

Republic of Panama Superintendency of Banks

RULE N°. 13-2020
(dated 21 October 2020)

“Whereby Rule 2-2020 by means of which additional, exceptional and temporary measures to comply with the provisions of Rule 4-2013 on credit risk is amended and an additional period for financial relief measures is 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 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;

Pursuant to the provisions of Article 5 (1) and (3) of the Banking Law, safeguarding the soundness and efficiency of the banking system and promoting public trust in the banking system are objectives of the Superintendency of Banks;

Pursuant to Article 11 (5) 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;

By means of Rule 4-2013 dated 28 May 2013, the provisions on credit risk management and administration inherent to the loan portfolio and off-balance sheet operations were established;

Due to the global Covid-19 outbreak and, following the international recommendations issued by the World Health Organization and the Pan American Health Organization, the National Government, through the Ministry of Health, issued Executive Decree 64 dated 28 January 2020, which adopts the necessary essential and urgent measures, contained in the National Plan in the face of the threat of Covid-19; as well as extraordinary measures that are necessary to avoid the introduction and spread of this public health problem;

Subsequently, in order to expand Cabinet Resolution 6 of 2020 that declares the spread of Covid-19 a high-risk threat and redouble surveillance measures to contain the epidemic, by means of Cabinet Resolution 10 dated 3 March 2020 the Cabinet Council rose the threat of the spread of the Covid-19 outbreak in the national territory to very high and prescribed other provisions;

This global health threat situation of Covid-19 has collaterally affected different economic sectors, including the financial sector, therefore it is necessary to protect the financial stability of the Panamanian banking system;

The Superintendency of Banks issued Rule 2-2020 date 16 March 2020 by means of which additional, exceptional and temporary measures to comply with the provisions of Rule 4-2013 were established. This Rule allows banks to modified originally agreed on conditions of corporate and consumer loans, in order to provide financial relief to clients whose payment capacity has been affected by the situation triggered by Covid-19;

By means of Law 156 dated 30 June 2020, economic and financial measures were prescribed to counteract Covid-19 effects in the Republic of Panama to those who have had their employment contract suspended or terminated, to self-employed or freelancers and to businessmen whose activity has been affected by the measures established by the National Government;

Article 2 of Law 156 of 2020 established a payment standstill up to 31 December 2020 on loans granted by banks, cooperatives and finance companies to individuals or legal persons economically affected by the Covid-19 pandemic;

The Superintendency of Banks issued Rule 7-2020 dated 14 July 2020, by means of which Article 4 of Rule 2-2020 was amended, in order to extend until 31 December 2020 the period for banks to assess the loans affected by the Covid-19 situation and to make the relevant modifications. It was established also that these loans will maintain the risk rating registered at the entry into force of Rule 2-2020, until the Superintendency establishes the criteria for rating and determination of the provisions that will be applied to modified loans;

The Superintendency of Banks issued Rule 9-2020 dated 11 September 2020, by means of which Rule 2-2020 was amended in order to establish, among other aspects, the treatment that modified loans will have and the definition of the relevant provisions that protect the interest of depositors and preserve financial stability;

At the present, the world continues to face the Covid-19 pandemic and the health, economic, financial and social consequences that its spread has triggered, its behavior, its termination and its impact will continue to cause on the population and in the different economic sectors of the countries remain undetermined;

In the face of this reality and the economic recession that it has caused, many debtors cannot honor or continue to adequately honor their banking obligations, due to the potential or actual deterioration of the payment capacity;

Aware of the impact, uncertainty and uncertain expectations that it has triggered on individuals, households and some sectors of the national economy, we have deemed it convenient to extend the deadlines for customers and banks to find measures that allow a sustained solution to their loan relationships, privileging and promoting the culture of responsible payment in the Panamanian banking system;

During its working sessions, the Board of Directors determined it necessary and advisable to amend Rule 2-2020 in order to establish an additional term to grant financial relief measures on modified loans of the banking system.

RESOLVES:

ARTICLE 1. Items (8) and (9) are added to Article 3 of Rule 2-2020 as follows:

“ARTICLE 3. RULES RELATED TO MODIFIED LOANS. The modifications of the loans according to the provisions herein, should not become a general practice to regularize the behavior of the loan portfolio. Additionally, banks must ensure that the following rules are applied:

1. [...]

...

8. Modified loans will not be subject to a default interest rate and any other charges or penalties;
9. During the modification period established in Article 4 herein, the credit records of debtors in the credit bureau will not be affected.”

ARTICLE 2. Article 4 of Rule 2-2020 shall read:

“ARTICLE 4. ASSESSMENT PERIOD TO GRANT MODIFIED LOANS. Banks will have up to 30 June 2021 to reassess the loans of those debtors whose cash flow or payment capacity has been affected by the COVID-19 situation or who at the original time of its modification were in arrears of up to 90 days.

Similarly, banks may make modifications to those loans that have not been previously modified, whose cash flow or payment capacity has been affected by the COVID-19 situation and who are not in arrears of over 90 days.

These loans may be subject to a review of their terms and conditions, therefore the bank may agree on and/or grant grace periods, ensuring that the loan classification is maintained in accordance to the provisions of Article 4-A herein, maintaining the provisions accounted for in books at the time of modification.

In case of modified restructured loans that were listed in special mention, they will be classified in accordance with the provisions of Article 4-A. The modified restructured loans that were classified as substandard, doubtful or loss will maintain the loan classification they had at the time of their modification with the corresponding provision.

During the period from 1 January to 30 June 2021, the bank will not execute the guarantee corresponding to modified loans.

PROVISO 1. The loans of the debtors that were in arrears of more than 90 days (availed to Law 156 of 2020) may also be subject to modification by the bank. For such purposes, the bank will have up to 30 June 2021 to make the relevant modifications, making sure to establish the new terms and conditions agreed on with the customer. For these cases, the bank will maintain the classification the loan had prior to its modification (substandard, doubtful or loss). Likewise, the bank must ensure that it conducts the corresponding adjustments to the customer's risk profile with the adjustments in its provisions in accordance with the expected loss models.

PROVISO 2. For the purposes of applying this Rule, banks must make sure to document in the loan files the information that proves the debtor's affectation through the documents and evidences provided."

ARTICLE 3. Article 4-C of Rule 2-2020 shall read:

"ARTICLE 4-C. GENERAL CONDITIONS TO RESTORE MODIFIED LOANS AND LOANS AVAILED TO LAW 156 OF 2020 IN ACCORDANCE WITH RULE 4-2013. For restoring the application of Rule 4-2013 to the modified loan portfolio according to Rule 2-2020 and Law 156 of 2020, banks will follow the parameters listed below:

1. The loans of customers that were modified by banks according to the parameters established herein and whose debtors, as of 21 September 2020, are in compliance with the terms and conditions originally agreed on, the provisions established in Rule 4-2013 on Credit Risk will be applied to them. Likewise, the bank must exclude them from the modified loan category and any change to the terms and conditions will be governed by the provisions of Rule 4-2013.
2. The loans of customers that, as of 1 January 2021, meet for three (3) consecutive months the modified payment conditions, may be restored to the pass category, in accordance with the application of Rule 4-2013. Similarly, this provision will be applied to those loans classified in pass and special mention categories of the debtors who have availed themselves to Law 156 of 2020.
3. The modified loans, classified in the modified special mention category and on which the bank makes modifications between 1 January and 30 June 2021 that fail to comply with the new terms and conditions will remain classified in Modified Special Mention category until the Superintendency on a regulatory basis determines its new classification and its additional provision.
4. The restructured loans on which the bank has modified their terms and conditions and that are up to date in their payments will maintain the classification they had at the time they were modified. Similarly, they will keep the provisions that had already been established. The provisions of Article 19 of Rule 4-2013 will be applicable to these loans.
5. The loans classified in substandard, doubtful or loss for the debtors that availed themselves to Law 156 of 2020, and that as of 1 January 2021 have been modified according to the provisions of proviso 1 of Article 4 herein and remain in the classification they were at the time of their modification. Similarly, they will maintain the provisions that were already created. Article 19 of Rule 4-2013 will be applied to them.
6. The loans classified in substandard, doubtful or loss of the debtors that availed themselves to Law 156 of 2020, and that as of 1 January 2021 have been modified in

accordance with the provisions of proviso 1 of Article 4 herein and fail to comply, partially or totally, with their payments as of 30 June 2021 will maintain the classification in which they were at the time of their modification. Likewise, they will keep the provisions that had already been established.

For these loans, as of 1 July 2021 the bank must continue with the application of Rule 4-2013 in regards to the displacement, provisioning and punishment of operations, for which the bank must consider the days in arrears the customer had at the time of modification.”

ARTICLE 4. BANK CUSTOMER PROTECTION. Banks must comply with the provisions established herein and ensure that they strengthen the procedures, mechanisms and methodology of their claims management system that allows them to respond all requests, claims, complaints, concerns and controversies the customers may lodge with regard to the application of the benefits of the financial relief measures provided herein and other regulations related to the matter, in accordance with the provisions of Article 206 of the Banking Law.

Additionally, the Superintendency of Banks will maintain its Bank Customer Service available to bank customers and consumers so that, through the different communication means and channels available nationwide, they can submit such claims to administrative channels, in order to ensure proper compliance with the above provisions and ensure the protection of the rights of bank customers.

ARTICLE 5. ENACTMENT. This Rule shall become effective as of 1 January 2021.

Given in the city of Panama on the twenty-first (21st) day of October, two thousand twenty (2020).

FOR COMMUNICATION, PUBLICATION AND ENFORCEMENT.

THE CHAIRMAN,

THE SECRETARY,

Luis La Rocca

Nicolás Ardito Barletta