

Republic of Panama Superintendency of Banks

TRUST RULE N°. 1-2018
(dated 26 June 2018)

“Whereby the term ‘Trust Examination’ included in Article 31 of Law 21 of 2017 is further developed”

The Board of Directors of the Superintendency of Banks
in use of its legal powers and,

WHEREAS:

Pursuant to the provisions of Article 4 of the Banking Law, the Superintendency of Banks has the exclusive competence to regulate and supervise the banks, the banking business and other entities and activities assigned to it by other laws;

The trust business in Panama is regulated by means of Law 1 dated 5 January 1984;

Law 21 dated 10 May 2017 establishes rules for regulating and supervising the trustees and trust business, and amended Law 1 of 1984;

Pursuant to Article 1 of Law 21 of 2017, the Superintendency of Banks has the exclusive competence to regulate and supervise trustees holding a trust license and those entities authorized by law to engage in the trust business;

According to Paragraph 3 of Article 5 of Law 21 of 2017, one of the duties of the Board of Directors of the Superintendency of Banks is to establish the rules for examinations ordered by this law;

Article 31 of Law 21 of 2017 establishes that the Superintendency of Banks must conduct examinations of each trustee to determine its financial condition, to verify compliance with the provisions of the Law and ensure that all examination costs and incidental expenses are covered by the trust company;

During the Board of Directors’ working sessions it was determined that it was necessary and advisable to establish the administrative scope and interpretation of the term ‘Trust Examination’ included in Law 21 of 2017.

RESOLVES:

ARTICLE 1. DEFINITION OF ‘TRUST EXAMINATION’. For the purposes of the provisions of Article 31 of Law 21 of 2017, trust examinations will be understood as the set of actions carried out by the Superintendency of Banks to supervise the operations conducted by trustees, including any other authorized activities, and by means of which their financial condition is determined and compliance with the legal provisions regulating the trust business is verified. When the Superintendency deems it appropriate, trust examinations may be extended to affiliated companies conducting operations with the trustees.

It is understood that, in addition to the verification conducted in the facilities of the trustees or affiliates conducting operations with them, the term ‘Trust Examination’ includes the examination and the continuous oversight of the Trustee’s foreign and domestic activities conducted by the Superintendency through constant monitoring and analyses, surveys, repots and consultancies in general, performed by the technical and administrative staff of this institution from the headquarters of the Superintendency, as provided for in Law 21 of 2017, which established the rules for the regulation and supervision of trustees and the trust business and in the Rules that further develop the law.

ARTICLE 2. THE COST OF TRUST EXAMINATION. As provided for in the previous article, the fixed and variable costs the Superintendency of Banks must incur in for the continuous oversight of trustees for the benefit of the trust funds administered by them and the development of the trust business, as well as any other activities authorized for the purpose of promoting public trust in the trust system and preventing risks inherent to that activity, shall be considered trust examination costs.

ARTICLE 3. DETERMINING THE COST OF THE EXAMINATION. The Superintendent of Banks will quantify the cost required for examining all of the trustees authorized to engage in the trust business and any other persons authorized by law on an annual basis, and will allocate [the cost] among these entities, weighting – among other factors – the sum of assets, the volume and complexity of the trust funds administered, the diversity of trust activities, the number and aize of the set of affiliates conducting operations with the trustees and the trustee's the geographical distribution and the corporate governance structure.

ARTICLE 4. This Rule will become effective upon its promulgation.

Given in the city of Panama on the twenty-sixth (26th) day of June, two thousand eighteen (2018).

FOR COMMUNICATION PUBLICATION AND ENFORCEMENT.

THE CHAIRMAN,

THE SECRETARY,

Luis Alberto La Rocca

Joseph Fidanque III