

TRANSLATION

Republic of Panama Superintendency of Banks

RULE N°. 2-2017¹
(dated 18 April 2017)

“Whereby the provisions on Wire Transfers are updated”

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 its amendments as a consolidated text, and that this text was approved by means of Executive Decree 52 dated 30 April 2008, hereinafter referred to as the Banking Law;

Pursuant to paragraphs 2 and 3 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 and promoting public trust in the banking system are objectives of the Superintendency of Banks;

Pursuant to paragraph 1 of Article 6 of the Banking Law, the Superintendency of Banks, acting in close collaboration with foreign supervisory bodies, if warranted, is responsible for ensuring that banks maintain adequate procedures for the supervision and control of their national and international activities;

Pursuant to Subparagraph 5, Paragraph I of Article 11 of the Banking Law, establishing the administrative interpretation and scope of the legal provisions and regulations on banking matters is one of the duties of the Board of Directors;

By means of Rule 2-2005 dated 26 January 2005 the basic guidelines for domestic and cross-border wire transfers were provided;

By means of Law 23 dated 27 April 2015, the measures to prevent money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction were adopted, thereby rescinding Law 42 of 2000;

According to Article 46 of Law 23 of 2015, financial reporting entities must ensure that wire transfer information includes basic data on the originator and beneficiary, which must remain with the wire transfer throughout the payment chain and must be made available to competent judicial authorities;

By means of the 2012 recommendations, the Financial Action Task Force (FATF) established the minimum standards financial entities must apply to domestic and cross-border wire transfers to mitigate their being misused to transfer funds;

Financial Action Task Force Recommendation 16 was developed with the objectives of preventing terrorists having unfettered access to wire transfers for moving their funds and of detecting such misuse when it occurs;

During the Superintendency's working sessions it was determined necessary and advisable to update the basic parameters and guidelines on domestic and cross-border wire transfers to prevent the misuse of banking services through such operations.

RESOLVES:

¹ Amended by Rule 4-2017 dated 25 April 2017.

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ARTICLE 1. SCOPE. The provisions herein will be applied to state-owned, general and international license banks performing wire transfers as ordering banks, intermediary banks or beneficiary banks.

ARTICLE 2. PURVIEW. This Rule establishes the minimum information parameters all banks must apply when performing domestic and cross-border wire transfers, regardless of whether the originator and beneficiary are the same person, as part of the comprehensive risk management and due diligence processes established by the relevant regulations.

ARTICLE 3. DEFINITIONS. For the purposes of this Rule, the following terms will be understood as:

1. **Wire transfer:** refers to any transaction carried out on behalf of an originator through a bank by electronic means with a view towards making funds available to a beneficiary at a beneficiary bank within the domestic or cross-border market, irrespective of whether the originator and the beneficiary are the same person. Consequently, the bank will commit itself with the originator to carry out the respective transfer which will result in an internal accounting operation registered by the bank(s) involved in the transaction. The originator and the beneficiary can be the same person.

Wire transfers cover any operating mode used to conduct them, including those conducted by electronic means (e.g. ATMs, online banking, self-service terminals, among others).

2. **Originator:** refers to the accountholder, whether an individual or legal entity that places the order with the bank to perform the wire transfer.
3. **Beneficiary:** refers to the holder of an account or, if there is no account, the individual, legal entity identified by the originator as the recipient of the funds being transferred.
4. **Ordering bank:** refers to the bank which initiates the wire transfer and transfers the funds upon receiving the request for a wire transfer on behalf of the originator.
5. **Beneficiary bank:** refers to the bank which receives the wire transfer from the ordering bank directly or through an intermediary bank and makes the funds available to the beneficiary.
6. **Intermediary bank:** refers to the bank that receives and transmits a wire transfer on behalf of the ordering bank and the beneficiary bank.
7. **Cross-border wire transfer:** refers to any wire transfer where the banks involved, whether ordering or beneficiary, are located in different countries.
8. **Domestic wire transfer:** refers to any wire transfer for which the ordering bank and beneficiary bank are located in the same country.
9. **Batch transfer:** is a transfer comprised of a number of individual wire transfers that are being sent to the same bank, but may or may not be ultimately intended for different persons.
10. **Unique transaction reference number:** refers to a combination of letters, numbers or symbols, determined by the payment service provider, in accordance with the messaging system used for the wire transfer.

ARTICLE 4. BASIC INFORMATION OF ORIGINATOR AND BENEFICIARY OF THE WIRE TRANSFER. The ordering bank performing domestic or cross-border wire transfers must ensure wire transfers contain required originator and beneficiary information. This information must be able to be matched with the wire transfer or related message throughout the payment chain.

The bank must maintain the following basic ordering party information, as a minimum:

1. Originator's explicit order to perform the wire transfer and the amount of the transaction;
2. Originator's name or corporate name as registered on the account;
3. Originator's physical address or, if unavailable, his/her mailing address;

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4. Bank account number or the unique transaction reference number;
5. Effective date of the wire transfer;
6. Any other information deemed necessary to perform the transaction or for the appropriate identification of the originator.

Similarly, the ordering bank must maintain the following beneficiary information, as a minimum:

1. Beneficiary's name and account number;
2. The name of the bank in which the beneficiary will receive the wire transfer;
3. The name of the country of destination;
4. Any other information deemed necessary for the appropriate identification of the beneficiary.

PROVISO 1. The basic originator and beneficiary information for all wire transfers must be made available to competent judicial authorities and the Financial Analysis Unit, as well as to the ordering bank, intermediary bank and beneficiary bank, to facilitate the identification and reporting of suspicious transactions or to implement any other regulated measure on that matter.

PROVISO 2. In the absence of an account, the bank must ensure all wire transfers include the unique transaction reference number or identifier that will permit the transaction to be traced back to the originator or the beneficiary and to detect those wire transfers that lack the required originator or beneficiary information.

ARTICLE 5². DOMESTIC WIRE TRANSFERS. The ordering bank must ensure it has the following information for domestic wire transfers:

1. The data of the originator and beneficiary, as provided for in Article 4 herein;
2. The account number of the originator and beneficiary or the unique transaction reference number;
3. The amount of the wire transfer.

The beneficiary information need not be verified for wire transfers equal to or less than one thousand balboas (B/.1,000.00).

When the information accompanying domestic wire transfers is available to the beneficiary bank and appropriate competent authorities by other means, the ordering bank need only include the account number or a unique transaction reference number, provided that this number or identifier will permit the transaction to be traced back to the originator or the beneficiary. The information should be made available by the ordering bank within three business days after its being requested by the beneficiary bank or competent authorities.

ARTICLE 6. CROSS-BORDER WIRE TRANSFERS. The ordering bank must ensure cross-border wire transfers contain the following information:

1. The data of the originator and beneficiary, as provided for in Article 4 herein;
2. The account number of the originator and beneficiary, when this account is used to process the transaction, or the unique transaction reference number;
3. Any other information required on the originator or beneficiary.

ARTICLE 7. OBLIGATION TO PROVIDE INFORMATION TO THE CUSTOMER. The bank is required to provide, upon customer request, a copy of the slip or proof of the wire transfer, which may be provided in hardcopy or electronically.

ARTICLE 8. BATCH WIRE TRANSFERS. Where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, the bank must

² Amended by Article 1 of Rule 4-2017.0

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ensure the batch file contains required and accurate originator and beneficiary information that is fully traceable within the beneficiary country.

In this case, the ordering bank will be exempt from requesting originator information for each transaction, provided that they contain the originator account number or a unique transaction reference number.

ARTICLE 9. RECORDKEEPING FOR WIRE TRANSFERS. Banks are required to keep a record of all wire transfers performed by their customers for at least five (5) years from the date the transaction was performed, using easy-recovery computer systems, microfilm, microform or any means of a similar nature.

Banks must ensure data or information provided during the transaction due diligence procedure is up to date. Banks must also be capable of monitoring the wire transfers throughout the payment chain so that the transaction could be traced back to the originator or the beneficiary and to detect those wire transfers that lack the required originator or beneficiary information.

When technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, the intermediary bank must keep a record of all the information received from the ordering bank or another intermediary bank for at least five years.

PROVISO: The operations record must be accurately maintained and made available to the Superintendency of Banks, jurisdictional bodies and competent authorities according to the Law.

ARTICLE 10. When a credit or debit card is used to pay for wire transfer, the transaction must meet the provisions herein.

ARTICLE 11. EXCEPTIONS. This Rule shall not be applied to the following wire transfers:

1. Any wire transfer where the originator and the beneficiary are both banks.
2. Any wire transfer that emanates from a transaction carried out using a credit or debit card, as long as the credit or debit card number accompanies all transfers emanating from the transaction.

However, when the credit or debit card is used to pay for a person-to-person wire transfer, the transaction is subject to the provisions herein and the necessary information must be included in the message.

3. Wire transfers linked to simplified process accounts. Only the originator information required for domestic wire transfers must be included.

ARTICLE 12. RESPONSIBILITIES OF BANKS CONNECTED WITH WIRE TRANSFERS. The banks within the Panamanian market providing services as ordering banks, intermediary banks or beneficiary banks must meet the following guidelines:

1. **Ordering Banks:**

- a. Must maintain all collected originator and beneficiary information, according to the provisions in the Rule on E-banking.
- b. Must not permit the execution of a wire transfer if it does not comply with the requirements provided herein.

2. **Intermediary Banks:**

- a. For cross-border wire transfers, the intermediary bank must ensure that all originator and beneficiary information that accompanies a wire transfer is retained with it. A record must be kept of all the information received from the ordering bank or another intermediary bank for at least five years.
- b. Must take reasonable measures to identify cross-border wire transfers that lack required originator information or required beneficiary information.

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- c. Must have effective risk-based policies and procedures for determining: (i) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (ii) the appropriate follow-up action.

3. Beneficiary Banks:

- a. Must take reasonable measures to identify cross-border wire transfers that lack required originator or required beneficiary information.
- b. Must have effective risk-based policies and procedures for determining: (i) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (ii) the appropriate follow-up action.

ARTICLE 13. MISUSE OF WIRE TRANSFERS. The bank that performs (receives or sends) domestic or cross-border wire transfers must ensure it appropriately applies the “Know your Customer” policy, due diligence procedures and other provisions established in the Rule on the prevention of the misuse of banking and trust services.

Similarly, the bank must prevent the misuse of wire transfers through e-banking [and] must ensure the existence and operation of effective procedures and security measures to identify and monitor suspicious transactions.

The banks sending or receiving wire transfers must pay special attention to the examination of those operations included herein and in the Rule on the red flags for detecting ML/FT suspicious transactions, in order to detect and prevent wire transfers being used for money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction. This does not preclude their having established mechanisms within their own policies for preventing the wire transfers of funds linked to ML/FT/FPWMD.

ARTICLE 14. REMEDIAL ACTIONS. Banks must not perform wire transfers not meeting the information requirements provided herein.

Similarly, banks processing wire transfers must take reasonable measures to prevent these transfers being performed with entities that lack the physical presence referred to in the Rule on the prevention of the misuse of banking and trust services or with individuals or entities listed in United Nations Security Council Resolutions S/RES/1267, S/RES/1988, S/RES/1373, S/RES/1718, S/RES/1540 and all successor lists or other resolutions issued on this matter.

ARTICLE 15. SANCTIONS DUE TO BREACHES. Failure to comply with the provisions herein will be sanctioned according to the provisions of Title IV of the Banking Law.

ARTICLE 16. REPEAL. This Rule repeals Rule 2-2005.

ARTICLE 17. ENACTMENT. This Rule shall become effective on 5 May 2017.

Given in the city of Panama on the eighteenth (18th) day of April, two thousand seventeen (2017).

FOR COMMUNICATION, PUBLICATION AND ENFORCEMENT.

THE CHAIRMAN,

THE SECRETARY, AD-HOC

Arturo Gerbaud

L. J. Montague Belanger