

TRANSLATION

Republic of Panama Superintendency of Banks

RULE N°. 10-2017
(dated 21 November 2017)

“Whereby Rule 4-2014 on the applicable criteria for imposing penalties due to the late submission of information required by the Superintendency is amended”

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

WHEREAS:

Due to the issuance of Decree Law 2 dated 22 February 2008, the Executive Branch re-edited Decree Law 9 dated 26 February 1998 and all its amendments as a consolidated text, and this text was approved by means of Executive Decree 52 dated 30 April 2008, hereinafter referred to as the Banking Law;

Pursuant to the provisions of paragraph 5 of Article 11 of the Banking Law, establishing the administrative interpretation and scope of the legal provisions and regulations on banking matters is a technical duty of the Board of Directors of the Superintendency of Banks;

Pursuant to the provisions of paragraph 16 of Article 16 of the Banking Law, imposing the appropriate sanctions for violations of the provisions contained in the Banking Law or the Rules regulating is a technical duty of the Superintendent;

Pursuant to the provisions of Article 86 of the Banking Law, the Superintendency is authorized to request documentation and reports regarding their operations and activities from any bank, any firm in the banking group, bank holding companies and nonbanking affiliates;

Pursuant to the provisions of paragraph 3 of Article 91 of the Banking Law, all banks must submit to the Superintendency any other information required and on the schedule determined by the latter;

Pursuant to the provisions of Article 184 of the Banking Law, the Superintendent is authorized to impose the appropriate administrative sanctions for the violation of the provisions of the Banking Law and the laws and rules that regulate and modify it, taking into consideration the seriousness and recidivism of the offense, and the magnitude of the losses and damages caused to third parties;

Pursuant to the provisions of subparagraph d, paragraph 2 of Article 185 of the Banking Law, the Superintendency may impose sanctions of up to five hundred thousand balboas (B/.500,000.00) for violations of the provisions of Title III on the documents and reports referred to in Chapter IX;

Pursuant to the provisions of Article 1 of Law 21 dated 10 May 2017, the Superintendency of Banks will have the exclusive competence to regulate and supervise trustees holding a trust license or authorized by law to engage in the trust business according to the provisions in the Law and its regulations, as well as to oversee the proper functions of the trust business;

Pursuant to the provisions of paragraph 8 of Article 4 of Law 21 of 2017, the Superintendency of Banks shall penalize breaches according to the provisions of that Law, its regulations or any other regulation on the trust business or other policies developing it;

Pursuant to the provisions of paragraph 13 of Article 6 of Law 21 of 2017, imposing penalties for breaching or failing to comply with the standards or regulations governing the trust business is one of the duties assigned to the Superintendent;

Pursuant to the provisions of Article 30 of Law 21 of 2017, the Superintendency is authorized to request trustees provide documentation and reports on the operations, activities and trust funds held, even when the trust funds have been created and executed under a foreign law. The

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information must be submitted to the Superintendency within the timeframe and in the form it may require;

Pursuant to the provisions of Article 72 of Law 21 of 2017, the Superintendent is authorized to impose the appropriate administrative sanctions for the breach of the provisions of the aforementioned Law and its regulations, taking into consideration the seriousness and recidivism of the offense and the damages caused to third parties;

By means of Law 23 dated 27 April 2015, the measures to prevent money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction were adopted;

Pursuant to Article 22 of Law 23 of 2015, amended by Article 123 of Law 21 of 2017, the Superintendency of Banks is authorized to supervise banks; trust companies, including any other activities they perform; finance companies; leasing companies; factoring companies; issuers or processors of debit, credit and pre-paid cards, whether natural persons or legal entities; entities issuing payment instruments and electronic money; remittance companies; exchange bureaus; the Banco de Desarrollo Agropecuario; the Banco Hipotecario Nacional and housing savings and loans corporations on the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction;

By means of Rule 12-2002 dated 11 December 2002, the criteria for imposing progressive penalties due to the late submission of Reports, Atoms, BAN tables and/or documents previously required by legal provisions or circulars and/or letters of the Superintendency were established;

By means of Rule 4-2014 dated 8 July 2014, the criteria applicable for imposing sanctions due to the late submission of information required by the Superintendency of Banks were updated;

By means of General Resolution SBP-RG-0002-2017 dated 18 May 2017, the requirements on the contents, form and frequency for the submittal of information to the Superintendency were updated;

By means of General Resolution SBP-RG-0003-2017 dated 22 August 2017, the information required to be submitted to the Superintendency by other regulated financial entities on the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction was established;

During its working sessions, the Board of Directors determined it necessary and advisable to amend Rule 4-2014 in order to establish a summary proceeding for imposing penalties for the late submission of information by banks and trust companies.

RESOLVES:

ARTICLE 1. Article 4 of Rule 4-2014 shall read:

“ARTICLE 4. SANCTIONS ORDERED BY LAW 23 OF 2015. With regard to delays in reporting information that must be submitted by banks, trust companies and other regulated entities to the Superintendency in accordance with Law 23 dated 27 April 2015 and its regulations, the penalties established in the above law and its regulations will be applied.”

ARTICLE 2. Article 4-A is added to Rule 4-2014 as follows:

“ARTICLE 4-A. PROCEDURE FOR IMPOSING PENALTIES DUE TO THE LATE SUBMISSION OF INFORMATION. For the purposes of Articles 2, 3 and 4 of this Rule, with regard to the late submittal of information, the Superintendency will impose the appropriate penalties in accordance with the following procedure:

1. The Quality Control Department (Bank support) of the Superintendency will send the bank, trust company or other regulated entities a prior notice, informing the entity of the beginning of the punitive process and will request explanations on the circumstances of the late submittal of information, along with which the entity may furnish and/or provide any documentation or evidence supporting their defense;

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2. Once the notice sent by the Superintendency is received, the bank, trust company or other regulated entity will have three (3) business days to provide the required explanations;
3. If the bank, trust company or other regulated entity does not provide the explanations within the three (3) business days following the submittal of the notice, the relevant penalty will be imposed;
4. Once the explanations sent by the bank, trust company or other regulated entity are received, the Superintendency of Banks, through the relevant Division, will evaluate whether these explanations are sufficient grounds to justify considering the late submittal of information a case of force majeure or a fortuitous case;
5. If the Superintendency of Banks deems the delay justified, it will inform the bank, trust company or other regulated entity by means of a letter;
6. If the Superintendency of Banks deems the delay not justified, he/she will impose the appropriate penalty by means of a Resolution, without the need for further proceedings;
7. The communications and notifications referred to in this Article (except for the final resolution) will be made by scanned letter (e-mail) submitted to the Compliance Officer or the person appointed by the bank, trust company or other regulated entity and directly in writing to the Superintendency.

The penalties due to late submittal may be appealed only for reconsideration.”

ARTICLE 3. Article 4-B is added to Rule 4-2014 as follows:

“ARTICLE 4-B. PROCEDURE FOR IMPOSING PENALTIES DUE TO SUBMITTAL OF INCORRECT INFORMATION. When the information is submitted with errors, the above procedure will be applied. During the time granted to provide explanations, the bank, trust company or other regulated entity may provide and/or furnish evidence.

In those cases in which the bank, trust company or other regulated entity justifies or remedies the deficiency in the time granted and the Superintendency accepts it, the entity will be informed by letter.

In those cases in which there is no justification for what the bank, trust company or other regulated entity did, the appropriate penalty will be imposed by means of a Resolution that will be served on that entity’s General Manager or registered agent, as may be the case.

This type of sanction due to delay may be appealed only for reconsideration.”

ARTICLE 4. ENACTMENT. This Rule shall become effective upon its enactment.

Given in the city of Panama on the twenty-first (21st) day of November, two thousand seventeen (2017).

FOR COMMUNICATION, PUBLICATION AND ENFORCEMENT.

THE CHAIRMAN,

THE SECRETARY,

Louis-Jean Montague Belanger

Nicolas Ardito Barletta