

Republic of Panama Superintendency of Banks

**RULE N.º 9-2022
(Dated 16 August 2022)**

“Whereby Article 11-A is added to Rule 1-2011 on transparency of information for using banking products and services”

THE BOARD OF DIRECTORS
in use of its legal powers and,

WHEREAS:

Pursuant 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 approved it by means of Executive Decree 52 dated 30 April 2008, hereinafter referred to as the Banking Law,

Pursuant to Article 5 (3) and (4) 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 Article 11 (5) of the Banking Law, establishing the administrative interpretation and scope of the legal provisions and regulations on banking matters is among the technical duties of the Board of Directors,

Pursuant to Article 192 of the Banking Law, banks must provide their services to their bank clients with transparency, probity, and equity,

Rule 1-2011 dated 4 January 2011 establishes the guidelines for transparency of information for using banking products and services,

Rule 4-2011 dated 4 May 2011 prescribes the rules for collecting certain fees and surcharges applied by banks,

Pursuant to Article 11 of Rule 4-2011, conditioning the client to choose or appoint an insurance company related to the bank or the banking group, in those operations that requires the contracting of any type of insurance policy is consider an abusive practice by banks, and therefore, banking contracts cannot include this in banking contracts nor apply it in relations with clients,

Law 12 dated 3 April 2012 regulates the insurance activity and prescribes other provisions,

Pursuant to Articles 150 and 151 of Law 12 of 2012, bank clients are free to contracting the insurance policies directly from insurance companies or through insurance brokers, marketing channels authorized by law, or affiliate to any group insurance policy the bank has in force, in those transactions that require the contracting of any type of insurance policy,

The Superintendency of Insurance and Reinsurance of Panama has informed the Superintendency of Banks of its concern that the statistics of the former show a rise in consumer claims due to limitations on the clients' freedom to choose an insurance company and insurance broker when conducting any transaction with the bank,

Pursuant to circulars, the Superintendency of Banks have reiterated to banks to guarantee the bank clients' right of choosing the insurance company of their preference for those operations that require it; the Superintendency of Banks has also warned banks about the prohibition of conditioning said clients' right when providing banking products and services,

Pursuant to the statistical analysis of the information processed by the Superintendency of Banks' Bank Customer Service Office, it reveals that not all banks comply with the clients' right and freedom to choose an insurance company in those transactions that require an insurance policy,

During its working sessions, the Board of Directors determined it was necessary and advisable to amend Rule 1-2011 to establish that banks are required to informing clients and, at the same time, recognizing and accepting the freedom every person has of contracting the insurance policies in those transactions that so require, by either be affiliated to a group insurance policy or contracting an individual insurance policy, as well as to comply with the right to information related to the insurance contracts that secure these operations.

RESOLVES:

ARTICLE 1. Article 9 of Rule 1-2011 dated 4 January 2011 shall read:

“ARTICLE 9. MEANS TO INFORM THE CLIENT ABOUT INTEREST RATES, FEES, AND CHARGES FOR OTHERS OF PRODUCTS AND SERVICES. Banks must always comply with the obligation contained in Article 193 of the Banking Law of informing the client, from the beginning of the relationship, the terms and conditions applicable to their specific contract.

In cases of lending operations under the installment payment system, banks, when approving the operation, must notify in writing to the client the installment, describing the minimum information regarding such. In case of doubts on the terms contained in such document, the bank should clarify them. After reading the document and clarifying the doubts, the bank shall record the notification made to the client and that he received a copy of the contract.

In contracts with lending operations, banks must record the nominal and effective interest rates, in this order and consecutively, expressed on an annualized basis, with letters and numbers highlighted to ensure their visibility, and the formula for calculating them.

In the case of lending operations, whenever there are interest rates changes, the bank must notify the client in advance and must keep the bank informed of changes to his address or telephone numbers, for the purposes of this and other notifications. Likewise, if the insurance policy securing an obligation expires or terminates, the bank must ensure that it notifies the client of such condition.”

ARTICLE 2. Article 11-A adds to Rule 1-2011 dated 4 January 2011:

“ARTICLE 11-A. DISCLOSURE OF INFORMATION ON THE FREEDOM OF CONTRACTING INSURANCE POLICIES. Banks must always comply with the provisions of Articles 150 and 151 of Law 12 dated 3 April 2012, which regulates insurance activities, to inform clients and potential clients, prior to entering any contract, the freedom they have of contracting, directly or through the authorized marketing channels and offered by banks the insurance policies required for banking operations. If a bank offers group insurance policies, the bank must ensure it notifies the client or potential client on the freedom of either be affiliated to a group insurance policy or contracting an individual insurance policy.

In any case, the bank may not limit or condition the client's and potential client's right to choose and decide on the insurance company he deems convenient to secure a banking operation. Failure to comply with these provisions is consider an abusive practice, in accordance with the provisions of Article 11 of Rule 4-2011.

Banks must directly inform to the client and potential client in a clear manner and by any means, physical or digital, to allow him to make informed decisions on the freedom of contracting the required insurance policy necessary in those banking operations.

The bank must ensure it records the communication, to clients and potential clients, of the information referred to herein.

In the case of group insurance policies offered by the bank through an insurance company related to said bank, the latter must ensure it complies with the provisions

of Article 162 of Law 12 of 2012, regarding the obligation of providing the individual certificate of the insurance policy to the insured party and to keep a proof of delivery to the client. Likewise, if the bank uses a trust for the structuring of loans, even when the beneficiary is the bank itself, it will correspond to the bank to inform the client-debtor of the affiliation to the group insurance, as well as to provide the individual certificate of the insurance policy and to keep proof of such delivery.”

ARTICLE 3. EFFECTIVE DATE. The provisions herein shall become effective upon its enactment.

Given at Panama City this sixteenth (16th) day of August, two thousand twenty-two (2022).

FOR COMMUNICATION, PUBLICATION AND ENFORCEMENT.

THE CHAIRMAN,

THE SECRETARY,

Rafael Guardia Pérez

Felipe Echandi Lacayo

