



Republica de Panamá
SUPERINTENDENCIA DE BANCOS

AGREEMENT No. 6-2001

(of December 3, 2001)

THE BOARD OF DIRECTORS

in its use of its legal authority, and

WHEREAS

That, according to Numeral 2 of Article 5 of Law Decree No. 9 of February 26, 1998, it is a function of this Superintendency of Banks, to strengthen and promote the proper conditions for Panama's development as an International Financial Center;

That, according to Numeral 7 of Article 16 of Law Decree No. 9 of February 26, 1998, the Board of Directors of the Superintendency of Banks must set, in the administrative field, the interpretation and scope of the legal or ruling provisions in banking matters;

That, according to Numeral 3 of Article 5 of Law Decree No. 9 of February 26, 1998, the Superintendency will have, among other goals, the purpose to promote public trust in the banking system;

That, according to Numeral 28 of Article 17 of Law Decree No. 9 of February 26, 1998, it is a function of the Superintendent to make sure the Banks provide their customers with information that guarantees the greater transparency in the banking operations;

That, according to Article 140 of Law Decree No. 9 of February 26, 1998, it is a function of the Superintendency to develop, set the direction, scope and interpretation of the norms on the Protection of the Banking Services User.

That, in work sessions of this Board of Directors with the Superintendency of Banks, the need and convenience has been expressed of adopting steps to determine the competence of the Protection of the Banking Services User.

That in virtue of Resolution No. 2 of March 6, 2001, the Superintendency of Banks delegated in the Chief of the Department of Protection to the User of the Banking Services of the Legal Executive Office, the responsibility, authority and competency to resolve the complaints and/or accusations of the users of the banking system, to impose fines for infringement of the Banking Law; to summons or call the parties for holding the audiences according to what is established in Law 29 of February 1, 1996.

AGREES

ARTICLE 1: COMPETENCE. The Department of Protection to the User of the Banking Services of the Legal Executive Office of the Superintendency of Banks will deal with the complaints and/or accusations, individual or collective, presented by users about irregularities in providing the banking services received from the Suppliers.

ARTICLE 2: PRESENTATION OF A COMPLAINT AND/OR ACCUSATION. The complaints and/or accusations will be presented personally, in verbal form or in writing, to the Department of Protection to the User of the Banking Services of the Legal Executive Office of the Superintendency of Banks.

ARTICLE 3: PREPARATION OF MINUTES. Any complaint and/or accusation formulated verbally, will lead to the preparation of minutes, which must consist of the following:

1. General information of the complainer and/or accuser, which must include his data for the purposes of personal notification;
2. Designing the Supplier;
3. Detail of the facts that form the basis for the complaint and/or accusation;
4. Any other requirement by the Department of Protection to the User of the Banking Services of the Legal Executive Office of the Superintendency of Banks.

In any case, the complainer and/or accuser must present a photocopy of his personal legal identification and of the documents he possesses related to the facts on which the complaint is based.

ARTICLE 4: SELF-REPRESENTATION. The users and suppliers can represent themselves in the process, for this reason it is not necessary to designate an attorney.

ARTICLE 5: REPRESENTATION BY A THIRD PARTY OR ATTORNEY. In case any of the parties wants to be represented by a third party or an attorney, they must present a Power of Attorney properly granted before a Notary. This representative or third party must report and support the claim of the represented party and the facts on which the claim is based.

ARTICLE 6: ACCEPTANCE RULING OF THE COMPLAINT AND/OR ACCUSATION. The Department of Protection to the User of the Banking Services of the Legal Executive Office of the Superintendency of Banks will review the documents supporting the facts and the presented documentation and if everything is in due order, will dictate the place ruling, receiving the complaint and/or accusation, requesting the appropriate banking entity the necessary explanations and the pertinent documentation.

ARTICLE 7: REJECTION, CORRECTION AND COMPETENCE DECLINING RULING. In the cases when the documents supporting the facts and the presented documents are not in due order, the Department of Protection to the User of the Banking Services of the Legal Executive Office of the Superintendency of Banks will dictate a ruling, ordering the appropriate correction.

In cases when claims are made that are not of the competence of the Department of Protection to the User of the Banking Services of the Legal Executive Office of the Superintendency of Banks, a ruling will be given rejecting the request, and in the event that it is competence of another institution or instance, a ruling will be given declining the knowledge of the claim to that institution or instance.

ARTICLE 8: FILE OF THE COMPLAINT AND/OR ACCUSATION. Any complaint admitted will give place to the creation of a file properly numbered and foliated.

ARTICLE 9: ACCESS TO THE FILES. The files can only be examined by the parties, their representatives or third parties that prove their interests or that may be affected in the mentioned process.

ARTICLE 10: DETACHMENT. The parties will not be able to withdraw any documents from the file, unless they request its detachment, for which they must fulfill the following:

1. The interested party must request it in writing;
2. Being authorized by the public officer in charge of the Department of Protection to the User of the Banking Services of the Legal Executive Office of the Superintendency of Banks;
3. The document to be broken down must be replaced by a photocopy, properly compared and authenticated.

ARTICLE 11: REQUIREMENTS TO THE BANKING ENTITY AS A CONSEQUENCE OF THE COMPLAINT AND/OR ACCUSATION. The Department of Protection to the User of the Banking Services of the Legal Executive Office of the Superintendency of Banks will request, by an Official Notice, a report to the banking entity, which must be presented in a time period not greater than ten (10) working days, counted from the day of the Official Notice of request. This time period can be extended, at the Bank's request, up to an additional term of ten (10) working days, if there is a justified cause in the Superintendency's judgment.

ARTICLE 12: AVAILABILITY OF THE BANK INFORMATION. Once a response to the Official Notice of request has been received from the Bank, the information added to the file will be made available to the user. If the user is in disagreement with the Bank's response, he will have a time period of ten (10) working days to express it, extendable, at the party's request, up to an additional term of ten (10) working days, if there is a justified cause in the Superintendency's judgment; otherwise, the process will be considered terminated and the corresponding file will be archived.

ARTICLE 13: INFORMATION EVALUATION. The Department of Protection to the User of the Banking Services of the Legal Executive Office of the Superintendency of Banks, after evaluating the documentation containing the charges and discharges, will order, if it is required, for an Act of Conciliation to be held between the user and the banking entity.

ARTICLE 14: ACT OF CONCILIATION. The Department of Protection to the User of the Banking Services of the Legal Executive Office of the Superintendency of Banks, will dictate a ruling pointing out the holding of an Act of Conciliation, which will be notified to the parties by an Official Notice to the address given in the file, in a time period not less than five (5) working days before, unless the parties agree to hold an Act of Conciliation in a specific date in coordination with the department. When, in that sense, the parties agree to a previous date to hold the diligence, they must notify the Superintendency previously in writing.

ARTICLE 15: OBLIGATION TO APPEAR. The parties are in obligation to appear the day and hour scheduled to hold the Act of Conciliation.

ARTICLE 16: HOLDING THE ACT OF CONCILIATION. The Act of Conciliation will be held with both parties in the date and hour scheduled. In the event that one of the parties cannot assist in the given date, he will justify his absence, notifying it at least two (2) working days before the date of the Act of Conciliation, so that the second notice can be scheduled and notified.

ARTICLE 17: SECOND NOTICE OF ACT OF CONCILIATION. If on the date of the second notice for holding the Act of Conciliation the banking institution does not assist, it will be considered in contempt of court. This does not imply the termination of the process, and the Department of Protection to the User of the Banking Services of the Legal Executive Office of the Superintendency of Banks, will schedule a new date for holding the Act of Conciliation.

In case the user does not assist to the holding of the Act of Conciliation, it will be considered as a withdrawal of the complaint, and for this reason the conciliation process will be considered terminated, ordering the closing of the complaint and archiving the file.

ARTICLE 18: DEVELOPMENT OF THE ACT OF CONCILIATION. The Act of Conciliation will be developed orally. The facilitator will inform the parties what the Law provides to the effect, and will try to reconcile them, in order to propitiate a friendly agreement between them, for which he will have all the authority to take any steps that are necessary.

ARTICLE 19: EXPOSING TIME IN THE ACT OF CONCILIATION. In the Act of Conciliation, the parties must expose their arguments, charges and discharges in a precise, concise and truthful way, for which they will have a time period of no less than five (5) minutes and no more than twenty (20) minutes for their presentation.

ARTICLE 20: BEHAVIOR DURING THE ACT OF CONCILIATION. In the development of the Act of Conciliation, the parties must behave with loyalty, integrity, decency, morality and respect, under penalty of:

1. The suspension and cancellation of the Act of Conciliation, if the fault is committed by the party that made the complaint;
2. Written reprimand or fine imposition for lack of cooperation in the fulfillment of the laws, if the fault is committed by the representative of the banking institution.

ARTICLE 21: CLOSING THE ACT OF CONCILIATION. Once the Act of Conciliation is over, the Department of Protection to the User of the Banking Services of the Legal Executive Office of the Superintendency of Banks, will prepare the minutes, which must state:

1. The parties that intervened, User-Supplier;
2. Charges or facts that were the basis of the claim;
3. Discharges or facts that were the basis of the defense of the supplier;
4. Development of the Act of Conciliation;
5. Warn that the parties could access other judicial instances, in the event that they can not reach a satisfactory agreement;
6. Signature of the parties that intervened in the Act of Conciliation, as evidence of their participation and formal notification.

ARTICLE 22: ABOUT THE ACTS. All the acts that take place in the development of a claim, complaint and/or accusation will be done in writing, except for the Act of Conciliation.

ARTICLE 23: INFRINGEMENT OF THE LAW. If in any stage of a claim, complaint and/or accusation the Superintendency of Banks determines that in relation to said claim, complaint and/or accusation, the Bank has infringed what is provided in the banking law or its regulation, the appropriate sanction will be applied.

ARTICLE 24: ABOUT THE SANCTIONS. The sanction that this department orders and applies, will be done according to what is established in the pertinent norms of Law Decree No. 9 of February 26, 1998 and its respective regulations (Agreements, Resolutions, Memoranda, etc.).

ARTICLE 25: ARCHIVE OF THE FILES. The files will be kept in the Department of Protection to the User of the Banking Services of the Legal Executive Office of the Superintendency of Banks. Once the claim, complaint and/or accusation has been closed, and the procedure is concluded, the order will be given to archive the respective file, which will be sent to the archives of the institution.

ARTICLE 26: STATUTE OF LIMITATION TO MAKE A CLAIM, COMPLAINT AND/OR ACCUSATION: One (1) year is the time that must elapse to appeal to this instance to make a claim, complaint and/or accusation. This term will be counted from the date of termination of the contractual relation between the parties.

ARTICLE 27: Validity. This Agreement will be in force from its publication in the Official Gazette.

Given in the city of Panama, on December three (3), two thousand one (2001).

THE PRESIDENT

Felix B. Maduro

THE SECRETARY

Jorge W. Altamirano-Duque M.