

Republic of Panama Superintendency of Banks

RULE No. 4-2023
(Dated 13 June 2023)

“Whereby Article 10-A is added to Rule 7-2015, dated 9 June 2015”

THE BOARD OF DIRECTORS
in the exercise of its legal powers and,

WHEREAS:

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

Upon Article 5(1) of the Banking Law, safeguarding the soundness and efficiency of the banking system is an objective of the Superintendency of Banks,

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

Upon Article 114 of the Banking Law, each bank must adopt policies, practices, and procedures that allow them to know and identify its clients with the greatest certainty possible, as part of the process to prevent money laundering, terrorism financing, financing the proliferation of weapons of mass destruction, and related offenses, and in accordance with the relevant standards adopted by the Superintendency,

Upon Law 23, dated 27 April 2015, the measures for preventing money laundering, terrorism financing, and financing the proliferation of weapons of mass destruction were adopted,

Upon Article 22 of Law 23 of 2015, the Superintendency of Banks is mandated to supervise matters related to anti-money laundering, terrorism financing, and financing the proliferation of weapons of mass destruction in financial reporting entities, including: banks; trust companies and any other activities they may engage in; finance companies; leasing companies; factoring companies; credit, debit, and pre-paid card issuers and processors, whether they are natural persons or legal entities; and payment means and electronic money issuers;

Upon Rule 5-2015, dated 26 May 2015, the guidelines for preventing the misuse of services rendered by other reporting entities under the supervision of the Superintendency of Banks are established,

Upon Article 17 of Rule 5-2015, the Superintendency of Banks will establish a Rule providing examples of transactions that require close attention by reporting entities to determine, along with other analytical elements, whether they constitute transactions that could be related to money laundering and/or terrorism financing,

Upon Rule 7-2015, dated 9 June 2015, the Superintendency established a catalog of red flags for financial reporting entities to detect suspicious transactions related to money laundering, terrorism financing, and financing the proliferation of weapons of mass destruction,

Upon Rule 10-2015, dated 27 July 2015, the Superintendency established guidelines for preventing the misuse of banking and trust services,

Upon Article 31 of Rule 10-2015, the Superintendency of Banks will, from time to time, modify the catalog of red flags issued, which must be closely observed by banks and trust companies to determine, along with other elements for analysis, whether they are suspicious transactions that may be related to money laundering and/or terrorism financing,

Upon Law 242, dated 13 October 2021, the Republic of Panama regulates the therapeutic and medicinal use of cannabis and its derivatives and prescribes other provisions,

Upon Article 14 of Law 242 of 2021, the Ministry of Health will be the competent authority to issue licenses for the Manufacturing of Medicinal Cannabis Derivatives and for the Scientific Research of Medicinal Cannabis to legal entities that are engaged in said activities for the therapeutic and medicinal use of cannabis and its derivatives,

Upon Article 77 of Law 242 of 2021, the Superintendency of Banks will develop mandatory rules to facilitate the activities authorized by said law,

Upon the issuance of Executive Decree 121, dated 1 September 2022, the Executive Branch regulated Law 242 of 2021. Through this Executive Decree, the provisions of the Law will be developed to facilitate its implementation and compliance with the objectives of said Law,

The principle of contractual autonomy in financial matters allows each reporting entity to establish general policies and procedures for access to its different financial products and services and must maintain at all times adequate risk management consistent with the operation and financial services provided to prevent them from being conducted with funds or involving funds coming from activities related to the crime of money laundering, terrorism financing, and financing the proliferation of weapons of mass destruction,

During its working sessions, the Board of Directors determined it was necessary and advisable to implement a catalog of red flags for legal entities authorized to develop activities related to the therapeutic and medicinal use of cannabis and its derivatives established by Law 242 of 2021.

RESOLVES:

ARTICLE 1. Article 10-A is added to Rule 7-2015, dated 9 June 2015, as follows:

“ARTICLE 10-A. RED FLAGS RELATED TO LEGAL ENTITIES AUTHORIZED TO CONDUCT ACTIVITIES PERMITTED BY LAW 242 OF 2021. Reporting entities must pay special attention to the following behavioral patterns or measures adopted by legal entities authorized by Law 242 of 2021 to develop activities related to the manufacturing of Medicinal Cannabis Derivatives and the scientific research of medicinal cannabis:

1. The legal entity authorized to engage in the activities established by Law 242 of 2021 shows indications that it is using its activity for purposes other than those authorized, when:
 - a. Receiving income substantially higher than reasonably expected for the authorized activity,
 - b. Receiving income substantially higher than its local competitors,
 - c. Depositing more cash than the amount corresponding to the income related to the authorized activity that declares the purpose of national taxes,
 - d. Cannot demonstrate that its income results from the authorized activity, pursuant to Law 242, dated 13 October 2021 and its regulations,
 - e. Depositing or withdrawing excessive cash during a short period compared to the company's expected activity,
 - f. Making apparently structured deposits to avoid the requirements of declaring cash or quasi-cash transactions of ten thousand balboas (B/.10,000.00) or higher, established in Article 11 of Rule 5-2015 and Article 24 of Rule 10-2015,
 - g. Making swift fund movements, such as cash deposits followed by immediate cash withdrawals,
 - h. Receiving deposits from third parties without an apparent relationship with the accountholder,

- i. Mixing excessive funds with the company owners' or managers' accounts or with apparently unrelated ventures' accounts,
 - j. Persons making transactions for the company are apparently acting on behalf of undisclosed stakeholders,
 - k. The figures recorded in the financial statements provided by the company to the financial institution are inconsistent with the account's actual activity and its commercial activity.
2. The legal entity cannot provide documentation or satisfactory evidence to demonstrate that it holds the license and is operating in accordance with the law,
3. The legal entity cannot demonstrate the legitimate source of significant external investments,
4. Negative information is disclosed, such as criminal records, involvement in the illegal purchase or sale of drugs, violence, or other potential links to illegal activities, of the company, its owner(s), or other related parties,
5. The company, its owner(s), manager(s), or other related parties are or have been subjected to enforcement actions by the authorities controlling and overseeing the use of medicinal cannabis or the authorities responsible for administering or enforcing laws related to the crimes of money laundering or drug-related crimes,
6. International wire transfers from or to countries where this activity is not regulated,
7. Clients having a business relationship with countries where the activity of using and producing cannabis is illegal or not regulated.

ARTICLE 2. EFFECTIVE DATE. The provisions herein shall become effective upon enactment.

Given in Panama City this thirteenth (13th) day of June, two thousand twenty-three (2023).

FOR COMMUNICATION, PUBLICATION, AND ENFORCEMENT.

THE CHAIRMAN,

THE SECRETARY,

Felipe Echandi Lacayo

David Alberto Davarro