacement within no more than fifteen days following the date of notification of the replacement. Once the owner is notified, he will have ten days to appoint a new authorized custodian and to notify the custodian being replaced in writing, providing the full name, physical address, telephone number, and e-mail address or fax number of the appointed authorized custodian.

Within no more than fifteen days following the date of this last notification, the custodian being replaced must surrender the bearer share certificates it has maintained in custody to the appointed authorized custodian along with the documentation and information referred to in Article 8 or 9, as the case may be, and the new custodian must comply with the provisions of Article 17.

## Chapter IX

### Resignation and Replacement

**Article 19.** Resignation of the authorized custodian. Should an authorized custodian resign the entrusted custody, he must notify the owner of the bearer shares and the resident agent of the issuing corporation in writing, at least fifteen days prior the date in which he will cease providing the custodial services. Within this same period, the owner must appoint a new authorized custodian and notify the resigning authorized custodian in writing, providing the full name, physical address, telephone number; and e-mail address or fax number of the new authorized custodian.

Within no more than fifteen days from the date of this last notification, the resigning authorized custodian must provide the bearer share certificates to the appointed authorized

custodian along with the documentation and information referred to in Article 8 or 9, as the case may be, and the new custodian must comply with the provisions of Article 17.

**Article 20.** Replacement of the authorized custodian. Only the owner of the bearer shares may appoint a new authorized custodian.

To that effect, the owner must notify the authorized custodian being replaced of this decision in writing, indicating the full name, physical address, telephone number, and e-mail address or fax number of the appointed authorized custodian. Within no more than fifteen days from the date of notification, the authorized custodian being replaced is required to surrender the bearer share certificates it has kept in custody to the appointed authorized custodian, along with the documentation and information referred to in Article 8 or 9, as the case may be, and the new custodian must comply with the provisions of Article 17.

## Chapter X Sanctions

**Article 21.** Failure to surrender into custody the bearer share certificates issued before the enactment of this Law. The owner of the bearer shares whose certificate has not been surrendered into custody within the transition period referred to in Article 24, cannot exercise the full, inherent political and economic rights recognized by law with respect to the issuing corporation. This does not preclude legal action by bona fide interested parties for losses and damages.

**Article 22.** Sanctions applicable to the authorized custodian. When in the exercise of its duties, a competent authority becomes aware that an authorized custodian is failing to comply with the obligations imposed herein, the competent authority shall notify in writing

- a. the Superintendency of Banks of Panama in the case of banks and trust companies, or
- b. the Superintendency of the Securities Market in the case of securities houses and central securities depositories, or

# TRANSLATION

c.the Fourth Chamber (General Business Matters) of the Supreme Court of Justice in the case of lawyers,

of the noncompliance. The notified entity will conduct the relevant investigation and impose the appropriate sanctions by means of a justified resolution.

After the competent authority receives the notification of noncompliance, the Superintendency of Banks of Panama and the Superintendency of the Securities Market will apply the sanctioning procedure that they may establish for noncompliance. The Fourth Chamber (General Business Matters) of the Supreme Court of Justice must apply the sanctioning procedure established in Law 2 of 2011.

Failure to comply with the provisions herein will be sanctioned by the Superintendency of Banks of Panama, the Superintendency of the Securities Market or the Fourth Chamber (General Business Matters) of the Supreme Court of Justice, as the case may be, by imposing the following sanctions:

1. A penalty equivalent to five thousand balboas (B/.5,000.00) to the authorized domestic custodian who receives bearer share certificates under custody without meeting the requirements established herein.
2. A penalty equivalent to five hundred balboas (B/.500.00) to the authorized domestic custodian who fails to keep a copy of the information referred to herein.
3. A penalty equivalent to two thousand five hundred balboas (B/.2,500.00) to the authorized domestic custodian who fails to maintain physical custody of bearer share certificates.
4. A penalty equivalent to twelve thousand five hundred balboas (B/.12,500.00) to the authorized domestic custodian who fails to maintain the information received pursuant to the provisions herein in strict confidence.
5. A penalty equivalent to one thousand balboas (B/.1,000.00) to the lawyer who, acting as authorized custodian, fails to keep the information referred to in the second paragraph of Article 6 up to date.
6. A penalty equivalent to five thousand balboas (B/.5,000.00) to the authorized domestic custodian who fails to notify in writing its appointment as such, as provided for in Article 17.

# TRANSLATION

7. A penalty equivalent to two thousand five hundred balboas (B/.2,500.00) to the authorized domestic custodian who fails to notify the new resident agent in writing of his status as authorized domestic custodian, as provided for in Article 18.
8. A penalty equivalent to two thousand five hundred balboas (B/.2,500.00) to the authorized domestic custodian who fails to notify in writing that he has resigned or been replaced, as provided for in Articles 19 and 20, respectively.
9. A penalty equivalent to five hundred dollars (B/.500.00) to the authorized domestic custodian who fails to provide the documentation and information referred to in Articles 19, 20, and 23 within the period provided for in those articles.
10. A penalty equivalent to five thousand balboas (B/.5,000.00) to the authorized domestic custodian who fails to notify in writing that he has been suspended, as provided for in Article 23.
11. Disqualification from exercising custodial activities in accordance with the Law for a period of three years when the authorized domestic custodian repeatedly engages in providing services as such without meeting the requirements herein.

This sanction will also be applicable to the authorized foreign custodian when the custodian provides custodial services without meeting the requirements herein. In this case, the Superintendency of Banks of Panama will formally notify the supervisory body of the foreign custodian in writing of the suspension, so it may take the relevant measures.

12. A permanent suspension to engage in custodial activities in accordance with this Law, when the bond referred to in Article 11 has been executed by competent authority.

The resolutions suspending the engagement in custodial activities must be published in the Official Gazette.

**Article 23.** Suspension of authorized custodian. If authorization to act as a custodian is suspended under Paragraphs 10 or 11 of the previous article, the suspended custodian is required to notify the owner of the bearer shares and the resident agent of the issuing corporation of this fact in writing within no more than fifteen days following the notification of suspension.

Once notified, the owner will have ten days to appoint a new authorized custodian and to notify the suspended custodian in writing of the full name, physical address, telephone number, and e-mail address or fax number of the new authorized custodian. The suspended custodian must surrender the bearer share certificates to the appointed authorized custodian, along with the documentation and information referred to in Article 8 or 9, as the case may be, within no more than fifteen days of this last notification, and the new custodian must comply with the provisions of Article 17.

## **Chapter XI** Additional Provision

**Article 24.** Paragraph 21 is added to Article 100 of the Judicial Code as follows:

**Article 100.** The Fourth Chamber will:

...

21. Keep a register of lawyers and law firms acting as authorized domestic custodians of bearer share certificates issued in accordance with the Law and apply the relevant sanctions for failure to comply with the obligations inherent in the custody of bearer share certificates.

## **Chapter XII** Transitory and Final Provisions

**Article 25.** Transition period for surrendering the bearer share certificates issued before the entry into force of this Law. A period of three years will be granted after the entry into force of this Law to surrender into custody those bearer share certificates issued before its entry into force.

**Article 26.** Redemption or cancellation of bearer share certificates. Should a decision be made to redeem or cancel the bearer share certificates during the transition period applicable to this Law, the new shares must be issued in registered form or, if issued to the

# TRANSLATION

bearer, they must be submitted to the custodial regime established pursuant to Article 5 herein.

**Article 27.** Advisory. This Law added Paragraph 21 to Article 100 of the Judicial Code.

**Article 28.** Entry into force. This Law shall become effective two years after its promulgation.

## **FOR COMMUNICATION AND ENFORCEMENT.**

Bill 568 of 2013 approved at the third reading in Palacio Justo Arosemena, Panama City, on the twenty-ninth (29<sup>th</sup>) day of July, two thousand thirteen (2013).

The President,

[Signed]  
Sergio R. Galvez Evers

The Secretary General,

[Signed]  
Wigberto E. Quintero G.

# TRANSLATION

---

No. 27346-C

Official Gazette Online, Tuesday, August 6, 2013

16

NATIONAL EXECUTIVE BRANCH. PRESIDENCY OF THE REPUBLIC.  
PANAMA, REPUBLIC OF PANAMA, 6 AUGUST 2013.

[Signed]

RICARDO MARTINELLI BERROCAL  
President of the Republic

[Signed]

FRANK DE LIMA  
Minister of Economy and Finance