

Republic of Panama
Superintendency of Banks

RULE N°. 4-2011¹
(dated 4 May 2011)

“Whereby the rules for the collection of certain fees and surcharges applied by Banks are provided”

THE BOARD OF DIRECTORS
In use of its legal powers, and

WHEREAS

Due to the issuance of Law 2 of 22 February 2008, the Executive Branch systematically ordered in the form of a Sole Text the Decree Law 9 of 1998 and all its amendments, which was approved by means of Executive Decree 52 of 30 April 2008, hereinafter referred to as the Banking Law;

According to number 5 of article 11 of the Banking Law, it is the duty of the Superintendency of Banks to establish, within the administrative sphere, the interpretation and reach of the legal provisions or regulations on banking matters;

In accordance with number 19 of article 16 of the Banking Law, the Superintendent of Banks is responsible for ensuring that banks provide to their customers with information that will assure the utmost transparency in banking operations;

According to article 192 of the Banking Law, banks have the obligation to provide their services to their bank clients with transparency, probity, and equity in conformity with the norms and principles of Title V of the Banking Law;

Article 196 of the Banking Law establishes that banking contracts should contain, at least, a detailed description of the contracted services and of the amounts that will be charged to the bank client, indicating the reason for the charge and its amount or estimate in monetary terms, and also the manner and timing in which the bank will communicate to the bank client any changes or modifications to the terms and conditions agreed upon in the contract;

In the working sessions of this Board of Directors, was mentioned the need and convenience of establishing the rules for the collection of certain fees and surcharges applied by banks.

RULES

ARTICLE 1. SCOPE OF APPLICATION. The provisions of this Rule shall be applicable to all state-owned and general license banks, as well as to the domestic businesses of general license banks.

ARTICLE 2. DETERMINATION OF FEES AND SURCHARGES APPLIED BY BANKS. Banks may freely determine the amount for the fees and surcharges to be applied to their lending and deposit operations, as well as to the service rendered by them, but subject to the provisions set forth in this Rule.

In no case they shall apply for service fees or charges that were not expressly agreed upon or requested by the client. The applied fees or charges shall be collected for services rendered or expenses incurred by the bank.

ARTICLE 3. LIMITATIONS TO BANKING CONTRACTS. Banking contracts shall not contain clauses or stipulations that may waive, lessen or limit the banks' liability while meeting the obligations enshrined in Article 193 of the Banking Law neither clauses that may reduce or limit the bank clients' rights enshrined in Article 194 of the Banking Law or those clauses that may contravene other prohibitions or limitations previously established by the Superintendency of Banks in the current legal framework.

¹ Amended by Rule 4-2016 dated 29 March 2016, which shall enter into force on 1 August 2016.

ARTICLE 3-A². ADDING RULES FOR THE COLLECTION OF FEES AND SURCHARGES IN BANKING CONTRACTS. Banks must include in their banking charges, or in a separate document that must be provided to the bank customer, the guidelines on the collection of fees and surcharges on lending and deposit operations.

Regarding the transaction or service, the bank must comply with the provisions herein, adding the prohibition on fees and surcharges established in Rule 4-2016. For example, when dealing with consumer, agricultural or home mortgage loans, the contract must establish that no fee shall be applied any fee for advance cancellation or additional payments, in accordance with the guidelines established in subparagraph “e” of Article 5 herein.

ARTICLE 4. RULES FOR THE COLLECTION OF CERTAIN FEES OR SURCHARGES WHILE PERFORMING DEPOSIT OPERATIONS. Regarding the provisions contained in Article 192 and number 4 of Article 193 of the Banking Law, banks must stick to the following guidelines when charging for fees or surcharges as listed below:

- a. Banks shall not charge savings accounts for fees or charges when there is scarce or null movement, inactivity, for not maintaining a minimum average balance or for account maintenance or handling.
The provision referred to above shall not apply to savings accounts that were opened to pay for employees’ salaries.
- b. Charges for scarce or null movement of current accounts shall be governed by the following rules:
 1. During the first six (6) months there shall not be any charge for scarce or null movement
 2. After six (6) months of scarce or null movement, the bank shall notify the client, within thirty (30) days prior the collection of this charge, as stipulated in the contract;
 3. After thirty (30) days counted from the date the client was notified, the bank shall proceed with the charge during the next three (3) months. After the three (3) months period, the bank shall not make any charge for this concept;
 4. After the expiration of this period, the bank may close the account and transfer the funds to a special collective account, where all funds will be at the disposal of the client when he claims for them. These funds will not generate interest nor will be charged for any fees or charges.
- c. There shall not be fees or charges for generic concepts, such as “other administrative items” without its concerning breakdown;
- d. There shall not be fees or charges for the opening or handling of accounts nor for maintaining a minimum average balance, when the account is opened as a bank requirement to make charges related to any loan the bank has granted;
- e. There shall not be fees or charges for trying to make a transaction for an amount higher than the balance of a prepaid credit card;
- f. There shall not be fees or charges for the cancellation of savings and current accounts, when a period longer than 6 months has elapsed since the opening date of the account;
- g. Only the fees or charges stipulated in the contract shall be charged for the cancellation of debit cards, if the client has failed to pay for the concerning annual fee.
- h. There shall not be fees or charges for the cancellation of prepaid credit cards;
- i. There shall not be fees or charges for the nonuse of prepaid credit cards during one-year period;
- j. There shall not be fees or charges for the cancellation of e-banking services, when a period longer than one year has elapsed, and the client has paid for the concerning security passwords that were already delivered;

² Added by Article 1 of Rule 4-2016 dated 29 March 2016.

k. There shall not be fees or charges to the depositor of a check credited to his account that was returned or rejected by the drawee bank, when any of the following cases happen:

1. The date is wrong missing
2. There is a discrepancy between the amount written and the amount in numbers
3. The signature is missing
4. The endorsement is missing
5. Lack of funds

However, in the event checks are returned due to lack of funds, banks may establish mechanisms among themselves or as a member of an association that would allow the drawer bank to apply an additional charge to its own check in order to remit it to the bank where the check was deposited and was rejected due to lack of funds.

PARAGRAPH 1. As long as the bank charges the client regarding his deposit operations, the bank must state those in the monthly statement of account, which shall be sent physically or electronically to the client, unless the client has instructed the bank to withhold those.

PARAGRAPH 2. It shall be understood as accounts with scarce or null movement those savings or current accounts that has no movement for a given period of time. The collection of charges applied to these accounts, as the interest generated by those, are not considered as an activity of said accounts.

PARAGRAPH 3. There shall not be, when delivering the checkbook, advance collections or charges in concept of national tax stamps. Tax stamps shall be collected at the closure of the statement of account, for every check drawn accordingly.

ARTICLE 5³. RULES FOR THE COLLECTION OF CERTAIN FEES OR SURCHARGES WHILE PERFORMING LENDING OPERATIONS. Banks must stick to the following guidelines when charging for fees or surcharges of lending operations:

- a. There shall not be fees or charges for credit cards cancellation;
- b. There shall not be fees or charges for credit lines cancellation made by the bank, based on the bank's discretionary powers;
- c. There shall not be fees or charges for expenses different from the ones charged to the credit cards through the annual membership. The above is without prejudice of the insurance fees and other services offered by the bank and agreed upon with the client when signing the credit card agreement or in a document attached thereto;
- d. There shall not be fees or charges for late payment or non-payment of a loan or for its equivalent, when there are charges for delinquency interests during the same time period;
- e. There shall be no fees or charges for advance settlement, additional payments, or transfer of a home mortgage loan to another bank in the market when more than five (5) years have elapsed from the original date of the mortgage. In the case of consumer and agricultural loans, fees or surcharges for advance settlement, additional payments, or transfer cannot be made;
- f. There shall not be fees or charges for not using, within a calendar year period, the credit card to execute the line of credit, if during the same period of time a membership or equivalent fee is charged;
- g. There shall not be fees or charges for the handling of matured credit, when there are charges for delinquency interests and concerning collection charges;
- h. There shall not be fees or charges for late payment or non-payment or its equivalent, when for causes imputable to the bank, the bank has not timely accredited the payment received for any loan;

³ Amended by Article 2 of Rule 4-2016 dated 29 March 2016.

- i. There shall not be fees or charges for making the necessary procedures to cancel the liens concerning to mortgage loans for the total payment due. The above is without prejudice of the client covering the concerning legal, notary and registry payments, even though the client decides to cancel those on his own, in which case the bank shall ease the necessary information at no cost;
- j. There shall not be double fees applied by the bank nor charges to third parties.
- k. There shall not be fees or charges for the issuance of credit cards statements of accounts or for mailing, in monthly basis, said statement of account, or for the delivery of such by other channels (ATMs, e-banking, IVR/phone banking);
- l. There shall not be fees or charges for services provided to the bank by agents, promoters, middlemen or any other intermediary between the bank and the client, in consumer and residential mortgages loans;
- m. There shall not be fees or charges for the client's or potential client's credit assessment;
- n. There shall not be fees or charges for consultations made to risk assessment centers, as part of the client's credit assessment;
- o. There shall not be fees or charges for the issuance of own or internal bank documents;
- p. There shall not be fees or charges for the issuance and delivery of debtor's record of credit status;
- q. There shall not be fees or charges for the issuance and delivery of the first cancellation of debt statement.

PARAGRAPH 1. In the event of delinquency payments, the bank may not restrict the client his access to delinquent credit information through e-banking services.

ARTICLE 6. RULES FOR THE COLLECTION OF CERTAIN FEES WHEN HANDLING FUNDS TRANSFER ORDERS. Regarding fees charges for handling funds transfer orders, banks must refer to the following:

- a. The amount of fees will not be based on the amount of transfers received.
- b. In case of funds transfer orders returned, the issuer bank may not double charge the failed transaction, unless the return is made because of client's mistake.

ARTICLE 7. THIRD PARTIES CHARGES. In neither case there shall be third party charges for concepts that were not previously agreed with the client.

In any case, only shall be charged as third party charges the insurance fees, notary, registration, legal, and tax expenses, according to the contracted service.

ARTICLE 8. CHARGES FOR UNDELIVERED SERVICES. In regards to the provisions of number 4 of Article 193 of the Banking Law, any bank client is entitled to claim with banks, the reimbursement of collected charges for services undelivered and not previously agreed upon with the bank. On the other hand, the bank is obliged to prove that said service was provided.

ARTICLE 9. REVERSAL OF CHARGES. As long as banks are aware that there have been fees that shall not be charged to the client's account, the former are obliged to reverse those funds immediately.

ARTICLE 10. BANK CLIENT'S INFORMATION AND EDUCATION. In order to effectively apply this Rule, banks shall fully comply with the provisions set forth in Rule No. 1-2011 whereby the guidelines for transparency of information for using banking products and services are provided.

ARTICLE 11. ABUSIVE PRACTICES. Shall be considered as banks' abusive practices, which shall not be included in banking contracts nor applied in bank-client relationships, the following:

- a. The conditioning of the bank client, by the bank, that the client agrees to choose or appoint insurance companies related to the bank or banking group, in those transactions where it is required to contract any type of insurance policy;
- b. To provide a service that was not expressly requested or authorized by the bank client;

- c. To renew a service that was not expressly requested or authorized by the bank client, unless it is about a renewal previously agreed upon in the contract.

ARTICLE 12. SANCTIONS. In case of noncompliance with the provisions set forth in this Rule, the sanctions established in article 186 of Title IV of the Banking Law and implementing regulations shall be applied.

ARTICLE 13. ENACTMENT. This Rule shall become effective from 1 January 2012.

Given in the city of Panama, on fourth (4th) May, two thousand eleven (2011).