

TRANSLATION

Republic of Panama Superintendency of Banks

RULE No. 6-2016
(dated 27 September 2016)

“Whereby guidelines for managing risks related to the prevention of money laundering, the financing of terrorism, and the financing of the proliferation of weapons of mass destruction that may arise due to new products and technologies 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 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 paragraph 1 of Article 5 of the Banking Law, safeguarding the soundness and efficiency of the banking system is one of the objectives of the Superintendency of Banks;

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 one of the objectives of the Superintendency of Banks;

Article 112 of the Banking Law requires banks and other entities supervised by the Superintendency to establish policies and procedures and the internal control structures to prevent their services being used improperly for criminal purposes in money laundering, the financing of terrorism and other crimes that are related or similar in nature or origin;

Article 113 of the Banking Law requires banks and other entities supervised by the Superintendency to submit the information required by law, decrees, and other regulations in force in the Republic of Panama for the Prevention of money laundering, the financing of terrorism, and other crimes that are related or similar in nature or origin. Furthermore, they are required to submit this information to the Superintendency whenever it may so require;

Law 23 dated 27 April 2015 adopted the measures for preventing money laundering, the financing of terrorism, and financing the proliferation of weapons of mass destruction;

Pursuant to paragraph 7 of Article 20 of Law 23 of 2015, issuing guidance and feedback standards for the financial and nonfinancial reporting entities and those activities performed by professionals subject to supervision in their execution, as well as the procedures for the identification of the final beneficiaries, legal entities and other legal structures, are attributes of the supervisory entities;

Pursuant to Article 22 of Law 23 of 2015, the Superintendency of Banks of Panama is responsible for supervising banks and trust companies, including any other activities they perform, financial companies, financial lending and leasing companies, factoring companies, issuers and processors of debit, credit and prepaid cards, whether persons or legal entities, including those issuing and operating their own cards, and the entities issuing payment instruments and electronic money, on matters related to the prevention of money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction;

Article 40 of Law 23 of 2015 requires financial and nonfinancial reporting entities to implement a risk-based approach involving an assessment of the products and services offered and to be offered to the customers, as well as the geographical location in which the reporting entities offer and promote their services and products;

Recommendation 15 of the Financial Action Task Force (FATF), entitled “New Technologies,” requires countries and financial institutions to identify and assess the risks of money laundering

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and terrorist financing that may arise in relation to the development of new products and the use of new or developing technologies for both new and pre-existing products;

During its working sessions, the Board of Directors determined it necessary and advisable to provide the guidelines that must be adopted by regulated entities supervised by the Superintendency to manage risks for the prevention of money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction that may arise due to new products and technologies.

RESOLVES:

ARTICLE 1. SCOPE OF APPLICATION. The provisions contained herein will be applicable to:

1. Banks and trust companies;
2. Financial companies;
3. Leasing companies;
4. Factoring companies;
5. Issuers or processors of debit, credit and prepaid cards, whether they are individuals or legal entities, including those issuing and operating their own cards, except for banks that already have a regulation on this matter;
6. Entities issuing payment instruments and electronic money;
7. Other corporate services provided by Trust companies.

These will be known hereafter as “regulated entities.”

ARTICLE 2. RISK FACTORS FOR MONEY LAUNDERING, THE FINANCING OF TERRORISM AND FINANCING THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION. Regulated entities must manage risks on money laundering, the financing of terrorism, and financing the proliferation of weapons of mass destruction related to:

- a) **Customers:** on their behavior, background and activities during the entry into and throughout the business relationship, taking into consideration the provisions included in Rule 10-2015.
- b) **Products and/or services:** on their own products and/or services, and during the design or development phase as well as throughout the products’ and/or services’ life cycle;
- c) **Distribution channels and payment instruments:** on the distribution channels and payment instruments related to the products and/or services provided during the design and development phase as well as throughout the products’ and/or services’ life cycle;
- d) **Geographical zone:** on the geographic zones where they offer their products and/or services, both domestically and internationally, taking into consideration the geographic zones’ security, financial, economic, and socio-demographic features.

ARTICLE 3. RISK ASSESSMENT OF NEW PRODUCTS AND TECHNOLOGIES. Regulated entities are required to apply the risk-based approach, i.e. an assessment of the new products and services they will offer their customers, as well as of the geographical location where the regulated entity will be providing, offering or promoting its new products and services.

Additionally, regulated entities must apply the risk-based approach to new or developing technologies for new or pre-existing products.

Based on the assessment, regulated entities must identify and assess the risks of money laundering, the financing of terrorism, and the financing of the proliferation of weapons of mass destruction that may arise, associated with:

- a) The development of new products and new commercial practices;
- b) The use of new and developing technologies for new and pre-existing products.

The risk assessment must be conducted before launching new products or new commercial practices, as well as before the use of new or developing technologies.

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Regulated entities must take appropriate measures to manage and mitigate those risks.

ARTICLE 4. REPORT ON THE RISK ASSESSMENT OF NEW PRODUCTS AND TECHNOLOGIES. Regulated entities must issue an assessment report on the level of exposure to the risk of money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction to which new products and/or services they will offer will be exposed. That report must be available to the examiners of the Superintendency of Banks.

The risk assessment must take into consideration, among other aspects, the distribution channel of the new product and/or service, as well as other features of the “products and/or services” risk factor.

The risk assessment must also be conducted when the regulated entities decide to use new technologies related to products and/or services offered, or when making changes to a pre-existing product that may modify the risk profile on money laundering or the financing of terrorism for that product.

ARTICLE 5. VENTURING INTO NEW GEOGRAPHICAL AREAS. Regulated entities must conduct an analysis containing an evaluation of the level of exposure to the risk of money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction to which they will be exposed when entering new geographical areas. This analysis will be documented in a report that must be available to the examiners of the Superintendency of Banks.

ARTICLE 6. This Rule shall become effective on the fifteenth (15th) day of March, two thousand seventeen (2017).

Given in the city of Panama on the twenty-seventh (27th) day of September, two thousand sixteen (2016).

FOR COMMUNICATION, PUBLICATION AND ENFORCEMENT.

THE CHAIRMAN,

THE SECRETARY, A.I.

Arturo Gerbaud

L.J. Montague Belanger