

TRANSLATION

Republic of Panama Superintendency of Banks

RULE No. 1-2016
(dated 26 January 2016)

“Whereby the general guidelines on ACH settlement and funds availability are established”

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 reedited Decree Law 9 dated 26 February 1998 and all of 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 paragraph 2 of Article 5 of the Banking Law, strengthening and fostering favorable conditions for the development of the Republic of Panama as an International Financial Center is an objective of the Superintendency of Banks;

Pursuant to paragraph 5 of Article 11 of the Banking Law, establishing the administrative interpretation and scope of the legal provisions and regulations on banking matters is a duty of the Board of Directors;

According to paragraph 1 of Article 2 of Rule 6-2011 dated 6 December 2011, whereby the guidelines on E-banking and related risk management are established, e-banking includes the banking services offered by ACH networks;

By means of Rule 7-2005 dated 21 September 2005, the Superintendency establishes the general guidelines for check settlement and funds availability;

During its working sessions, the Board of Directors determined it necessary and advisable to develop general parameters and guidelines related to the settlement and funds availability of transactions conducted through ACH networks.

RESOLVES:

ARTICLE 1. SCOPE OF APPLICATION. The provisions herein will be applicable to state-owned, general license and international license banks.

ARTICLE 2. PERIOD FOR THE REMITTANCE OF FUNDS TO THE ACH SETTLEMENT ACCOUNT IN BANCO NACIONAL DE PANAMÁ. Banks must make sure to monitor the position of ACH transactions made during the day, in order to have the required funds available to meet the ACH settlement process of daily transactions.

To comply with the above, banks must remit any shortage they have in their ACH position to the Special Settlement Account in Banco Nacional de Panamá as soon as possible, when the balance of this account does not cover the ACH shortage. For such purposes, banks must apply appropriate and effective procedures to enable them to credit the necessary amount to the account to cover the transactions for that day. The account must receive these funds before 5:15 p.m. local time.

Banks and banking agencies receiving settlement services must make sure they remit the funds to their servicing bank's account.

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ARTICLE 3. SETTLEMENT PERIOD. Banco Nacional de Panamá will settle the net position of ACH transactions using the Settlement accounts that banks have in Banco Nacional de Panama for such purposes. This settlement will be conducted no later than 6:00 p.m. on the same day.

The Clearing House of Banco Nacional de Panamá should notify the settlement of the relevant funds through the necessary means. Should a bank not have the necessary funds to settle its ACH position for the day, the Clearing House will notify banks before the release time, so that they may take appropriate action.

ARTICLE 4. AVAILABILITY AND RELEASE OF ACH TRANSACTIONS. In the case of general license banks, the funds for both credit and debit ACH transactions must be made available immediately, once the settlement is made at the Clearing House of Banco Nacional de Panamá. As a result, the release and availability of funds from ACH transactions must be made by 6:30 p.m. on the same day.

For international license banks or general license banks receiving settlement services through other banks, the funds for both debit and credit ACH transactions must be made available immediately, once the bank providing settlement services confirms the availability of the funds.

Each bank is responsible for informing its customers of the latest cutoff time for ACH transactions to be effective and available the same day.

ARTICLE 5. SANCTIONS. In the event of noncompliance with the provisions herein, the sanctions set forth in Title IV of the Banking Law will be applicable.

ARTICLE 6. ENACTMENT. This Rule shall become effective on 1 April two thousand sixteen (2016).

Given in the city of Panama on the twenty-sixth (26th) day of January, two thousand sixteen (2016).

FOR COMMUNICATION, PUBLICATION AND ENFORCEMENT.

THE CHAIRMAN,

THE SECRETARY,

Luis Alberto La Rocca

Arturo Gerbaud