

# TRANSLATION

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## Republic of Panama Superintendency of Banks

**RULE No. 4-2016**  
(dated 29 March 2016)

**“Whereby Rule 4-2011 on the rules for the collection of certain fees and surcharges applied by banks is amended”**

**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 28 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 paragraphs 3 and 4 of Article 5 of the Banking Law, promoting public trust in the banking system and safeguarding the judicial balance between the banking system and its clients are objectives of the Superintendency of Banks;

Pursuant to Subparagraph 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 technical duty of the Board of Directors;

In accordance with Subparagraph 19 of Article 16 of the Banking Law ensuring that banks provide their clients with information that will ensure the utmost transparency in their operations is a technical duty of the Superintendent of Banks;

In accordance with Article 192 of the Banking Law, banks are required to provide their services to their clients with transparency, integrity, and equity, in conformity with the norms and principles of Title V of the Banking Law;

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

According to the provisions of Article 2 of Rule 4-2011, in no case shall banks apply service fees or charges that were not expressly agreed to or requested by the client. Therefore, the applied fees or charges shall be collected only for services rendered or expenses incurred by the bank;

Subparagraph e of Article 5 of Rule 4-2011 states that there shall be no fees or charges for advance payment or transfer of a consumer loan or agricultural loan to another bank in the market or when more than five (5) years have elapsed from the original date of a mortgage;

During its working sessions, the Board of Directors determined it necessary and advisable to amend Rule 4-2011 in order to establish new basic information elements that banking contracts must include.

### **RESOLVES:**

**ARTICLE 1.** Article 3-A is added to Rule 4-2011 dated 4 May 2011, as follows:

**“ARTICLE 3-A. 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

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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 2.** Subparagraph “e” of Article 5 of Rule 4-2011 dated 4 May 2011 will read:

**“ARTICLE 5. RULES FOR THE COLLECTION OF CERTAIN FEES OR SURCHARGES IN LENDING OPERATIONS.** Banks must adhere to the following guidelines when charging fees or surcharges on lending operations:

- ...
- 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.
- ...”

**ARTICLE 3.** This Rule shall become effective on 1 August 2016.

Given in the city of Panama on the twenty-ninth (29<sup>th</sup>) day of March, two thousand sixteen (2016).

**FOR COMMUNICATION, PUBLICATION AND ENFORCEMENT.**

**THE CHAIRMAN,**

**THE SECRETARY,**

Luis Alberto La Rocca

Arturo Gerbaud