

February 28, 2020
Circular N° SBP-DJ-0032-2020

General Manager

Subject: Customer's freedom in contracting insurance policies

Dear General Manager:

The Superintendency of Banks hereby reiterates to the banks of the market that they must take the necessary measures to ensure the customer's right to choose the insurance company they prefer to contract the insurance policies required for a banking operation.

Please be reminded that the Superintendency has already issued circulars on this matter to inform banks of the customer's freedom in contracting insurance policies (for further reference see Circulars 5-98, 6-2003, 65-2006, 22-2007, 51-2007, and 72-2018 available on our website: <https://www.superbancos.gob.pa/en/laws-and.reg/circulars>).

In connection with the above, a few days ago the Superintendent of Insurance and Reinsurance sent us a letter by means of which he shared with us that, by means of Circular SSRP-008-2020 dated February 10, 2020, he reminds its supervisees the contents of Law 12 of 2012, specifically regarding the freedom that people have in contracting insurance policies.

Therefore, it is convenient to reiterate the definition previously announced by the Superintendency, indicating the provisions of Articles 150 and 151 of the aforementioned law that regulates the insurance activity:

“Article 150. Freedom of contracting. All individuals and legal entities have the freedom to contract insurance policies directly from the insurance companies or through insurance brokers, insurance policy sellers, insurance executive accounts or through trading channels authorized herein, as well as the insurance type, the premium, the general and specific conditions and any other specific requirements.

The customers of private and state-owned banks, finance companies, trust companies, cooperatives and car dealers will be free to choose and appoint their insurance companies, insurance policy sellers and insurance brokers (whether individuals or legal entities) in transactions that require contracting any type of insurance policy.

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*“**Article 151.** Option to be affiliated with a group insurance policy and option to terminate the individual policy. The customers of private and state-owned banks, finance companies, trust companies, cooperatives and car dealers are also free to choose to be affiliated with the entity’s group insurance policies or to submit an equivalent individual insurance policy. The customers that chooses to be affiliated to the existing group insurance policies must adhere to all of the contractual conditions previously agreed on by the entity; however, if the customer chooses to contract an individual insurance policy, he/she may not condition the transfer of an insurance policy from an insurance company to said entity to surcharges or special conditions in detriment of the insured party. At no time may choosing an individual insurance policy be penalized with surcharges or any conditions unfavorable to the insured.*”

The Superintendency will repeal any provision contrary to the provisions herein.”

On the other hand, we deem appropriate to remind banks of the “Abusive Practices” provided for in Article 11 (a) of Rule 4-2011, amended by means of Rule 4-2016 “Whereby the rules for the collection of certain fees and surcharges applied by banks are provided” as follows:

*“**Article 11. ABUSIVE PRACTICES.** The following will be considered abusive practices by banks and shall not be included in banking contracts or applied in bank-client relationships:*

- a. A bank condition requiring the client to choose or appoint insurance companies related to the bank or the banking group, for any insurance policy required for the execution of a transaction with the bank;*
- b. ...”*

We would greatly appreciate your providing your staff with the necessary instructions for compliance with the provisions herein.

Best regards,

Amauri A. Castillo
Superintendent

/njgl