

**Republic of Panama
Superintendency of Banks**

RULE N°. 5-2020
(dated 9 June 2020)

“Whereby Articles 39, 41 and 42 of Rule 4-2013 on credit risk management inherent in credit portfolio and off-balance sheet transactions are 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 Article 5 (2) of the Banking Law, fostering favorable conditions for the development of the Republic of Panama as an international financial center is an objective of the Superintendency of Banks;

Pursuant to Article 11 (1)(2) of the Banking Law, approving general applicable standards for the definition and identification of credits to clients related among themselves or related to banks or to banking groups is a technical duty of the Board of Directors;

In accordance Article 11 (1)(5) 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;

The Board of Directors is authorized to defining and establishing the criteria for credit risk management including the processes and procedures that [banks] must comply with in each of its phases;

By means of Rule 4-2013 dated 28 May 2013 and its amendments, the provisions on credit risk management inherent in credit portfolio and off-balance sheet transactions were established;

Article 39 of Rule 4-2013 determined the valid collateral for the calculation of specific reserves, Article 41 provided also the valuation of collateral and Article 42 stipulated the current pledge value;

As a consequence of the effects of the COVID-19 global health pandemic, it is necessary to [establishing] measures to support the different sectors of the Panamanian economy, including micro and small businesses, which is why the National Government, through its institutions, is promoting different existing programs aimed at maintaining the economic stability of our country;

By means of Executive Decree 145 dated 9 April 2020, which amends Executive Decree 126 dated 23 June 2010 that regulated Law 72 dated 9 November 2009 [and] amended Law 8 dated 29 March 2000 and Law 33 dated 25 July 2020 on the Micro, Small and Medium Enterprise, were established new provisions in regards to the Micro and Small Business Financing Program (PROFIMYPE);

The Micro and Small Business Financing Program (PROFIMYPE) is a complementary guarantee program backed by the State and endorsed by the Guarantee Fund administered by the Micro, Small and Medium Enterprise Authority (AMPYME), for financing aimed at entrepreneurship and micro and small businesses;

For the Superintendency of Banks the Micro and Small Business Financing Program (PROFIMYPE) is of utmost importance, understanding that our duty as an entity of the Panamanian State is that the international banking center remains solid and contributes to the country's economy, especially in view of the current situation;

During the working sessions of the Board of Directors it determined it is necessary and advisable to amend Articles 39, 41 and 42 of Rule 4-2013 in order to add the letters of guarantee, issued by the Micro, Small and Medium Enterprise Authority (AMPYME) under the Micro and Small Business Financing Program (PROFIMYPE), as admissible collateral for the calculation of specific provisions to support the loans granted by banks to entrepreneurs and micro and small businesses that apply for said program.

RESOLVES:

ARTICLE 1. Article 39 of Rule 4-2013 dated 28 May 2013 shall read:

“ARTICLE 39. COLLATERAL. The following assets will be considered valid collateral for the calculation of specific reserves:

1. Pledged deposits in the same bank or in other banks;
2. Fixed and variable income securities traded in an active market;
3. Panamanian sovereign debt;
4. Fixed and variable income securities lacking an active market but whose estimated market value is feasible;
5. Sovereign debt traded in an active market;
6. Standby letters of credit, pledges, bonds, warranties, and irrevocable export/import letters of credit issued by banks;
7. Promissory notes with a discount code from the Social Security Fund;
8. Residential properties;
9. Commercial properties;
10. Land;
11. Land used exclusively for agricultural purposes;
12. Automobiles;
13. Cattle;
14. Agricultural products that can be fully identified by the bank;
15. Letters of guarantee issued by the Micro, Small and Medium Enterprise Authority (AMPYME) under the Micro and Small Business Financing Program (PROFIMYPE) that are included in the budget items endorsed by the Ministry of Economy and Finance (MEF).”

ARTICLE 2. Article 41 of Rule 4-2013 dated 28 May 2013 shall read:

“ARTICLE 41. ASSESSMENT OF COLLATERAL. On the date banks perform the assessment of property given in guarantee as risk mitigators, they must accept the prevailing market value as the basis. Banks granting loans must use conservative criteria (the lesser value showed in the appraisal report) consistently in calculating the liquidation value that would be obtained from disposing of those goods. The assessment must be made according to the type of goods, as described below:

1. **Mortgage on real property:**
 - a. In the case of loans granted for purchasing new homes, the market value of the property will be determined by a technical appraisal or by reference of the sale of a similar home in the development. Resale homes must have an updated appraisal made at the time the loan is established.
 - b. Banks must request an appraisal when:
 - b.1. Then loan value is going to increase.
 - b.2. A loan is classified in the substandard or following categories for the first time and there has not been an appraisal in the past year, the bank must request one.
 - b.3. In the foreclosure process on real property used as collateral, the appraisal must be no more than two years old. This term could be reduced if there is evidence of a decrease in real property values.

- c. The mortgage value of real property used as collateral must be supported by an appraisal of the property made by an expert independent of the owner and acceptable to the bank. Nevertheless, the bank can perform the appraisal on real property (1) whose market value is estimated to be below the maximum value approved for the preferential interest rate or (2) that is the subject of agricultural activities, as long as the bank has appropriate and well-documented methodologies.
- d. The provisions (b), (c) and (d) will be applied to commercial property. However, the appraisal must be renewed at least every 3 years.
- e. All restructuring must be accompanied by an appraisal made within the past year and acceptable to the bank. In those cases in which the bank has determined that there has been deterioration in the collateral for a loan, an appraisal must be conducted immediately.
- f. With respect to construction loans using the value of the land and improvements as collateral, the initial appraisal will include only the value of the land. The value of the collateral will be increased based on progress in the construction, certified in writing by a building inspector independent of the debtor or real estate developer and acceptable to the bank.
- g. Priority in assigning a value to mortgaged property: Second or subsequent mortgages will only be accepted as risk mitigators when the preceding mortgages are registered in favor of the bank granting the financing or any of the companies in its economic group. The residual value is the value resulting from deducting the balance of credit on the preceding mortgages from the market value established by the most recent appraisal.

Property listed in Article 42 herein with a second mortgage in other banks will be accepted as collateral as long as the collateral has a residual value and twenty (20) basis points are deducted from the coefficient established on the chart in Article 42.

2. **Personal property:**

The value of personal property pledged as collateral will be equivalent to the value established in the insurance policy covering the property.

3. **Pledged bank deposits:**

The value of pledged bank deposits will be lesser than the loan balance and the pledged deposits.

4. **Securities:**

- a. Sovereign debt, as well as financial instruments from commercial and state entities, will be accepted at their market value.
- b. The assessment of collateral on cattle must be backed by an appraisal or certification of value of the property given in guarantee, conducted by persons independent of the debtor and acceptable to the bank. Nevertheless, the appraisal of cattle can be conducted by the bank itself, as long as it has appropriate and well-documented methodologies.
- c. No secondary warranties will be permitted on the use of agricultural property or cattle as collateral.

5. **Other collateral:**

- a. Standby letters of credit, warranties, sureties and endorsements, as well as irrevocable letters of credit issued by banks, insurance or reinsurance companies and the assignment of promissory notes with discount codes will be accepted at market value. For the purpose of this Rule, these

warranties will not be accepted if they are issued to the bank by an entity in its own economic group to guarantee obligations of a third entity of the same group.

- b. Warranty trust funds will be considered as risk mitigators as long as they are among the assets established in Article 42.
- c. Promissory notes with deduction codes from the Social Security Fund will be acceptable for retirees and pensioners to cover the balance of the obligation they are guaranteeing.
- d. Letters of guarantee issued by the Micro, Small and Medium Enterprise Authority (AMPYME) under the Micro and Small Business Financing Program (PROFIMYPE) that are included in the budget items endorsed by the Ministry of Economy and Finance (MEF).

This guarantee may be accepted by banks certified as Financing Entities (EFIN, for its acronym in Spanish) at the Micro, Small and Medium Enterprise Authority (AMPYME), provided that both the bank, certified as EFIN, and the applying customer have fully complied with all the conditions established by AMPYME.

The percentage covered by the guarantee is the result of the application of the limits established by the Micro, Small and Medium Enterprise Authority (AMPYME). The collateral is made up of the enterprise classification and the economic activity defined by AMPYME.

The guarantee granted by AMPYME is decreasing in proportion to the principal payments received, which will cover up to a maximum of 90% of the balance owed on the loan value. For the purposes of the assessment of collateral as risk mitigators, the guarantee will be recognized in accordance with the provisions of Article 42 of Rule 4-2013.”

ARTICLE 3. Article 42 of Rule 4-2013 dated 28 May 2013 shall read:

“ARTICLE 42. CURRENT PLEDGE VALUE. For the calculation of the specific provisions under the international financial reporting standards and the principles of the prudential valuation, it is necessary to take into consideration the time value of cash and the uncertainty of the actual cash value of liquidated collateral, as well as recovery costs. In this regard, and for the purposes of calculation the provisions established in Article 34, the current values established in the chart below must be applied:

Pledge	Current Value
1. Deposits in the bank itself or in other banks, be they pledged or given as trust funds.	100% of the pledged amount
2. Fixed or variable income securities traded in active markets.	70% of market value
3. Panamanian sovereign debt.	90% of market value
4. Fixed or variable income securities lacking an active market.	50% of market value
5. Sovereign debt traded in an active market.	70% of market value
6. Standby letters of credit, warranties, sureties, endorsements and irrevocable export/import letters of credit issued by banks	90% of nominal value
7. Cession of promissory notes with a discount code from the Social Security Fund	85% of promissory note value
8. Residential real property.	70% of market value
9. Commercial real property.	60% of market value

Pledge	Current Value
10. Land.	50% of market value
11. Land use exclusively for agricultural purposes.	50% of market value
12. Personal property (mortgages on private automobiles).	50% of market value
13. Cattle.	75% of market value
14. Agricultural products properly identified by the bank.	40% of market value
15. Letters of guarantee issued by the Micro, Small and Medium Enterprise Authority (AMPYME) under the Small Business Financing Program (PROFIMYPE) that are included in the budget items endorsed by the Ministry of Economy and Finance (MEF).	50% of the amount guaranteed by AMPYME

These coefficients are based on empirical evidence and financial analysis that correspond to non-stressed market situations. The coefficients may be reviewed and modified by the Superintendency of Banks both because of the existence of new empirical evidence and because an increase in liquidity risk is detected for the cash execution of guarantees.”

ARTICLE 4. ENACTMENT. This Rule shall enter into effect upon its promulgation.

Given in the city of Panama on the ninth (9th) day of June, two thousand twenty (2020).

FOR COMMUNICATION, PUBLICATION AND ENFORCEMENT.

THE CHAIRMAN,

THE SECRETARY,

Joseph Fidanque III

Nicolás Ardito Barletta