

**LAW 47**  
**Of August 6th, 2013**

**Which adopts a custody regime**  
**Applicable to bearer shares**

**THE NATIONAL ASSEMBLY**  
**DECREES:**

**Chapter I**  
**General Provisions**

**Article 1. Objective.** This Law has the objective of adopting a custody regime for bearer shares certificates.

**Article 2. Definitions.** For the purpose of this Law, the following terms shall have the meaning set forth below:

1. *Attorney.* A legal professional authorized by the Fourth Chamber of General Business of the Supreme Court of Justice of the Republic of Panama, practicing law individually, as well as civil corporations established pursuant to the law and consisting of professionals admitted to practice law in the Republic of Panama.
2. *Notification Agent.* Attorneys, banks with a general banking license and trusts established in the Republic of Panama that have been designated by an authorized foreign custodian to receive notifications and requests in their name and on their behalf related to any aspect or obligation concerning the exercise of the custody activity referred to in this Law.
3. *Resident Agent.* An attorney designated as a resident agent by a corporation existing under the laws of the Republic of Panama.
4. *Competent Authority:*
  - a. The Public Prosecutor's Office and the Judiciary Branch, with respect to investigations of acts related to money laundering, financing of terrorist activities or any activity deemed illicit under the laws of the Republic of Panama.
  - b. The National Authority of Public Revenues, with respect to the enforcement of international agreements or conventions signed by the Republic of Panama and currently in force.
5. *Authorized custodian.* The local or authorized foreign custodians of bearer share certificates. Each of the terms defined in this Article includes both the plural term and the female gender.

**Chapter II**  
**Obligation to Place Bearer Share Certificates in Custody**

**Article 3. Appointment of authorized custodian.** From the date of entry into force of this Law, all owners of bearer shares shall appoint an authorized custodian in whose custody the respective bearer share certificates will be placed, pursuant to the provisions of this Law.

**Article 4. Delivery of bearer share certificates issued prior to the entry into force of this Law.** Bearer share certificates issued before the entry into force of this Law must be delivered to an authorized custodian, together with the affidavit referred to in Article 8, within the transition period established in Article 24.

**Article 5.** Delivery of bearer share certificates issued after the entry into force of this Law. All corporations that issue bearer share certificates after the entry into force of this Law must deliver them to an authorized custodian, together with the affidavit referred to in Article 9 paragraph 1, within a period of 20 days from the date of approval of the issuance of bearer shares.

For the purpose of appointing the authorized custodian, the owner shall provide to the issuing corporation the full name of the authorized custodian, as well as its physical address and the information of a person who the corporation can contact if needed, indicating a telephone number and an email address or a facsimile number. The corporation shall void the issuance of bearer shares if the owner does not supply the information and the affidavit referred to herein within the term established in this Article,

### **Chapter III** Authorized Custodian

**Article 6.** Authorized local custodians. Banks with a general banking license and trusts established in the Republic of Panama and regulated by the Banking Superintendent of Panama, as well as brokerage houses and securities firms established in the Republic of Panama and regulated by the Superintendent of Securities Markets of Panama.

Likewise, all attorneys registered with the Fourth Chamber of General Business of the Supreme Court of Justice in a special registry kept for such purpose may act as authorized local custodians. Without prejudice to any other information that the Fourth Chamber of General Business of the Supreme Court of Justice may request to formalize their registration, those attorneys who wish to act as custodians shall furnish their full name, the physical address where they will keep the bearer share certificates, as well as a telephone number and an email address or a facsimile number.

The relevant Superintendent and the Fourth Chamber of General Business of the Supreme Court of Justice shall, at the request of the competent authority, certify the registration of the authorized local custodians. Likewise, they shall maintain in their websites an updated list of all the authorized local custodians registered to act as such. In the case of the Fourth Chamber of General Business of the Supreme Court of Justice, the list shall include the effective date of their registration.

**Article 7.** Authorized foreign custodians. Banks, trusts and financial intermediaries licensed to perform such activities, established in jurisdictions that are members of the Financial Action Task Force on Money Laundering or associate members registered with the Banking Superintendent of Panama in a special registry kept for that purpose, may act as authorized foreign custodians. Without prejudice to any other information that the Banking Superintendent of Panama may request to formalize their registration, the banks, trusts and financial intermediaries that meet the above-mentioned requirements must submit the following:

1. General incorporation data, name, physical address, telephone number and email address or facsimile number.
2. Certificate issued by the regulatory agency accrediting that they are under its control, including name, physical address, telephone number and email address or facsimile number of this agency, legalized, and translated if required.

3. Evidence of appointment of a notification agent, including full name, physical address, telephone number and email address or facsimile number of this agency, translated if required.
4. Affidavit stating the following:
  - a. That they enforce measures to get to know their clients in terms no less strong than those required by Law 2 of 2011.
  - b. That they commit to provide to the resident agent of the issuing corporation the full name, nationality or country of incorporation, ID card or valid passport number or incorporation data, physical address, telephone number and email address or facsimile number of the owners of the bearer shares whose certificates they will hold in custody.

The Banking Superintendent of Panama shall certify, at the request of the competent authority, the registration of the authorized foreign custodians and shall keep in its webpage an updated list of all the authorized foreign custodians registered to act as such, indicating the effective date of their registration.

## **Chapter IV**

### **Information**

**Article 8.** Information supplied to the authorized custodian of bearer share certificates prior to the entry into effect of this Law. Without prejudice of any other information that the authorized custodian may request, at the time of placing in custody the bearer share certificates referred to in Article 4, the following information shall be provided via affidavit:

1. Full name, nationality or country of incorporation, ID card or valid passport number or incorporation data, physical address, telephone number and email address or facsimile number of the owners of the bearer shares.
2. Full name, physical address, telephone number and email address or facsimile number of the resident agent of the issuing corporation.

The authorized custodian shall be deemed appointed, and therefore, the custody will be completed with the delivery of the bearer share certificates and the affidavit referred to in this Article.

The owner of the bearer shares shall be the person identified as such in the affidavit referred to in this Article, with the exception of the provisions of Article 13.

**Article 9.** Information furnished to the authorized custodian of the bearer share certificates after the entry into force of this Law. Without prejudice of any other information that the authorized custodian may request, at the time of placing in custody the bearer share certificates referred to in Article 5, the issuing corporation shall furnish the following documentation and information:

1. Affidavit issued by the owner of the bearer shares indicating their full name, nationality or country of incorporation, ID card or valid passport number or incorporation data, physical address, telephone number and email address or facsimile number.
2. Full name, physical address, telephone number and email address or facsimile number of the resident agent of the issuing corporation.

The authorized custodian shall be deemed as appointed, and therefore, custody will be completed with the delivery of the bearer share certificates and the documentation and information referred to in this Article.

The owner of the bearer shares shall be the person identified as such in the affidavit referred to in this Article, with the exception of the provisions of Article 13.

## **Chapter V**

### **Obligations of the Authorized Custodian**

**Article 10. Obligations of the authorized local custodian.** The authorized local custodian shall:

1. Keep all the documentation related to the provision of the custody service in its headquarters established in the Republic of Panama. The registries related to the provision of the custody service shall be kept for a period of five years from the termination of such services.
2. Maintain physical custody of the bearer share certificates during their term as authorized custodian in their headquarters established in the Republic of Panama.
3. Keep the information received pursuant to the provisions of this Law strictly confidential.
4. Furnish the information referred to in this Law whenever required by the competent authorities. The supply of information at the request of the competent authority shall not be considered as a failure to comply with the obligation to keep the information strictly confidential or as a violation of the duty of confidentiality or the right to privacy.
5. Issue certificates stating the identity of the owner of the bearer shares whenever they are required via judiciary orders by the owner or the secured creditor thereof.

Those attorneys registered to act as authorized local custodians shall keep the information referred to in Article 6, paragraph 2 hereof up to date.

**Article 11. Obligations of the authorized foreign custodian.** The authorized foreign custodian shall:

1. Keep all documentation related to the provision of the custody service at the physical address given to the resident agent of the issuing corporation at the time of notifying them of their status as custodians, as provided in Article 17. The registries related to the provision of the custody service shall be kept for a period of five years, counted from the termination of such services.
2. Keep physical custody of the bearer share certificates during their term as authorized custodians at the physical address given to the resident agent of the issuing corporation at the time of notifying them of their status as custodians, as provided in Article 17.
3. Keep the information received pursuant to the provisions of this Law strictly confidential.
4. Give to the resident agent of the issuing corporation, together with the notification of their designation, the full name, nationality or country of incorporation, ID card or valid passport number or incorporation data, physical address, telephone number and email address or facsimile number of the owners of the bearer shares whose certificates are held in custody. The supply of information to the resident agent shall not be considered as a failure to comply with the obligation to keep the information strictly confidential or as a violation of the duty of confidentiality or the right to privacy.
5. Issue certificates stating the identity of the owner of the bearer shares whenever required via judiciary orders by the owner or by the secured creditor thereof.

Banks, trusts and financial intermediaries that, together with the information and documentation referred to in Article 7, deposit the sum of twenty-five thousand balboas (B/. 25,000.00) in the National Treasury as a performance bond, shall be exempted from complying

with the obligation contained in paragraph 4 hereof. This bond shall be issued by an insurance company or a bank established and with a license to operate in the Republic of Panama.

Authorized foreign custodians who choose to deposit the bond referred to in the above paragraph shall give to the resident agent of the issuing corporation, whenever a request for information is issued by the competent authority, the full name, nationality or country of incorporation, ID card or valid passport number or incorporation data, physical address, telephone number and email address or facsimile number of the owners of the bearer shares whose certificates are held in custody. In case of failure to comply, the competent authority may execute the bond referred to in this Article according to the procedures established for that purpose.

The Executive Branch shall regulate the requirements that must be met by the performance bond referred to in this Article.

## **Chapter VI**

### **Transfer of Bearer Shares**

**Article 12. Transfer of bearer shares.** In addition to the provisions contained in Article 30 of Law 32 of 1927, the transfer of bearer shares shall be carried out when the authorized custodian is formally notified in writing of such transfer by the owner, and when the acquirer delivers to the authorized custodian the affidavit referred to in Article 9, paragraph 1.

**Article 13. Hereditary provisions regarding bearer shares.** All hereditary provisions left by the owner, while alive, regarding the ownership of bearer shares and for which notification to the authorized custodian has been provided in writing and pursuant to the formalities established in the pertinent regulations, shall be valid and shall supersede any succession right, whether testamentary or intestate.

The designation as heir of the bearer shares does not confer title over said shares. Accordingly, the only person(s) who shall be considered the owner(s) thereof shall be the person(s) named as such after the death of whoever made the testamentary provision referred to in this Article, without need of declaration by a court of law.

The existence of legal provisions in inheritance matters in the domicile of the owner of the bearer shares held in custody shall not be imputable to the authorized custodian nor shall they affect the validity of the designation of the heir of such shares upon the death of whoever made the testamentary provision referred to in this Article.

## **Chapter VII**

### **Collateral Guarantee**

**Article 14. Secured creditors.** Secured creditors who, as of the date of entry into force of this Law, are in possession of bearer share certificates, must fulfill, within the term stipulated in Article 24, the requirements provided in Articles 6 and 7 in order to be able to act as authorized custodians. Otherwise, within the same term, they shall deliver for custody the certificates of the bearer shares to an authorized custodian, accompanied by the affidavit referred to in Article 8. This authorized custodian shall in turn act as secured creditor. The secured creditor must notify the owner of bearer shares as to its status as authorized custodian thereof, or of the designation of a third person as such.

**Article 15. Collateral guarantee over bearer shares.** The constitution of a collateral guarantee over

bearer shares, after the entry into force of this Law, shall be executed via a written notice sent by the owner to the authorized custodian regarding the pledging of the shares, indicating the full name, physical address, telephone number and email address or facsimile number of the secured creditor. Upon receipt of such notice, the authorized custodian shall proceed to formalize the relationship with the creditor and with the pledgor, in the capacity as depository of the collateral guarantee.

**Article 16. Execution of collateral guarantee.** The execution of the collateral guarantee shall not be deemed complete until the authorized custodian is notified in writing of such execution by the secured creditor and has received the affidavit referred to in Article 9, paragraph 1 from said creditor.

## **Chapter VIII**

### **Notices**

**Article 17. Notice of designation of authorized custodian.** Within a term not exceeding ten days after being designated as authorized custodian, such custodian shall notify in writing such designation to the resident agent of the issuing corporation. This notice shall contain the full name, physical address and other data of a person whom the resident agent of the issuing corporation may contact if necessary, and must also indicate a telephone number and email address or facsimile number.

All authorized custodians shall, together with the notification of their status as such, indicate to the resident agent the name of the issuing corporation so that, in a term not exceeding ten days after receiving the notification, the resident agent in turn may notify the issuing corporation of the delivery for custody of the bearer share certificates, indicating the full name, physical address and other data of a person whom the resident agent of the issuing corporation may contact if needed, also indicating a telephone number and email address or facsimile number.

The foreign authorized custodian shall give to the resident agent, together with the notice of their status as custodian, the following information and documentation:

1. Evidence of their registration with the Banking Superintendent of Panama.
2. Exact physical address where the bearer share certificates shall be held in custody.

In case the resident agent of the issuing corporation has been designated as authorized custodian, such resident agent shall proceed only to notify this to the issuing corporation, as provided in paragraph 2 of this Article, within the established term from the date of their appointment as such.

**Article 18. Notice of change of resident agent.** When for any reason the issuing corporation changes its resident agent, the corporation must notify in writing such change to the authorized custodian, indicating the full name, physical address, telephone number and email address or facsimile number of the new resident agent, within a term not exceeding ten days after the effective date of the change. Once this notice is received, the authorized custodian shall notify the new resident agent of their status as custodian within a term not exceeding ten days from the date on which the notice was received.

The foreign authorized custodian shall give to the new resident agent, together with the notice of their status as custodian, the following information and documentation:

1. Evidence of their registration with the Banking Superintendent of Panama.
2. Exact physical address where the bearer share certificates shall be held in custody.

In the event that the resident agent of the issuing corporation has been designated as authorized custodian and the issuing corporation replaces such resident agent, the replaced resident agent shall notify the owner of the bearer shares of the replacement within a period not exceeding fifteen days from the date of the notice of their replacement. Once notified, the owner shall have ten days to name a new authorized custodian and to notify, in writing, the custodian who will be replaced, indicating the full name, physical address, telephone number and email address or facsimile number of the newly appointed authorized custodian.

Within a term not to exceed fifteen days from the date of the latter notice, the custodian who will be replaced shall deliver to the newly appointed authorized custodian the bearer share certificates held in custody, accompanied by the documentation and information referred to in Article 8 or 9, as the case may be, and the latter shall fulfill the provisions contained in Article 17.

## **Chapter IX**

### **Resignation and Replacement**

**Article 19. Resignation of authorized custodian.** In case an authorized custodian resigns from the custody entrusted to them, it shall provide notification of such resignation, in writing, to the owner of the bearer shares and to the resident agent of the issuing corporation, at least fifteen days prior to the date on which the custody service will cease. Within the same term, the owner shall appoint a new authorized custodian and shall notify the resigning custodian of this appointment, in writing, indicating the full name, physical address, telephone number and email address or facsimile number of the new authorized custodian.

Within a term not exceeding fifteen days from the date of the latter notification, the resigning authorized custodian shall deliver to the newly appointed authorized custodian the certificates of the bearer shares, accompanied by the documentation and information referred to in Article 8 or 9, as the case may be, and the latter shall fulfill the provisions contained in Article 17.

**Article 20. Replacement of authorized custodian.** Only the owner of bearer shares can designate a new authorized custodian.

For this effect, a written notice must be sent to the authorized custodian that will be replaced, indicating the complete name, physical address, telephone number and e-mail address or fax number of the designated authorized custodian. Within a period not exceeding fifteen days, starting on the date of said notification, the authorized custodian who will be replaced is under the obligation to deliver the bearer share certificates that it has held under custody to the designated authorized custodian, together with the documentation and information referred to in Article 8 or 9, depending on the case, and the latter must comply with what is established in Article 17.

## **Chapter X**

### **Penalties**

**Article 21. Failure to comply with the placement under custody of the bearer share certificates issued prior to the entry into force of this Law.** The owner of bearer shares whose certificates have not been delivered for custody after the transition period referred to in Article 24 shall be

prevented, with respect to the issuing corporation, from exercising the political and economic rights inherent in them under the law, without prejudice to the legal actions that the interested parties may in good faith take to obtain compensation for damages incurred.

**Article 22. Penalties applicable to the authorized custodian.** Whenever any competent authority, in the exercise of its duties, becomes aware that an authorized custodian has failed to comply with the obligations imposed by this Law, they shall notify, in writing, the Banking Superintendent of Panama of such noncompliance in the case of banks or trusts, and shall notify, in writing, the Superintendent of Securities Markets of Panama in the case of brokerage houses and clearing houses, and shall notify the Fourth Chamber of General Business of the Supreme Court of Justice of Panama in the case of attorneys, so that such may proceed to carry out the relevant investigation, and may enforce the pertinent penalty via a substantiated decision.

After receiving the notification of noncompliance from the competent authority, the Banking Superintendent of Panama and the Superintendent of Securities Markets of Panama shall apply the penalization procedure established for such purpose. The Fourth Chamber of General Business of the Supreme Court of Justice of Panama shall apply the penalization procedure established in Law 2 of 2011.

Failure to comply with the obligations established in this Law shall be penalized by the Banking Superintendent of Panama, the Superintendent of Securities Markets of Panama or by the Fourth Chamber of General Business of the Supreme Court of Justice, as the case may be, by the imposition of the following penalties:

1. A fine of five thousand balboas (B/.5,000.00) to the authorized local custodian who receives certificates of bearer shares for safekeeping without fulfilling the requirements established in this Law.
2. A fine of five hundred balboas (B/.500.00) to the authorized local custodian who fails to keep a copy of the information referred to in this Law.
3. A fine of two thousand five hundred balboas (B/.2,500.00) to the authorized local custodian who fails to ensure the physical safekeeping of the certificates of bearer shares.
4. A fine of two thousand five hundred balboas (B/.2,500.00) to the authorized local custodian who fails to maintain strict confidentiality, at all times, with regards to the information received pursuant to the provisions of this Law.
5. A fine of one thousand balboas (B/.1,000.00) to the attorney who, acting as authorized custodian, fails to keep the information referred to in paragraph 3, Article 6 up to date.
6. A fine of five thousand balboas (B/.5,000.00) to the authorized local custodian who fails to provide notification in writing of his designation as such, as provided in Article 17.
7. A fine of two thousand five hundred balboas (B/.2,500.00) to the authorized local custodian who fails to provide notification of his status in writing to the new resident agent, as provided in Article 18.
8. A fine of two thousand five hundred balboas (B/.2,500.00) to the authorized local custodian who fails to provide notification of his resignation or replacement, as provided in Articles 19 and 20, respectively.
9. A fine of five hundred balboas (B/.500.00) to the authorized local custodian who fails to provide the documentation and information referred to in Articles 19, 20 and 23, within the terms specified in said Articles.
10. A fine of five thousand balboas (B/.5,000.00) to the authorized local custodian who fails to provide notification of his suspension in writing, as provided in Article 23.
11. Suspension from exercising the activity of custodian as provided in this Law for a term of



three years when the local authorized custodian repeatedly fails to comply with the requirements stipulated in this Law.

This penalty shall also apply to the foreign authorized custodian who performs these services without complying with the requirements stipulated in this Law. In such case, the Banking Superintendent of Panama shall formally notify the regulatory agency of the foreign authorized custodian of the suspension, in writing, so that it may take the applicable measures.

12. Permanent suspension from exercising the custody activity pursuant to this Law when the performance bond referred to in Article 11 has been executed by the competent authority. The resolutions that suspend the exercise of the custody activity must be published in the Official Gazette.

**Article 23. Suspension of authorized custodian.** In the case of suspension of the activity of the authorized custodian pursuant to the provisions of paragraphs 10 and 11 of the previous Article, the suspended custodian shall have the obligation to provide notification of this event in writing to the owner of the bearer shares and to the resident agent of the issuing corporation, within a term not exceeding fifteen days from the date of the notification of suspension.

After receiving said notification, the owner shall have ten days to appoint a new authorized custodian and to notify the suspended custodian of as much in writing, indicating the full name, physical address, telephone number and email address or facsimile number of the new authorized custodian. Within a period not exceeding fifteen days from the date of the last notification, the suspended custodian must deliver to the new authorized custodian the certificates of bearer shares, accompanied by the documentation and information referred to in Article 8 or 9, as the case may be, and the latter shall fulfill the provisions contained in Article 17.

## **Chapter XI**

### **Additional Provision**

**Article 24.** Paragraph 21 of Article 100 of the Judicial Code is added, as follows:

**Article 100.** The Fourth Chamber shall:

...

21. Keep a registry of the attorneys and law firms acting as authorized local custodians of certificates of bearer shares pursuant to the Law, and enforce the relevant penalties for failure to comply with the obligations consistent with the custody of bearer share certificates.

## **Chapter XII**

### **Transitory and Final Provisions**

**Article 25. Transition period for bearer share certificates issued prior to the entry into force of this Law.** With regards to the bearer share certificates issued prior to the entry into force of this Law, a term of three years is granted, after its effective date, for their placement in custody.

**Article 26. Redemption or cancellation of bearer shares.** In the event that during the period of transition applicable to this Law, a decision is made to redeem or cancel the bearer shares, the new shares issued shall be registered or, if they are issued as bearer shares, shall be submitted to the custody regime established in this Law, pursuant to Article 5.

**Article 27.** Notice. This Law adds paragraph 21 to Article 100 of the Judicial Code.

**Article 28.** Validity. This law shall enter into force two years after its enactment.

**BE IT THUS DECREED AND NOTIFIED.**

Bill 568 of 2013, approved during the third debate at Justo Arosemena Palace, Panama City, on July 29, 2013.

The President

(signed)  
Sergio R. Galvez Evers

The General Secretary

(signed)  
Wigberto E. Quintero G.

NATIONAL EXECUTIVE BRANCH. PRESIDENCY OF THE REPUBLIC.  
PANAMA, REPUBLIC OF PANAMA, AUGUST 6, 2013

(signed)  
RICARDO MARTINELLI BERROCAL  
President of the Republic

(signed)  
FRANK DE LIMA  
Minister of Economy and Finance