

**Republic of Panama  
Superintendency of Banks**

**RULE N°. 6-2020**  
(dated 16 June 2020)

**“Whereby Rule 1-2016 on the ACH settlement and fund availability 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 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 (II)(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;

By means of Rule 1-2016 dated 26 January 2016, the Superintendency provided the general guidelines on ACH settlement and funds availability;

Articles 2, 3 and 4 of Rule 1-2016 provide that by 5:15 p.m. banks must ensure that the amount necessary to cover the day's ACH operations is deposited in the settlement account, and that no later than 6:00 p.m. on the same day, Banco Nacional de Panamá will settle the net position of ACH transactions for banks to release and make the funds available no later than 6:30 p.m. the same day, according to the cutoff schedule informed to customers;

By means of Resolution 176-2019-JD dated 8 October 2019, the Board of Directors of Banco Nacional de Panamá approved the Real-time Gross Settlement System (RTGS) Regulations that sets forth the operation of payment clearing and settlement systems;

Pursuant to General Resolution SBP-RG-0191-2019 dated 14 October 2019, the Superintendency adopted the measures that banks must implement to participate in the Real-time Gross Settlement System, in order to comply with the technical and operational requirements set by the Clearing House of Banco Nacional de Panamá (BNP), within the corresponding parameters and deadlines;

In response to the processes involved in the implementation of the Real-time Gross Settlement System (RTGS), the Clearing House of Banco Nacional de Panamá (BNP) by means of Circular (20(21000-03), dated 28 May 2020, informed member banks on the adoption of the new cutoff, clearing and settlement process for the daily scheduled sessions that would be implemented for the ACH service;

During the working sessions of the Board of Directors it determined it is necessary and advisable to amend Rule 1-2016 so that the periods for clearing, settlement and releasing of ACH transaction funds are adapted to the new processes implemented by the Clearing House of Banco Nacional de Panamá (BNP)

**RESOLVES:**

**ARTICLE 1.** Article 2 of Rule 1-2016 shall read:

**“ARTICLE 2. PERIOD FOR THE REMITTANCE OF FUNDS TO THE ACH SETTLEMENT ACCOUNT IN BANCO NACIONAL DE PANAMÁ.** Banks must make sure to monitor the position of ACH transactions made during the day, in order to have the required funds available to meet the ACH settlement process of daily transactions.

To comply with the foregoing, banks must remit any shortage they have in their ACH position to the Special Settlement Account in Banco Nacional de Panamá as soon as possible, when the balance of this account does not cover the ACH shortage. For such purposes, banks must apply appropriate and effective procedures to enable them to deposit the necessary amount in the account to cover the transactions for that day. The account must receive these funds before 10:15 a.m., 1:00 p.m. and 5:00 p.m. local time, according to the scheduled session.

Banks and banking agencies receiving settlement services must make sure they remit the funds to their servicing bank’s account.”

**ARTICLE 2.** Article 3 of Rule 1-2016 shall read:

**“ARTICLE 3. SETTLEMENT PERIOD.** Banco Nacional de Panamá will settle the net position of ACH transactions using the Settlement accounts that banks have in Banco Nacional de Panamá for such purposes. This settlement will be conducted no later than 11:00 a.m., 1:45 p.m. and 5:45 p.m. on the same day, according to the scheduled session.

The Clearing House of Banco Nacional de Panamá should notify the settlement of the relevant funds through the necessary means. Should a bank does not have the necessary funds to settle its ACH position for the day, the Clearing House will notify banks before the release time, so that they may take appropriate measures.”

**ARTICLE 3.** Article 4 of Rule 1-2016 shall read:

**“ARTICLE 4. AVAILABILITY AND RELEASE OF ACH TRANSACTION FUNDS.** In the case of general license banks, the funds for both credit and debit ACH transactions must be made available immediately, once the settlement is made at the Clearing House of Banco Nacional de Panamá. As a result, the release and availability of funds from ACH transactions must be made by 11:00 a.m., 1:45 p.m. and 5:45 p.m. on the same day, according to the scheduled session.

For international license banks or general license banks receiving settlement services through other banks, the funds for both debit and credit ACH transactions must be made available immediately, once the bank providing settlement services confirms the availability of the funds.

Each bank is responsible for informing its customers of the latest cutoff time for ACH transactions to be effective and available on the same day.”

**ARTICLE 4. ENACTMENT.** This Rule shall enter into effect on 22 June 2020.

Given in the city of Panama on the sixteenth (16<sup>th</sup>) day of June, two thousand twenty (2020).

**FOR COMMUNICATION, PUBLICATION AND ENFORCEMENT.**

**THE CHAIRMAN,**

**THE SECRETARY,**

Joseph Fidanque III

Nicolás Ardito Barletta