

TRANSLATION

Republic of Panama Superintendency of Banks

RULE No. 004-2015¹
(dated 11 May 2015)

“Whereby the procedure for registering the custodians of bearer shares is established”

THE BOARD OF DIRECTORS
In use of its legal powers, and

CONSIDERING:

That by means of Law 47 dated 6 August 2013 a regime for the custody of bearer shares was established and that Article 3 required the holder of bearer shares to appoint an authorized custodian to maintain custody of the bearer share certificates;

That Article 6 of Law 47 dated 6 August 2013 authorized general license banks and trust companies established in Panama to act as authorized domestic custodians of bearer share certificates;

That Article 6 of the cited Law requires the Superintendency of Banks to certify the register of authorized domestic custodians at the competent authority's request;

That Article 7 of Law 47 dated 6 August 2013 authorizes banks, trust companies and financial intermediaries holding a license to engage in their activities and located in jurisdictions that are members or associate members of the Financial Action Task Force against Money Laundering, to act as foreign authorized custodians as long as they are registered in a special listing to that effect kept by the Superintendency of Banks;

That pursuant to the provisions of Law 47 dated 6 August 2013, the Superintendency of Banks will grant the respective certificates as authorized custodians to banks, trust companies and financial intermediaries and must maintain a current list of the entities authorized to act as custodians on its website;

That by means of Law 18 dated 23 April 2015, Article 28 of Law 47 of 2013 was amended, advancing the entry into force of Law 47 to 4 May 2015;

That Article 23 of the Banking Law establishes that, among other resources, the Superintendency will count with the income from inspections and other special services paid by the banks and other regulated entities;

That during its working sessions, the Board of Directors determined it necessary and advisable to establish a procedure for the registration of domestic and foreign custodians of bearer shares.

RESOLVES:

ARTICLE 1. SCOPE OF APPLICATION. The provisions of this Rule shall be applicable to the following entities:

1. General license banks and trust companies established in the Republic of Panama and regulated and supervised by the Superintendency of Banks of Panama.

¹ Amended by Rule 10-2018 dated 4 September 2018.

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2. Banks, trust companies and financial intermediaries holding a license to engage in these activities and established in jurisdictions that are members or associate members of the Financial Action Task Force against Money Laundering.

ARTICLE 2. DEFINITIONS. For the purposes of this Rule, the following concepts will be understood as follows:

1. **Authorized domestic custodian:** any general license bank or trust company established in the Republic of Panama, holding the appropriate license and duly authorized by the Superintendency of Banks to maintain the custody of bearer share certificates.
2. **Authorized foreign custodian:** Any bank, trust company or financial intermediary holding the appropriate license from a jurisdiction that is a member of the Financial Action Task Force against Money Laundering and duly authorized by the Superintendency of Banks to maintain the custody of bearer share certificates.
3. **Custody:** the service provided in physically maintaining bearer shares and the documentation related to the service.
4. **Bearer shares:** certificates indicating that the bearer of that instrument is the owner of the share.
5. **Law 47 dated 6 August 2013:** Law by means of which a regime for the custody of bearer shares is adopted.

ARTICLE 3. REGISTRATION OF DOMESTIC CUSTODIANS. General license banks and trust companies interested in obtaining an authorized domestic custodian certificate must meet the following requirements:

1. Having suitable facilities and security and compliance systems and procedures to maintain the physical integrity of documents in their custody.
2. Having operations staff duly qualified to perform custody duties.
3. Ensuring segregation of operations staff duties such that no employee of the entity has absolute control of custody.
4. Ensuring their custody system permits the effective identification of the owner of the bearer shares in custody, as well as any other information related to the holder of the bearer shares.
5. Due diligence procedures and policies for the identification of the final beneficiary of the bearer shares.

Those banks that provide bearer share custody services at the time of the entry into force of this Rule must certify compliance with the requirements herein in order to become registered as authorized custodians by the Superintendency of Banks.

ARTICLE 4. REQUIREMENTS FOR APPROVING AUTHORIZED FOREIGN CUSTODIANS. Pursuant to the powers granted to the Superintendency by means of Article 7 of Law 47 of 2013, entities interested in obtaining an authorized foreign custodian certificate must meet the requirements in Article 3 of this Rule and, additionally, meet the following requirements pursuant to Law 47 dated 6 August 2013:

1. General data on the incorporation, name, physical address, telephone number and e-mail address or fax number.
2. Certificate issued by the supervisory body certifying that the entity is under its supervision, including the name, physical address, telephone number and e-mail address or fax number of the authority duly notarized and, if necessary, translated.

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3. Evidence of having appointed a notification agent, including the full name, physical address, telephone number and e-mail address or fax number, and, if necessary, translated.
4. Affidavit attesting to the following:
 - a. That they follow procedures for knowing their clients that are no less stringent than those required by Law 2 of 2011, which regulates the “know your client” measures required of resident agents of legal entities established under the laws of the Republic of Panama.
 - b. That they agree to provide the resident agent of the issuer the full name, citizenship or country of incorporation, valid identification 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 that will be in custody. An exception exists if the custodian is relying on the exemption established in Article 11 of Law 47 of 2013 and the bond stipulated therein is posted.

ARTICLE 5². AUTHORIZATION BY THE SUPERINTENDENCY OF BANKS. The banks, trust companies and financial intermediaries that wish to be certified as domestic or foreign custodians of bearer shares must request the prior authorization of the Superintendency. The request must be submitted along with the following:

1. Name and general data of the bank, trust company or financial broker, as appropriate;
2. Operational plan that will be used by the entity to offer custody services;
3. Custody security, control and compliance procedures duly approved by the relevant authorities;
4. Description of the registration and data storage systems;
5. Any other document, information or requirement the Superintendent of Banks deems pertinent for the relevant analysis of the application.

Once the application is analyzed and evaluated, the Superintendency will conduct pre-operating examinations to verify compliance with the parameters established herein and, for foreign custodians, to verify the physical existence of the entity. Afterwards, a resolution will be issued to authorize or reject the relevant entity’s application to provide authorized custody service.

ARTICLE 6. UPDATING AUTHORIZED BEARER SHARES CUSTODIANS. On its website, the Superintendency of Banks will maintain a current list of the authorized domestic and foreign custodians, containing the resolution number and effective date of the authorization given by the Superintendency of Banks.

Pursuant to the provisions of Law 47 of 2013, the Superintendency will certify the registry of domestic and foreign custodians upon request of competent authority.

ARTICLE 7. OBTAINING THE AUTHORIZATION AND CERTIFICATION AS AN AUTHORIZED CUSTODIAN. Applicants must cover the cost of issuance, investigation and analysis incurred by the Superintendency when evaluating the required documentation to provide bearer share custody services:

1. For the domestic authorized custodian application, the amount of two thousand five hundred balboas (B/.2,500.00).
2. For the domestic authorized custodian certification, the amount of two hundred and fifty balboas (B/.250.00).
3. For the foreign authorized custodian application, the amount of five thousand balboas (B/.5,000.00).

² Amended by Article 1 of Rule 10-2018 dated 4 September 2018.

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4. For the foreign authorized custodian certification, the amount of two hundred and fifty balboas (B/.250.00).

The payment must be made in full when the respective application is submitted. The payment must be made by certified check, cashier's check or wire transfer paid to the order of the Superintendency of Banks.

Payments made for the applications described herein are not refundable.

ARTICLE 8³. DUTIES OF THE AUTHORIZED DOMESTIC CUSTODIAN. Pursuant to the provisions of Article 10 of Law 47 dated 6 August 2013, authorized domestic custodians will have the following duties:

1. To keep updated all documentation related to the custody service in its headquarters located in the Republic of Panama, including documentation on customer and/or final beneficiary due diligence. Records related to the custody service, as well as any other document permitting the reconstruction of the relationship, if necessary, must be kept for five years after the service ceases;
2. To maintain the physical custody of the bearer share certificates in its headquarters in the Republic of Panama for as long as it continues to function as an authorized custodian;
3. To maintain strict confidentiality of the information received;
4. To provide information when required by competent authority. Furnishing information upon the request of competent authority will not be considered noncompliance with its obligation to maintain strict confidentiality of the information or an infringement of confidentiality responsibilities or privacy rights.
5. To issue certifications providing the identity of the owner of the bearer shares when required by court order, the owner or the lienholder.

ARTICLE 9⁴. DUTIES OF THE AUTHORIZED FOREIGN CUSTODIAN. Pursuant to the provisions of Article 11 of Law 47 dated 6 August 2013, authorized foreign custodians will have the following duties:

1. To keep updated all documentation related to the custody service, including the documentation on the customer and/or final beneficiary due diligence, at the physical address provided to the resident agent of the issuing corporation at the time custody is notified. Records related to the custody service, as well as any other document permitting the reconstruction of the relationship, if necessary, must be kept for five years after the service ceases;
2. To maintain the physical custody of the bearer share certificates at the physical address provided to the resident agent of the issuing corporation at the time the custody is notified, for as long as it continues to function as an authorized custodian;
3. To maintain strict confidentiality of the information received;
4. To provide, along with the notification of the appointment as authorized custodian, the full name, citizenship or country of incorporation, valid ID card number 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 held in custody to the resident agent of the issuing corporation. Furnishing this information to the resident agent will not be considered noncompliance with its obligation to maintain strict confidentiality of the information or an infringement of confidentiality responsibilities or privacy rights;
5. To issue certifications providing the identity of the owner of the bearer shares when required by court order, the owner or a lienholder.

³ Amended by Article 2 of Rule 10-2018 dated 4 September 2018.

⁴ Amended by Article 3 of Rule 10-2018 dated 4 September 2018.

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ARTICLE 9A⁵. IDENTIFICATION OF THE OWNER OR BENEFICIARY OF BEARER SHARE CERTIFICATES. The banks, trust companies and financial intermediaries, as appropriate, authorized to act as domestic or foreign custodians of bearer share certificates must identify the owner and/or final beneficiary of the bearer share certificates, requesting and reviewing reliable documents, data or information from independent sources.

For these purposes and without obviating the requirement for the affidavit referred to in Article 9 of Law 47 of 2013, domestic and foreign custodians authorized by the Superintendency of Banks must prepare a customer profile, including a format designed by the entity, containing as a minimum the following information on the owner and/or final beneficiary of the bearer share certificates:

1. Full name, age, gender, employment or employment situation, civil status, profession or occupation and citizenship;
2. Physical address and/or post office address and e-mail address;
3. Valid customer identification document; the personal identification card, for Panamanians or the current passport, for foreigners;
4. Telephone or mobile phone number;
5. Percentage of shareholding;
6. Contact data for an individual or legal entity that can provide references on the customer;
7. Activities engaged in by the corporation issuing shares;
8. Full name, physical address and e-mail address of the resident agent of the issuing corporation;
9. Any other information the authorized custodian may request.

ARTICLE 10. CANCELLATION OF THE “AUTHORIZED CUSTODIAN” AUTHORIZATION. If, during the examinations conducted by the Superintendency of Banks, it is determined that the policies, controls and internal procedures required for the provision of authorized custody services have not been complied with, or if there are deficiencies in the provision of the service, the Superintendency will grant a thirty (30) -day period to remedy the findings. If they are not corrected, the Superintendency may cancel the authorization granted and remove the custodian from the custodian registry posted on its website.

ARTICLE 10A⁶. EXAMINATIONS OF DOMESTIC CUSTODIANS. Once the authorization to provide services as a domestic custodian is granted, the Superintendency of Banks may, when it deems appropriate, conduct examinations to these custodians to verify compliance with the policies, controls and internal procedures established for rendering services as an authorized domestic custodian. There will also be verification of their compliance with customer due diligence measures as part of the regime for the prevention of money laundering and the financing of terrorism.

ARTICLE 11. SUPERVISION OF FOREIGN CUSTODIANS. Once the authorization to provide foreign authorized custody service is granted, the Superintendency may, when it deems appropriate, exercise supervision of these custodians to determine if they have the minimum controls and procedures required by this Rule.

The costs of examination and supervision of foreign authorized custodians will be covered by them.

ARTICLE 12. ENACTMENT. This Rule shall become effective as of its promulgation. However, entities authorized to act as domestic or foreign bearer share custodians will begin providing their services once the Superintendency has issued the respective authorization and the entities are duly registered as authorized custodians.

⁵ Added by Article 4 of Rule 10-2018 dated 4 September 2018.

⁶ Added by Article 5 of Rule 10-2018 dated 4 September 2018.

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Given in the city of Panama on the eleventh (11th) day of May, two thousand fifteen (2015).

FOR COMMUNICATION, PUBLICATION AND ENFORCEMENT.

THE CHAIRMAN,

THE SECRETARY,

L.J. Montague Belanger

Luis Alberto La Rocca