

Republic of Panama Superintendency of Banks

RULE N°. 13-2018
(dated 27 November 2018)

“Whereby Rule 10-2015 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 re-edited Decree Law 9 dated 26 February 1998 and all 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;

Article 36 of Law 1 dated 5 January 1984 establishes that the Superintendency of Banks will supervise and oversee the proper functioning of the trust business;

Pursuant to the provisions of paragraph 1 of Article 5 of the Banking Law, safeguarding the soundness and efficiency of the banking system is an objective of the Superintendency of Banks;

According to the provisions of 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;

Article 112 of the Banking Law provides that banks and other entities supervised by the Superintendency will be required to establish policies, procedures and 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;

According to Article 114 of the Banking Law, banks and other entities supervised by the Superintendency will adopt policies, practices and procedures that will allow them to know and identify their clients and their employees with the greatest certainty possible. The Superintendency is authorized to develop the relevant standards in conformity with policies and regulations in force in the country;

Law 23 dated 27 April 2017 (sic) adopted measures for the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction;

Article 19 of Law 23 of 2015 establishes the Superintendency of Banks, among others, as a supervisory body;

Paragraph 7 of Article 20 of Law 23 of 2015 provides that issuing guidance and feedback standards to the financial reporting entities, the nonfinancial reporting entities and activities performed by professionals subject to supervision for its enforcement, as well as the procedures for the identification of the final beneficiaries, legal entities and other legal arrangements, is among the duties of the supervisory bodies;

By means of Rule 10-2015 the Superintendency of Banks develops the standards for the prevention of money laundering that banks and trust companies must adopt as minimum parameters to prevent their services being rendered through or with funds coming from money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction;

FATF's 40 Recommendations are a coherent international standard that countries must effectively put in place through legal, regulatory and operational measures in order to have a sound domestic system that enables combating money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction;

The Interpretation Note to Recommendation 10 provides that there are circumstances in which the risk of money laundering and the financing of terrorism could be low enough that in those circumstances, and always including an adequate analysis of the risk to the country and the financial institution, it could be reasonable for a country to permit its institutions to apply simplified customer due diligence measures;

During its working sessions, the Board of Directors determined it was necessary and advisable to amend some Articles of Rule 10-2015 to prevent the misuse of banking and trust services in order to include some aspects covered in FATF's 40 Recommendations and broaden the cases in which simplified due diligence will be applicable.

RESOLVES:

ARTICLE 1. Article 14 of Rule 10-2015 shall read:

“ARTICLE 14. CUSTOMER PROFILE FOR INDIVIDUALS. For individuals, banks and trust companies must prepare a customer profile that will include the form designed by the entity containing written information, as well as the documents supporting that information. As a minimum, the customer profile must contain the following information and documentation, which must be obtained before entering into a business relationship with that customer:

1. **Customer identification and verification:** Full name, age, gender, employment or employment status, marital status, profession or occupation, citizenship, residency and a suitable personal identification document.

For the purposes of the suitable personal identification document, the personal identification card, or the official personal identification card application form while this document is being processed, will be used in the case of a Panamanian citizen. The passport will also be acceptable for those Panamanian citizens living abroad.

The suitable personal identification document will be the passport for foreigners. To meet this requirement, it will only be necessary to keep a copy of the page(s) where the customer's picture, signature and general data appear, as well as the page(s) of the passport bearing the “entering the country” stamp. The requirement for a copy of the pages of the passport bearing the entering the country stamp is not applicable if the customer was accepted by the bank through its visits abroad or when the acceptance was made by companies affiliated with the group or by international license banks. These customers may also be identified by the official identification card from their home country bearing their picture, general data and signature.

Foreigners that have obtained residency in Panama may also be identified through the personal identification card issued by the Electoral Court of Panama.

People in our country under a permanent residency migratory status as a refugee or asylee may be identified through the refugee identification card issued by the National Immigration Service.

In all cases, the document must be current when submitting it for opening accounts.

For the purposes of updating the relevant files, the bank may update expired identification cards by verifying the database of the Electoral Court without requiring the customer to physically submit the document. Expired passports must be updated by the customer.

2. **Source and origin of resources or equity:** It is understood that the source and origin of resources refers to the written proof of the origin of funds used to conduct any transaction.
3. **Customer financial profile:** The financial profile will be understood as the result of the joint analysis of the demographic and socioeconomic characteristics and variables submitted by the customer and verified by the entity when entering into a relationship and which must be augmented by updated and historical information. For such purposes, the customer must submit at least one of the following documents: job letter, social security tab, pay stub or any other legal or contractual documentation verifying the customer's income.

Furthermore, all reasonable measures for supporting the origin of funds, frequency of movements and whether the customer pays in cash, quasi-cash, checks or wire transfers will be taken into account at the beginning and during the contractual relationship to establish the habitual behavior the customer will maintain with the reporting entity.

4. **Customer transactional profile:** It will be understood as the comparison between the expected financial profile and the frequency and capacity of a customer's real transactions in one or various timeframes.
5. **Other additional aspects to consider:**
 1. In cases in which the customer is acting as the intermediary for the final beneficiary or owner of the operation, banks and trust companies must conduct due diligence on that final beneficiary.
 2. Banks and trust companies must understand and, as applicable, obtain information on the planned purpose and character of the business or professional relationship.
 3. Any new account or contract must comply with the customer's financial profile and transactional profile assessments, in order to measure the risk of products or services offered.
 4. Banks and trust companies must have documentation in the relevant file of all actions taken to properly identify their customer and/or final beneficiary.
 5. Any service resulting from a relationship between a bank or trust company and a foreign customer will be subject to due diligence measures in conformance with the risk level it represents based on international parameters and standards and the internal policies and control procedures established by the entity.

Any information required herein must be consolidated in one file, whether physical or digital."

ARTICLE 2. Article 15 of Rule 10-2015 shall read:

"ARTICLE 15. CUSTOMER PROFILE FOR LEGAL ENTITIES. For legal entities, banks and trust companies must prepare a customer profile that will include the form designed by the entity containing written information, as well as the documents supporting that information. As a minimum, the customer profile must contain the following information and documentation:

1. **Customer identification and verification.** Legal entity's full name, registration data, domicile, address and phone numbers.

For trust companies, these must fully provide and explain the information on the purpose of the trust fund.

2. **Certifications verifying the incorporation and existence of the legal entity:** The requisite to obtain certifications verifying the incorporation and existence of the legal entity will be met as follows:
 - a. Copy of the Articles of Incorporation for a Panamanian legal entity or its equivalent for a foreign legal entity.
 - b. For a Panamanian legal entity, the original or copy of the Public Registry certification or information extracted by the customer or the legal entity from the Public Registry's database attesting to the existence of and information on the legal entity.
 - c. For a foreign legal entity, the documents equivalent to that of the provisions of subparagraph 2[b] verifying the incorporation and existence of the foreign legal entity.
3. **Identification of dignitaries, directors, agents and legal representatives:** Banks and trust companies must identify dignitaries, directors, agents and legal representatives of the legal entities. For such purposes, banks and trust companies will only require a copy of the personal identification card to the Chairman and/or Legal representative, as the case may be, the secretary, people appointed as signatories and agents of the legal entity. In the case of trust companies, they must identify the protector, advisor or people making decisions on trust fund equity and its distribution, as may be the case.
4. **Identification of the final beneficiary:** Banks and trust companies must take reasonable measures to identify the final beneficiary using relevant information obtained through reliable sources. For such purposes, banks and trust companies must understand the nature of the customer's business and its shareholding and control structure. If a legal entity is the final beneficiary, the due diligence will be expanded until the individual who is the owner or controller is identified.

To identify the final beneficiary of corporations, regulated entities must make the relevant efforts to identify shareholders holding a percentage equal or greater than ten percent (10%) of the issued shares of the relevant corporation. Exchange-listed companies, public companies and banks are exempt from identifying their final beneficiary, with the exception of those incorporated in countries classified as non-cooperative by the Financial Action Task Force (FATF). The bank or Trust company must document in its files the certification that the company is traded on a stock exchange.

For public entities (state enterprises) whose final beneficiary is the Panamanian or a foreign State, the banks and Trust companies must identify and make reasonable efforts to verify the identity of the relevant individual who is the senior administrator.

For other legal entities whose final beneficiaries cannot be identified by shareholding, the reporting entity must ensure it obtains a certificate, certification or affidavit duly signed by the representatives or authorized persons, where the final beneficiary(ies) is(are) listed.

When the reporting entity is not able to identify the final beneficiary, it will refrain from entering into or continuing the business relationship or conducting any transaction if there is any persistent doubt as to the identity of the customer or final beneficiary.
5. **Source and origin of resources or equity:** It is understood that the source and origin of resources refers to the written justification on the origin of funds used to conduct any transaction.
6. **Customer financial profile:** The financial profile will be understood as the result of the joint analysis of the demographic and socioeconomic characteristics and variables submitted by a customer and verified by the

entity when entering into a relationship, which must be augmented by updated and historical information. For such purpose, the customer must submit at least one of the following documents: financial statements or tax return or any other legal or contractual documentation verifying the customer's income.

Furthermore, all reasonable measures for supporting the origin of funds, frequency of movements and whether the customer pays in cash, quasi-cash, checks or wire transfers will be taken into account at the beginning and during the contractual relationship to establish the habitual behavior the customer will maintain with the reporting entity.

7. **Customer transactional profile:** It will be understood as the comparison between the expected financial profile and the frequency and capacity of a customer's real transactions in one or various timeframes."

ARTICLE 3. Article 17 of Rule 10-2015 shall read:

"ARTICLE 17. SIMPLIFIED DUE DILIGENCE. Without prejudice to the risk assessment conducted by the reporting entity, the bank or trust company may conduct a simplified due diligence for the cases the Superintendency of Banks establishes, making sure they have gathered the following information:

1. **Customer identification and verification:** Full name, age, gender, employment or employment status, marital status, profession or occupation, citizenship, residency and a suitable personal identification document. The bank or trust company must verify the name and identification card number with the information held by the Civil Registry, as well as [verifying all] other data furnished by the customer.
2. Any other document that the bank deems necessary to document according to the type of customer and his/her activity.

Simplified due diligence will be applicable only in the following cases:

1. Simplified process accounts, according to the parameters established in Rule 1-2013, because of their low transaction movements with an established quantitative threshold;
2. Christmas savings accounts;
3. Accounts opened exclusively for payroll payment, as long as the account holder or employer document the income earned by the employee holding the account, which will be understood as the information referred to in the customer profile for individuals;
4. School or educational savings accounts, if they are payable on an established schedule; or those savings accounts without a specific withdrawal or cancellation period opened by minors or their legal representatives within banks authorized by Law for such purposes;
5. The savings accounts meant to pay subsidies or social welfare programs by the Government of the Republic;
6. Checking or savings accounts whose holders are individuals whose balance does not exceed five thousand balboas (B/.5,000.00) at any time. In these cases, the financial profile will be supported with a customer's affidavit on his/her income (see Appendix I) and the bank or trust company must have the parametric tools to permit continuous monitoring of the balance to prevent the established limit being exceeded. In the event the customer exceeds the five thousand balboas (B/.5,000.00) balance, the bank must make sure it has requested all the data required by Article 14 of this Rule;
7. Checking or savings accounts opened exclusively to be used through e-wallets for business-to-business or business-to-person operations. In these

cases, the customer financial profile may be verified through documentation showing the business relationship and the volume of operations with suppliers or distributors;

8. The accounts opened for withholding property taxes;
9. Any other product that, with the bank's prior risk assessment, is aimed at financial inclusion and represents a low risk level, as long as that product has been previously approved by the Superintendency for such purposes."

ARTICLE 4. Article 38 of Rule 10-2015 shall read:

"ARTICLE 38. BANKING GROUPS. The holding company of banking groups to which the Superintendency of Banks is the home supervisor must ensure that they comprehensively manage group-level money laundering risk, as well as assessing the potential risks associated with the activities identified by their branch offices, affiliated companies and subsidiaries when so required. Furthermore, they must have policies and procedures that will allow them to determine the customer's risk exposure in other branch offices, affiliated companies or subsidiaries belonging to the same economic group.

The Superintendency will have access to customer information that will permit it to comply with this provision regarding the banking group's institutions that conduct operations directly with the bank. The Superintendency of Banks must ensure that the banking group applies rules and procedures equivalent to those adopted by the bank, especially with regard to customer due diligence measures.

For the purposes of the provisions in this Article and according to the guidelines established by FATF, the banking groups subject to the consolidated supervision of the Superintendency must develop corporate policies and procedures for the system to prevent money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction, including:

- a) Group-level policies and procedures for risk management and for the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction;
- b) Policies and procedures for the exchange of information within the group for the purposes of preventing money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction.

These policies and procedures must include, but are not limited to, the exchange of information, the analysis of unusual operations and suspicious transactions reports. To this end, the branch offices, affiliated companies, subsidiaries and non-banking entities related to the banking group itself, must receive this type of information when it is relevant and pertinent for an appropriate risk management.

This exchange of information within the banking group is not considered a disclosure of information to third parties and therefore does not contravene the provisions of Article 56 of Law 23 of 2015;

- c) The criteria necessary to be adopted by the members of the banking group to guarantee the highest standards when hiring employees and appointing directors and managers;
- d) Training programs on the prevention of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction.

The type and scope of the aforementioned policies and procedures must take into consideration the risks of money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction and be consistent with the sophistication of operations and/or services offered, as well as the size of the banking group."

ARTICLE 5. ENACTMENT. This Rule will become effective upon its promulgation.

Given in the city of Panama on the twenty-seventh (27th) day of November, two thousand and eighteen (2018).

FOR COMMUNICATION PUBLICATION AND ENFORCEMENT.

THE CHAIRMAN,

THE SECRETARY, Ad Hoc

Luis Alberto La Rocca

Arturo Gerbaud

APPENDIX I
INCOME AFFIDAVIT MODEL

I, _____, holding personal identification card/passport number _____, acting on my own behalf and representation, hereby declare under oath that I earn a monthly income of USD _____ derived from:

- _____ (please enter the origin of your income)
- _____ (please enter the origin of your income)

I declare that all data furnished on my income and its origin are correct and that they do not originate from nor will they be directed towards illegal activities such as those prescribed in national and/or international laws, rules, regulations and/or any other norms now applied or that will be applied in the Republic of Panama, especially those related to money laundering, the financing of terrorism and financing the proliferation of weapons of mass destruction.

I expressly authorize _____ (name of the Bank), its affiliated companies and subsidiaries (hereinafter THE BANK) to corroborate the truthfulness of the information herein furnished and to obtain any necessary explanation connected with this affidavit.

I declare that the signature below and in my personal identification document is the same one that I use to handle all my accounts and business transactions.

I agree to immediately notify THE BANK of any change to any of my data.

_____ (Full name)

_____ (Personal identification card/Passport number)

Sign inside the box the same as on your identification document