

REPUBLIC OF PANAMA SUPERINTENDENCY OF BANKS

RULE N.º 4-2021
(dated 19 October 2021)

“Whereby Article 2 is amended and Article 14-A is added to Rule 1-2004”

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 Article 5 (1) and (2) of the Banking Law, safeguarding the soundness and efficiency of the banking system and strengthening and fostering favorable conditions for the development of the Republic of Panama as an international financial center are objectives of the Superintendency of Banks;

Pursuant to Article 11 (I)(5) of the Banking Law, establishing the administrative interpretation and scope of the legal provisions and regulations on banking matters is among the technical duties of the Board of Directors;

Pursuant to Article 16 (I)(7) of the Banking Law, authorizing the acquisition or transfer of banks, bank holding companies or banking groups stocks when, as a result of the acquisition, the buyer or persons related to the buyer will become total or majority owners or will acquire a controlling interest, as defined by the Superintendency, is among the technical duties of the Superintendent;

Pursuant to 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;

Rule 1-2004 dated 29 December 2004 provides the guidelines for the acquisition or transfer of bank stocks, as well as the merger or consolidation of any bank or banking economic group of which the bank is part;

When granting a loan or credit facility, the owner of bank stock or the bank holding company may offer them as collateral to guarantee the fulfillment of said obligations, in which case, a lien is imposed on said stocks, which may imply the transfer to the creditor of the ownership or control of these stocks, including restrictions on the rights arising from them;

The breach of a credit obligation guaranteed with banks or bank holding company stocks is a probable event, which would give the creditor the right to dispose of said stocks for the payment of the credit; as a result, these stocks are compromised when their ownership is transferred to the creditor or to a third party. In such circumstances, it is the responsibility of the Superintendency to know the different operations that the bank stockholders make on them with third parties;

During its working sessions, the Board of Directors determined it was necessary and advisable to amend Article 2 and to add Article 14-A to Rule 1-2004 to establish certain guidelines regarding the transfer and acquisition of bank or bank holding company stock.

RESOLVES:

ARTICLE 1. Article 2 of Rule 1-2004 dated 29 December 2004 shall read:

ARTICLE 2. AUTHORIZATION BY THE SUPERINTENDENT FOR THE ACQUISITION OR TRANSFER OF STOCKS. Transfers of banks and economic groups stocks of which banks are part, as well as any modification in stockholders' participation in the equity of said banks, shall require prior authorization by the Superintendent, pursuant to the provisions set forth in this Rule, when this action causes a Change in Control, there exists a concerted action causing a Change in Control (as defined hereinafter), or an acquisition of Significant Interference (as defined hereinafter).

Any transfer of banks and economic groups stocks, of which banks are part, as well as any modification in stockholders' participation in the equity of said banks, even if this does not cause a Change in Control or Significant Interference, must be notified to the Superintendency of Banks in advance. This notification must be made by the bank and the documentation described in Article 7 (3), (4), (5), (6), (11), and (14) herein must be attached to said notification, as applicable, for any natural or legal person.

ARTICLE 2. Article 14-A is added to Rule 1-2004 dated 29 December 2004 as follows:

ARTICLE 14-A. ACQUISITION OF BANK STOCKS AS COLLATERAL. Any loan or credit facility operation involving the constitution of collateral on the bank or bank holding company common stocks must be notified to the Superintendency of Banks by the bank whose stocks will be the object of the credit collateral.

For such purposes, the bank, in its internal policies, must require its stockholders to notify their intention to use the bank or bank holding company common stocks, as collateral for a loan or credit facility operation with another bank or with any other creditor to ensure compliance with the provisions of the preceding paragraph.

Pursuant to the provisions of Article 94 of the Banking Law, banks are prohibited from granting loans or credit using their own stock or their holding company stock as the sole collateral.

ARTICLE 3. This Rule shall become effective upon its promulgation.

Given in Panama City on the nineteenth (19th) day of October, two thousand twenty-one (2021).

FOR COMMUNICATION, PUBLICATION AND ENFORCEMENT.

THE CHAIRMAN,

Luis Alberto La Rocca

THE SECRETARY,

Rafael Guardia Pérez