June 6, 2014

Via Electronic Delivery

Monica Jackson, Office of the Executive Secretary
Bureau of Consumer Financial Protection
1700 G Street NW, Washington, DC 20552

Re: **Docket No. CFPB-2014-0008 and RIN 3170-AA45; Electronic Fund Transfers (Regulation E)**

Dear Ms. Jackson:

The Clearing House Association L.L.C., the American Bankers Association, the Consumer Bankers Association, The Financial Services Roundtable, the Independent Community Bankers of America, and NACHA – the Electronic Payments Association (collectively, the "Associations")[1] respectfully submit to the Bureau of Consumer Financial Protection ("Bureau") this comment letter regarding the Bureau's proposal ("Proposed Rule" or "Proposal")[2] to revise the regulation ("Remittance Transfer Rule" or "Rule") issued to implement Section 1073 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Section 1073"), which created new requirements for "remittance transfers."

I. Introduction

The Remittance Transfer Rule, which took effect on October 28, 2013, sets forth a number of requirements for "remittance transfers," including that remittance transfer providers must disclose certain information to the sender of a "remittance transfer," such as the exchange rate that will apply to the transfer, the amount of "covered third-party fees" and the total amount to be received by the "designated recipient." The Remittance Transfer Rule also

[1] Information regarding each of the Associations is provided in Appendix A to this comment letter.

[2] Electronic Fund Transfers (Regulation E), 79 Fed. Reg. 23234 (Apr. 25, 2014).

requires providers to investigate and remedy "errors" and gives senders the right to cancel a transfer.

In general, the disclosures given to a sender are required to be accurate when the sender makes payment for the transfer. However, Section 1073 includes two statutory exceptions to this requirement, including a "temporary exception" that permits insured institutions (i.e., insured depository institutions and credit unions) to disclose estimates, rather than exact amounts, under certain circumstances.[3] The temporary exception is currently set to expire on July 21, 2015. However, the Proposal would extend the expiration date of the exception by five years to July 21, 2020.

The Proposal would also make a number of other "clarificatory amendments and technical corrections" to the Rule. Among other things, the Proposal would clarify that transfers from non-consumer accounts are not subject to the Rule and that a provider may give oral disclosures in response to a written remittance transfer "inquiry." The Proposal would also revise certain aspects of the procedures for resolving errors under the Rule, including the application of an exception to the definition of "error" where the late delivery of funds resulted from a remittance transfer provider's fraud screening procedures or in accordance with the Bank Secrecy Act ("BSA"), Office of Foreign Assets Control ("OFAC") requirements, or similar laws or requirements. In addition, the Bureau has requested comments "on whether and how" it should clarify the application of the Rule "to transfers to and from individuals and/or accounts located on U.S. military installations abroad."

The Associations strongly support the Bureau's proposal to extend the temporary exception, which we believe is essential to ensuring that depository institutions that use "open network" systems may continue to send remittance transfers to all of the locations to which they currently send to today. We also appreciate the Bureau's proactive approach to the proposed extension and its investment of time and resources in conducting industry outreach in advance of releasing the Proposed Rule.

Additionally, while the Associations generally support the proposed clarifications to the Rule, we believe that certain adjustments are necessary. In particular, the Associations encourage the Bureau to:

- clarify that a remittance transfer provider may look to the way in which an account funding a transfer is identified in the provider's records at the time a transfer from the

[3] EFTA § 919(a)(4), which was implemented by the Bureau at 12 C.F.R. § 1005.32(a)(1). Section 1073 also includes a permanent statutory exception that permits a remittance transfer provider to provide estimated disclosures when the provider cannot determine the exact amounts at the time the disclosure is required because the laws of the recipient country do not permit such a determination or the method by which transactions are made in the recipient country does not permit such determination. In addition, in implementing the requirements of Section 1073, the Bureau created two additional permanent exceptions: (i) one that permits providers to disclose estimates for transfers scheduled five or more business days before the day of transfer; and (ii) a second that permits providers to estimate (if they choose to) non-covered third-party fees and taxes collected by a person other than the provider.

account is requested for purposes of determining whether the transfer is made for personal, family or household purposes;

- revise comment 31(a)(3)-2 (regarding the use of oral disclosures in situations in which the provider believes that it is impractical for the provider to treat an initial communication (e.g., by email, fax, mailed letter) as a request and may give oral disclosures) to include an example of a scenario involving a sender located in the United States;

- refrain from making any mandatory changes to the contents of required receipts, such as by requiring providers to disclose website addresses that are not in the existing model forms published by the Bureau; and

- clarify that the exception to the definition of error for delays related to fraud screening, or required by the BSA, OFAC requirements or similar laws or requirements, applies where a remittance transfer provider or a third party determines that an investigation or special action is necessary pursuant to the provider's or third party's fraud screening procedures, risk management procedures or compliance program that implements the BSA, OFAC requirements or similar laws or requirements (and is not limited to instances where an investigation or special action is itself required under such laws).

II. Discussion

A. Proposed Extension of the Temporary Exception

1. Background

The temporary exception allows a remittance transfer provider to disclose reasonably accurate estimates, rather than exact amounts, of the exchange rate, transfer amount, covered third party fees, and the total amount to be received by the designated recipient, if:

- the remittance transfer provider cannot determine the exact amounts "for reasons beyond its control";

- the remittance transfer provider is an "insured institution"[4]; and

- the remittance transfer is sent from the sender's account with the institution.

Comment 32(a)(1)-1 to the Rule explains that an insured institution cannot determine exact amounts "for reasons beyond its control" when a person "other than the insured institution, or a person with which the insured institution has no correspondent relationship,

[4] For purposes of the temporary exception, "insured institution" means "insured depository institutions (which includes uninsured U.S. branches and agencies of foreign depository institutions) as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), and insured credit unions as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)." 12 C.F.R. § 1005.32(a)(3).

sets the exchange rate or imposes a covered third-party fee" such as when a provider sends a transfer through an "open network" system.

In its discussion of the Proposal, the Bureau explains the difference between remittance transfers made through "closed network" systems, which are frequently made by non-depository money transmitters, and those made through open network systems, which are "the most common type of remittance transfer provided by insured institutions" and are frequently used to send funds from accounts held at such institutions. Specifically, in a closed network transfer, "the provider can exercise some control over the remittance transfer from end to end including to set, limit, and/or learn of fees, exchange rates, and other terms of service." However, in an open network transfer, the remittance transfer provider "typically does not have control over, or a relationship with, all of the participants in the remittance transfer." Because open network transfers often involve intermediary institutions with which the remittance transfer provider may have no direct relationship, which may impose fees or set the exchange rate for a transfer, in many instances a remittance transfer provider using an open network may not be able to determine the exact amount of third party fees and the exchange rate. The Bureau notes that the "temporary exception" was included in Section 1073 "in apparent recognition of the fact that [insured depository institutions] might need additional time to develop the necessary systems or protocols to disclose the exchange rates and/or covered third-party fees that might be imposed on a remittance transfer."

2. The Bureau's Preliminary Determination to Extend the Temporary Exception

By the terms of Section 1073, the temporary exception is set to expire on July 21, 2015. However, the Bureau is authorized to extend the temporary exception for up to five additional years "if it determines that the termination of the temporary exception on July 21, 2015, would negatively affect the ability of insured institutions to send remittance transfers." The Bureau states that it has reached a "preliminary determination" that the expiration of the temporary exception on July 21, 2015 would negatively affect the ability of insured institutions to send remittance transfers and, thus, proposes to extend the temporary exception by five years to July 21, 2020. The Bureau's determination was based on outreach and information gathering, including interviews of approximately 35 industry and consumer group stakeholders.

In the Proposal, the Bureau provides an overview of its understanding of current industry practice with respect to the disclosure of exchange rates and third party fees. Based on its research, the Bureau found that insured institutions are generally able to disclose the applicable exchange rate for a remittance transfer, which is either generated in-house or obtained from a service provider, but that for transfers involving certain "thinly traded" currencies or currencies it is "impracticable" to purchase (e.g., because foreign laws bar purchase of that currency in the United States), insured institutions "may not have a viable mechanism to provide exact exchange rate information . . . [.]" With respect to third party fees, the Bureau acknowledges that insured institutions are able to disclose exact fee amounts in many cases, but that in some instances exact disclosures are not feasible because an insured institution or its service provider "cannot reliably control or know covered third-party fees in every case."

The Bureau states, however, that most of the institutions it interviewed reported that "where possible, they provided exact disclosures and only rely on the temporary exception

where they deemed it necessary to do so." This information is consistent with findings from the Bureau's market research that "insured institutions are typically disclosing exact amounts where they believe they are able to do so even though they might have additional flexibility pursuant to the temporary exception to estimate some disclosed amounts in certain cases had they developed different compliance solutions." The Bureau also notes that it believes "remittance transfer providers have, for the most part, already invested significant time and energy in compliance with the requirements of the Remittance Rule whether they are providing exact disclosures or using the temporary exception."

While institutions generally strive to provide exact disclosures where feasible, the Bureau found that "both small and large insured institutions continue to rely on the temporary exception for transfers from accounts when they believe fee and exchange rate information is not readily available." The Bureau states that "[t]hese institutions have indicated . . . that they are unlikely to find an alternative to their reliance on the temporary exception by July 21, 2015, for at least some portion of the remittance transfers for which they currently use the temporary exception."

3. The Associations' Comments

The Associations strongly support the Bureau's proposal to extend the "temporary exception," which we believe is critical to ensuring that insured institutions that use "open network" systems are able to continue to provide remittance transfer services to consumers. As a general matter we find that the Bureau's description of current industry practice accurately reflects the fee and exchange rate information collection and disclosure methods used by most insured institutions.[5] In addition, we agree with the Bureau's findings that insured institutions have invested significant time and energy towards compliance with the Rule and generally provide exact disclosures to consumers whenever feasible.

However, as the Bureau notes, for remittance transfers sent through open networks, there are instances when insured institutions will not be able to know the exact amount of third party fees or the exact exchange rate that will apply to a transfer. For such transfers, insured

[5] The Bureau states in the Proposal that "certain interview participants indicated that, while a bilateral agreement is not required when using the OUR charge code, the OUR instruction may be more effective where such a relationship, formalized through a Relationship Management Agreement, or RMA, is in place among the participating institutions." While the OUR code is being used reliably today in certain circumstances to enable remittance transfer providers to provide accurate disclosures, the presence of an RMA is not determinative of whether an OUR code will be honored. SWIFT's Relationship Management *Application* is a service (rather than an "agreement") that financial institutions may use to manage their relationships with other SWIFT users, including with respect to the types of messages that may be exchanged between institutions. *See* Relationship Management Application (RMA), http://www.swift.com/products_services/relationship_management_application_overview. We note that while the RMA is required for a financial institution to send authenticated messages to another SWIFT user, it is not used by all SWIFT participants and does not increase the effectiveness of an OUR code instruction. Further, as the Bureau acknowledges in the Proposed Rule, some institutions may disregard OUR charge code instructions and "SWIFT does not enforce violations[,]" meaning that "there is limited ability to seek redress if an institution violates an OUR instruction in a particular instance" regardless of whether a sending institution uses the RMA.

institutions currently rely on the temporary exception, which applies only in limited instances, so that they may provide remittance transfer services to their customers in compliance with the Rule. Accordingly, we welcome the Bureau's proposed extension, without modification, of the temporary exception through July 21, 2020, which is necessary to allow insured institutions to continue to provide remittance transfer services after July 21, 2015 to the same extent that they offer such services today. Because of the limitations of open network systems, we believe it is appropriate that the Bureau use its statutory authority to extend the exception for a full five years. We believe that in the absence of such an extension, certain insured institutions are likely to reduce or eliminate their remittance transfer offerings, which would have the unintended consequence of reducing consumer access to international funds transfer services.

Our members continue to work towards improvements in the information flow regarding exchange rates and covered third-party fees that apply to open network transfers. However, we do not believe that the existing limitations on the ability of open network providers to know and control fee and exchange rate information in all cases will be resolved in the near future. Despite the best efforts of insured institutions, there are operational realities to open network transfer systems that pose significant challenges to our members' efforts to solve these issues.

The Bureau asked about the development of *other* methods of compliance that might allow insured institutions to comply with the Rule without relying on the temporary exception, such as the expansion of international ACH products, the creation of new closed network systems, or new solutions that service providers develop as a result of increased competition. While the Associations believe that new systems and innovations may in the future make it more feasible for insured institutions to provide exact disclosures for a larger set of transfers, we believe that such advancements are several years away and are unlikely to provide a complete solution for transfers to *all* destination countries.

Even with the expansion of international ACH products and the development of new closed network systems, such advancements will provide a solution only for transfers to *certain* destination countries. As the Bureau acknowledges, "ACH services generally are developed on a country-by-country or region-by-region basis because they require agreements on protocol with foreign gateway providers and/or other foreign entities" and, as a result, "generally have a much more limited reach than wire services ... [.]" Similarly, the creation of new closed networks will require the establishment of contractual relationships and other arrangements with partner institutions around the globe, which, as the Bureau recognizes, "takes significant time and resources." For a variety of reasons, including that many foreign institutions do not satisfy the risk management criteria that U.S. financial institutions must consider when they enter a business relationship, it will not be possible for insured institutions to use closed networks to send transfers to all foreign countries in the near future. Thus, the Associations do not believe that a comprehensive solution allowing financial institutions to disclose exact fees and exchange rates in all instances will be in place by 2020.

The Associations believe that eliminating the temporary exception would, in effect, eliminate the ability of customers of insured institutions to send transfers to accountholders in many countries (and less "popular" destination countries in particular). Because we believe that open network transfers will remain an important and valued means of transferring funds to accounts in many locations, we welcome the opportunity to continue a dialogue with the

Bureau regarding efforts to resolve information flow issues, as well as industry methods, practices and capabilities. We believe that as 2020 approaches, it is imperative that the financial services industry, consumer groups and the Bureau work together to ensure that after 2020, financial institutions are able to continue to send remittance transfers to all of the locations to which they currently send to today.

B. Proposed Clarifications

In addition to extending the "temporary exception," the Proposed Rule would make certain clarifications to the Remittance Transfer Rule.

1. Application of the Rule to U.S. Military Installations Abroad

First, the Bureau has requested comment on whether and how it should clarify the application of the Remittance Transfer Rule to transfers to and from individuals and/or accounts located on U.S. military installations abroad. The Rule applies when a sender located "in a State" sends funds to a designated recipient at a location in a "foreign country." For transfers from accounts, the location of the sender's account is used as a proxy for the location of the sender.[6] Similarly, for transfers to accounts, the location of the designated recipient's account is used as a proxy for the location of the designated recipient. The Bureau notes "there is a potential for confusion about how these concepts . . . apply to transfers of funds to and from U.S. military installations that are within foreign countries because [the Rule] does not expressly address such transfers."

We believe that the Bureau should retain the existing rule for determining the location of a sender and a recipient and should not adopt a special formulation for transfers involving accounts or individuals "located on" U.S. military installations abroad. We believe that the existing bright-line rule permits depository institutions to determine the Rule's applicability by looking to the location of the account (which is determined based on the routing number of the account) and that any change to this bright-line rule would add complexity while providing little, if any, benefit to consumers. If the Bureau were to clarify that transfers to and from accounts of individuals who are located on U.S. military installations abroad are to be afforded special treatment under the Rule, remittance transfer providers will need to have a consistent, reliable way of identifying such transfers. However, it is our understanding that in many cases, remittance transfer providers cannot identify whether a transfer is received by an accountholder who is located on a U.S. military installation.

2. Transfers from Non-Consumer Accounts

In addition, the Proposed Rule would add a new comment to clarify that the Rule does not apply to transfers from non-consumer accounts. The Rule applies when a transfer is requested by a consumer primarily for personal, family, or household purposes.[7] The Proposed

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[6] *See* comments 30(c)-2.ii (regarding the definition of "designated recipient") and 30(g)-1 (regarding the definition of "sender").

[7] *See* 12 C.F.R. § 1005.30(e) (definition of "remittance transfer") and 12 C.F.R. § 1005.30(g) (definition of "sender").

Rule would clarify that "[f]or remittance transfers from an account, the primary purpose for which the account was established determines whether a transfer from that account is requested for personal, family, or household purposes."

The Bureau explains "that there may be some confusion regarding whether the purpose of a transfer from an account is determined by the purpose for which the account was established or the purpose of the particular transfer" and notes "financial institutions often code accounts as being consumer accounts (generally subject to Regulation E) as opposed to business accounts (not subject to Regulation E)." The Bureau further notes that it believes that since the Rule took effect, "remittance transfer providers have considered all transfers from business accounts to be outside the scope of the Rule" and that "Bureau staff has provided similar informal guidance on this issue."

While we generally support this intended clarification, we encourage the Bureau to rephrase proposed comment 30(g)-2 to clarify that a remittance transfer provider may look to the way in which an account is identified in the records of the remittance transfer provider at the time a transfer from the account is requested – as opposed to the purpose for which the account was originally established – for purposes of determining whether the transfer is made for personal, family or household purposes. As the Bureau notes, financial institutions typically identify accounts as consumer or business accounts, which is generally determined at the time the account is established. In certain cases, however, a financial institution may determine that an account should be reclassified based on the accountholder's use of the account. For example, an individual may open a personal account that the account-holding institution codes as a "consumer account" in its records, but then use the account primarily for business purposes. Upon determining that the account is being used primarily for business purposes, the institution may recode the account as a business account, to reflect its actual use. Under such circumstances, we believe that the financial institution should be able to rely on the characterization of the account (as consumer or non-consumer) in the financial institution's records at the time the individual requests a transfer from the account for purposes of determining whether the transfer is requested for personal, family or household purposes, and is thus subject to the Rule.

3. Clarification regarding Faxes

The Proposed Rule would also clarify that disclosures made by fax are considered to be provided in writing for purposes of the Rule. The Remittance Transfer Rule generally requires that disclosures be provided in writing[8] but does not specify what qualifies as a "writing." The Bureau states that it "has come to understand that some senders request remittance transfers by sending a fax to a remittance transfer provider" and that "in some cases, the provider may send the required disclosures back to the sender via fax as well."

The Associations support this proposed clarification and agree with the Bureau's view "that treating faxes as writings will [not] have any significant negative impact on the benefits consumers derive from the Remittance Rule both because many consumers have long

[8] 12 C.F.R. § 1005.31(a)(2).

communicated with remittance transfer providers via fax and those consumers accept faxes as a legitimate and efficient method of communication."

4. Oral Disclosures in Response to an Inquiry

The Proposed Rule would permit providers to give disclosures orally when a remittance transfer is originally requested by mail, email or fax. The Rule currently permits remittance transfer providers to make prepayment disclosures orally only if a "transaction is conducted orally *and entirely by telephone*."[9] The Proposed Rule would revise the commentary to explain that a provider "may treat a written or electronic communication as an inquiry when it believes that treating the communication as a request would be impractical." The provider may then "conduct the transaction orally and entirely by telephone pursuant to [the Rule]" by subsequently responding by telephone and "orally gathering or confirming the information needed to identify and understand a request for a remittance transfer and otherwise conducts the transaction orally and entirely by telephone."

The Associations generally support this proposed clarification. As the Bureau notes, there are circumstances in which a customer may request a remittance transfer by fax, email or mailed letter. Without the ability to contact such senders by phone and provide disclosures orally during that call, it is unclear how a provider could comply with the disclosure timing requirements of the Rule.[10] Thus, it is important that providers be able to give the prepayment disclosure orally over the telephone when a transfer is initially requested by email, fax or mailed letter (or other similar written or electronic communication), and the provider believes that it is impractical to treat that communication as a request for a remittance transfer. The Bureau asked about the "relative tradeoffs" of providing consumers oral disclosures in the scenarios contemplated by the proposed comment. We believe that consumers would benefit from receiving the disclosures via a telephone call rather than waiting for them to be sent electronically or in writing and that such an approach is consistent with the expectations of our members' customers, who typically want to be able to send a transfer without delay.

The proposed revisions to comment 31(a)(3)-2 include an example of "a sender physically located abroad [who] contacts a U.S. branch of the sender's financial institution and attempts to initiate a remittance transfer by first sending a mailed letter . . . [.]"[11] While we

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[9] 12 C.F.R. § 1005.31(a)(3). (Emphasis added.)

[10] The Rule requires the prepayment disclosure to be given when a transfer is requested and generally requires a receipt to be given when payment is made. 12 C.F.R. § 1005.31(e).

[11] The proposed revisions to comment 31(a)(3)-2 would state: "For example, if a sender physically located abroad contacts a U.S. branch of the sender's financial institution and attempts to initiate a remittance transfer by first sending a mailed letter, further communication with the sender by letter may be impractical due to the physical distance and likely mail delays. In such circumstances, a provider may conduct the transaction orally and entirely by telephone pursuant to § 1005.31(a)(3) when the provider treats that initial communication as an inquiry and subsequently responds to the consumer's inquiry by calling the consumer on a telephone and orally gathering or confirming the information needed to identify and understand a request for a remittance transfer and otherwise conducts the transaction orally and entirely by telephone."

support the proposed clarification generally, we believe that the vast majority of the scenarios to which the clarification would apply involve consumers that are located in the United States but who, for various reasons are unable or unwilling to visit a remittance transfer provider's physical location. We note that inquiries from such persons are much more likely to come by email or fax than by mailed letter. Accordingly, the Associations request that the Bureau revise or add to the proposed comment to reflect a scenario involving a sender located in the United States that inquires about a transfer by fax or email. We also believe that this proposed comment should clarify that oral disclosures are permissible if a provider responding to a written or electronic inquiry reaches the sender's voicemail and the sender then re-contacts the provider by phone to communicate regarding the remittance transfer.

5. Disclosure of Bureau Website on Receipts

The Proposed Rule would clarify the website address that may be disclosed on the receipt given to a sender. Under the Rule, remittance transfer providers are required to disclose contact information for the CFPB, including the CFPB's website address, on receipts. The Proposed Rule would clarify that a provider may satisfy this requirement by disclosing the general website address for the CFPB (www.consumerfinance.gov), or an address of a page on the CFPB's Web site that provides information for consumers about remittance transfers (currently, www.consumerfinance.gov/sending-money). In addition, a provider making disclosures in a language other than English would be permitted, but not required, to disclose a CFPB website address that provides information for consumers about remittance transfers that is in the relevant language, if such website exists (such as the CFPB's website that provides information about remittance transfers in Spanish, currently www.consumerfinance.gov/enviar-dinero).

The Bureau states that "the adoption of this proposed comment would not require remittance transfer providers to change existing receipts that mirror the Bureau's current model forms and link to www.consumerfinance.gov if the provider did not choose to make this change." We believe that the optional nature of this change is critical and are concerned by the Bureau's statement that if this provision is adopted, the Bureau would "urge providers to consider adjusting their receipts to refer to these other Web sites, as appropriate, in the future and may eventually consider requiring providers to do so if, for instance, the Bureau were to conclude that other changes to the receipts were necessary." We believe that as an alternative, the Bureau should consider adding a notice to the front page of its general website that directs consumers to sites that provide resources and information about remittance transfers. We note that most financial institutions, and smaller institutions in particular, relied on the existing model forms developed by the Bureau and have dedicated significant resources to designing and building compliance systems to produce the disclosures required by the current Rule. A mandatory change to the content of receipt disclosure requirements would impose a significant and unnecessary burden on all providers.

6. Delays Resulting from Fraud, BSA, OFAC and Related Screening

The Proposal would also clarify the application of an exception to the definition of "error." The Remittance Transfer Rule defines "error" to include, among other things, the failure to make funds available to a designated recipient by the date of availability stated in the receipt (or combined disclosure) provided to the sender (a "delay error"), unless the failure occurs due

to certain specified reasons, including for delays related to the remittance transfer provider's fraud screening procedures or in accordance with the BSA, OFAC requirements, or similar laws or requirements. The Proposed Rule would revise the exception to state that it applies to "[d]elays related to individualized investigation or other special action by the remittance transfer provider or a third party as required by the provider's fraud screening procedures or in accordance with the Bank Secrecy Act, 31 U.S.C. 5311 et seq., Office of Foreign Assets Control requirements, or similar laws or requirements . . . [.]" The Proposed Rule would also add commentary stating that the exception applies to a "delay related to the provider's or any third party's necessary investigation or other special action necessary to address potentially suspicious, blocked or prohibited activity in accordance [with the BSA, OFAC requirements], or similar laws or requirements. The proposed comment further explains that "if a delay is caused by ordinary fraud screening or other screening procedures, where no potentially fraudulent, suspicious, blocked or prohibited activity is identified and no further investigation or action is required," the exception would not apply.

The Associations understand the Bureau's intention to clarify that the exception does not apply to "delays that occur in the ordinary course, such as delays related to routine fraud screening procedures." We encourage the Bureau to further clarify that this exception is not limited to instances in which the specific action or investigation *is itself* required by the BSA, OFAC requirements, or similar laws or requirements. Further, we note that delays may occur because of the fraud screening or anti-money laundering/sanctions screening procedures of a third party involved in a transfer, rather than the provider's own compliance procedures. Thus, we believe the Bureau should clarify that the exception applies where a remittance transfer provider *or a third party* determines that an individualized investigation or other special action is necessary pursuant to the provider's *or third party's* fraud screening procedures, risk management procedures or compliance program that implements the requirements of the BSA, OFAC requirements, or similar laws or requirements (and is not limited to instances where an investigation or special action is itself required under such laws). In addition, the Associations believe it would be helpful if the Bureau could provide examples of what it means by "other similar laws or requirements."

7. Error Resolution Procedures and Remedies

Finally, the Proposed Rule would clarify certain aspects of the remedy provisions of the Remittance Transfer Rule. Section 1005.33(c)(2)(iii) of the Rule provides that when there is an error for failure to deliver funds by the disclosed date of availability that occurred because the sender provided incorrect or insufficient information in connection with the remittance transfer, the provider must refund the amount of funds provided by the sender in connection with the remittance transfer that was not properly transmitted, or the amount appropriate to resolve the error, within three business days of providing the sender with the report of its investigation of the error. However, a provider is permitted to "agree to the sender's request, upon receiving the results of the error investigation, that the funds be applied towards a new remittance transfer, rather than refunded if the provider has not yet processed a refund. The provider may deduct from the amount refunded or applied towards a new transfer any fees actually imposed on or, to the extent not prohibited by law, taxes actually collected on the remittance transfer as part of the first unsuccessful remittance transfer attempt."

Existing comment 33(c)-12 explains that in applying the remedy required by Section 1005.33(c)(2)(iii), a provider deduct from the amount refunded, or applied towards a new transfer, "any fees or taxes actually deducted from the transfer amount *by a person other than the provider*" but may not deduct "those fees and taxes that will ultimately be refunded to the provider." Despite this comment, the Bureau states that there may have been some ambiguity about whether a provider had the option of not refunding its own fee. The Proposed Rule would eliminate this ambiguity by revising the text of the Rule to clarify that in instances in which the sender provided incorrect or insufficient information "the remittance transfer provider must always refund its own fee."

In addition, the Proposed Rule would clarify what should happen when a "delay error" occurs (for any reason) "but the funds are ultimately delivered to the designated recipient before the remedy is determined." Under such circumstances, the Proposed Rule states that a provider must refund its own fees and any taxes collected on the transfer, but would have no further obligations to the sender in connection with the error.

The Associations support these proposed clarifications. In addition, we note that in some cases, funds are received by a designated recipient's financial institution but not credited to the designated recipient's account by the disclosed date of availability, which would cause an error under Section 1005.33(a)(1)(iv). For example, this might occur when there is an inconsistency between the address for the designated recipient provided by the sender and the address for the designated recipient that is on file with the recipient's financial institution. Section 1005.33(c)(2) generally requires a provider to correct an error "within one business day of, or as soon as reasonably practicable after, receiving the sender's instructions regarding the appropriate remedy" for the error. When funds are received by the designated recipient's institution but have not been credited to the designated recipient's account, a financial institution may have a reasonable expectation that the designated recipient's account will be credited in short order and oftentimes will work with the sender to ensure that this crediting occurs (such as by communicating with the sender to confirm the recipient's address and updating the payment instruction for the transfer).

When this scenario occurs it would be premature for the provider to refund the amount of the transfer given that the provider has a reasonable expectation that the funds will soon be credited to the designated recipient's account. Accordingly, we request that the Bureau revise the Rule to provide that although remedies must generally be provided within the timeframe set forth in Section 1005.33(c)(2), a reasonable postponement in providing a remedy is permissible to the extent that (i) funds have been received by the designated recipient's financial institution but not credited to the designated recipient's account and (ii) the remittance transfer provider has a reasonable expectation that funds will be credited to the designated recipient's account in short order. We believe that such an approach is consistent with the expectations of our member institutions' customers (i.e., that their financial institution will take appropriate steps to ensure that funds are properly credited to the recipient's account), as well as the Bureau's position that refunds under the Rule should not unjustly enrich the sender.

C. Request to Include Colombia in the Bureau's Safe Harbor List

In addition to the temporary exception, the Rule also permits a remittance transfer provider to use estimates when, among other things, the provider cannot determine exact

amounts at the time the disclosure is required because the laws of, or the method by which transactions are made in, the recipient country do not permit such a determination.[12] The Bureau maintains a "safe harbor" list of countries that qualify for this permanent exception.[13] This safe harbor list currently includes the following countries: Aruba, Brazil, China, Ethiopia, and Libya. When it published the list, the Bureau stated that it would welcome input on whether additional countries should be added to the list. Because of certain rules of the Colombian Central Bank, Banco de Republica, which are explained below, we request that Colombia be added to the list of safe harbor countries.

For a U.S. dollar wire transfer to a recipient in Colombia in which the funds will be exchanged into Colombian pesos, rules of the Colombian Central Bank require the designated recipient to agree to the applicable exchange rate at the time the funds are collected.[14] The transferred funds will be credited to the recipient's account in Colombian pesos once the recipient agrees to the available exchange rate. Notably, if the recipient does not agree to the available exchange rate, the funds will be returned to the sending institution (i.e., the remittance transfer provider).

The source of this requirement is Article 70 of the Colombian Central Bank's foreign exchange rules (attached as Exhibit 1), which states that "[t]he exchange rates for purchase and sale of foreign currency shall be such as are freely agreed between the parties to the transaction, and no fees shall be charged, except in the case of operations carried out by stockbrokerage firms under fee contracts." As a matter of practice and policy, the Colombian Central Bank interprets this provision to apply to a recipient of a wire transfer in which funds are exchanged into Colombian pesos. In addition, the Colombian Central Bank requires Colombian residents to agree to the applicable exchange rate by signing a standard foreign exchange declaration, which is attached as Exhibit 2.[15]

Because the applicable exchange rate for a U.S. dollar to Colombian pesos transaction is established at the time the recipient collects the funds and agrees to the exchange rate, a remittance transfer provider in the U.S. cannot, at the time the required disclosures must be provided, determine the exact exchange rate that will apply to the transfer. In light of this requirement, we respectfully request that the Bureau add Colombia to the life of safe harbor countries that qualify for the permanent exception.

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[12] 12 C.F.R. § 1005.32(b)(1)(i).

[13] Electronic Fund Transfers (Regulation E), 78 Fed. Reg. 66251 (Nov. 5, 2013).

[14] Once the exchange from U.S. dollars to Colombian pesos is performed, the funds are credited to the recipient's account.

[15] Article 1 of the Colombian Central Bank's foreign exchange rules states that "Residents of Colombia and overseas residents who carry out a foreign-exchange operation in Colombia must present a foreign exchange declaration in the terms hereof."

Thank you for your consideration and review of these comments. If you have any questions or wish to discuss this letter, please do not hesitate to contact any of the undersigned using the contact information provided below.

Yours very truly,

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Appendix A – Association Descriptions

The Clearing House

Established in 1853, The Clearing House is the nation's oldest payments company and banking association. The Clearing House is owned by 22 of the largest commercial banks in America, which employ 1.4 million people domestically and hold more than half of all U.S. deposits. The Payments Company within The Clearing House clears and settles approximately $2 trillion daily, representing nearly half of the U.S. volume of ACH, wire and check image transactions. The Clearing House Association is a nonpartisan advocacy organization within The Clearing House that represents, through regulatory comment letters, amicus briefs and white papers, the interests of its owner banks on a variety of systemically important bank policy issues.

Consumer Bankers Association

The Consumer Bankers Association ("CBA") is the only national financial trade group focused exclusively on retail banking and personal financial services — banking services geared toward consumers and small businesses. As the recognized voice on retail banking issues, CBA provides leadership, education, research, and federal representation on retail banking issues. CBA members include the nation's largest bank holding companies as well as regional and super community banks that collectively hold two-thirds of the industry's total assets.

The Financial Services Roundtable

Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. Roundtable member companies provide fuel for America's economic engine, accounting directly for $92.7 trillion in managed assets, $1.2 trillion in revenue, and 2.3 million jobs. For more information, visit FSRoundtable.org.

Independent Community Bankers of America

The Independent Community Bankers of America® (ICBA), the nation's voice for more than 6,500 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services. ICBA members operate 24,000 locations nationwide, employ 300,000 Americans and hold $1.3 trillion in assets, $1 trillion in deposits and $800 billion in loans to consumers, small businesses and the agricultural community. For more information, visit www.icba.org.

NACHA – The Electronic Payments Association

NACHA manages the development, administration, and governance of the ACH Network, the backbone for the electronic movement of money and data. The ACH Network serves as a safe, secure, reliable network for direct consumer, business, and government payments, and annually facilitates billions of payments such as Direct Deposit and Direct Payment. Utilized by all types of

financial institutions, the ACH Network is governed by the NACHA Operating Rules, a set of fair and equitable rules that guide risk management and create certainty for all participants. As a not-for-profit association, NACHA represents over 10,000 financial institutions via 17 regional payments associations and direct membership. Through its industry councils and forums, NACHA brings together payments system stakeholders to enable innovation that strengthens the industry with creative payment solutions. To learn more, visit www.nacha.org, www.electronicpayments.org, and www.payitgreen.org.

Exhibit 1

Banco De Republica – External Resolution No. 8 of 2000 (May 5)
Providing a Summary of the Foreign Exchange Regime

EXTERNAL RESOLUTION NO. 8 OF 2000
(MAY 5)
PROVIDING A SUMMARY OF THE FOREIGN-EXCHANGE REGIME.

THE BOARD OF DIRECTORS OF THE BANCO DE LA REPÚBLICA, IN THE EXERCISE OF ITS CONSTITUTIONAL AND LEGAL POWERS, IN PARTICULAR THOSE CONFERRED BY THE CONSTITUTION, ARTICLES 371 AND 372, AND LAW 31 OF 1992, ARTICLE 16 (H), (E) AND (I), AND IN ACCORDANCE WITH DECREE 1735 OF 1993,

RESOLVES AS FOLLOWS:

PRELIMINARY TITLE
FOREIGN-EXCHANGE DECLARATION

Article 1. DEFINITION. Residents of Colombia and overseas residents who carry out a foreign-exchange operation in Colombia must present a foreign-exchange declaration in the terms hereof.

The foreign-exchange declaration for operations carried out through currency-market intermediaries must be presented to these intermediaries. Where the operations are carried out through the settlement mechanism provided for herein, the declaration shall be presented directly to the Banco de la República.

Persons introducing themselves as a legal representative, attorney-in-fact or special agent at the time of presenting the foreign-exchange declaration shall be assumed to be acting in such capacity.

Paragraph. The foreign-exchange declaration may be corrected within fifteen working days after its date of presentation. Upon expiry of that period, the information contained in the foreign-exchange declaration shall be considered as definitive. The corrected foreign-exchange declaration must be presented to the same entity to which the original foreign-exchange declaration was presented. For statistical purposes, the Banco de la República may, in a general manner, authorize clarifications on the foreign-currency declaration.

Article 2. DIFFERENCES. No sums greater or less than the sums actually received may be channeled through the currency market, nor may any transfers be made of amounts different from the overseas obligations.

Any foreign-exchange declaration containing false, wrong, incomplete or disfigured data shall be investigated by the competent authority. The foregoing notwithstanding, differences may be accepted between the value stated in the foreign-exchange declaration and the value of the underlying operation, up to 1% of the latter or up to one thousand United States dollars (US$1,000) or the equivalent thereof in other currencies, whichever is greater.

Article 3. CONSERVATION OF DOCUMENTS. For exchange-control purposes, without prejudice to the provisions of special rules, residents of Colombia making foreign-exchange operations are required to keep the documents specifying the amount, characteristics and other conditions of the operation and the origin or destination, as the case may be, of the foreign exchange, for a period equal to the lapsing or limitation period of the penalty action for infringement of the foreign-exchange regime.

Such documents shall be presented to the entities responsible for control and oversight of compliance with the foreign-exchange regime that require them, or in the context of administrative actions initiated to determine the commission of currency violations .

Article 4. PENALTIES. A party failing to comply with any obligation established in the foreign-exchange regime, particularly the obligation of correctly presenting the foreign-exchange declaration for the currency operations the party performs, shall become subject to the penalties set forth in the relevant laws and regulations, without prejudice to applicable tax, customs and criminal penalties. Legal liability shall also be incurred if the respective authority or a party concerned discredits the assumption referred to in the fourth paragraph of Article 1 hereof.

Article 5. INFORMATION. Currency-market intermediaries shall be responsible for processing the information contained in foreign-exchange declarations and for sending the

documents required for statistical purposes to the Banco de la República, on such terms as the latter indicates.

The Banco de la República shall likewise be responsible for processing the information contained in foreign-exchange declarations for operations carried out through the settlement mechanism.

The Banco de la República may suspend for up to one month the performance of any or all of its operations with a currency-market intermediary that fails to comply with the obligation set out in this Article. In the event of a second failure, operations may be suspended for up to one year.

TITLE I

CHAPTER I
CURRENCY MARKET

Article 6. DEFINITION. The currency market comprises the entirety of the foreign exchange mandatorily required to be channeled through the intermediaries authorized for the purpose or through the settlement mechanism stipulated herein. Foreign exchange voluntarily channeled through the currency market, despite being exempt from that obligation, shall also form part of said market.

Article 7. OPERATIONS. The following foreign-exchange operations are mandatorily required to be channeled through the currency market:

1. Importing and exporting of goods.

2. Foreign borrowing operations carried out by residents of Colombia, and the financial costs specific thereto.

3. Investments of foreign capital in Colombia, and the returns associated therewith.

4. Investments of Colombian capital abroad, and the returns associated therewith.

5. Financial investments in securities issued abroad and in assets registered abroad, and the returns associated therewith, except where the investments are made with foreign exchange from operations not required to be channeled through the currency market.

6. Foreign-currency sureties and guarantees.

7. Derivative operations.

Article 8. GENERAL PERIOD OF SURRENDER. Except as otherwise provided by special rules, the foreign exchange from currency operations in the currency market must be channeled through the intermediaries authorized for the purpose or through the settlement mechanism stipulated herein, within a maximum period of six months from the date of receipt of the foreign exchange

Article 9. PAYMENT OBLIGATIONS. The foreign exchange for payment of obligations arising from foreign-currency operations in the currency market must be channeled through the intermediaries authorized for the purpose or through the mechanism stipulated herein.

CHAPTER II
GOODS IMPORTS

Article 10. CHANNELING. Residents of Colombia must channel through the currency market the foreign exchange needed to pay for the value of their imports. Imports may be financed by the supplier of the merchandise, currency-market intermediaries, and external financial entities.

The Banco de la República may request any information it considers relevant for monitoring the financings referred to in this Article.

Article 11. PAYMENT FOR IMPORTS IN COLOMBIAN CURRENCY. Residents of Colombia may pay for imports in Colombian legal tender only through currency-market intermediaries.

Any overseas resident may acquire foreign exchange in the currency market with the proceeds of his exports paid for in Colombian legal tender.

Article 12. LEASING AND FACTORING. Temporary imports may be financed by means of financial leasing, provided the term is longer than twelve months and the goods in question are capital goods as defined by the Board of Directors.

Commercial finance companies not meeting the requirement laid down in Article 59(1) hereof may acquire foreign exchange in the currency market for undertaking import factoring transactions.

Article 13. USE OF DONATIONS TO PAY FOR IMPORTS. Foreign exchange received as donations from foreign governments and their agencies, from multilateral organizations or from entities attached thereto may be directly used abroad to pay for imports.

Article 14. PAYMENTS IN ADVANCE. Residents of Colombia may acquire foreign exchange in the currency market to pay for future imports of goods.

Payments in advance may be financed after making the deposit referred to in Article 26 hereof. No deposit shall be required in the case of payments in advance for imports of capital goods as defined in Article 84 hereof.

Paragraph. The corresponding foreign-exchange declaration must contain the conditions of payment and shipment of the merchandise as agreed with the external seller.

CHAPTER III
GOODS EXPORTS

Article 15. CHANNELING. Residents of Colombia may channel through the currency market the foreign-exchange proceeds of their exports. Exporters may allow external buyers a period of time to pay for the exports.

Where the period of time allowed to the external buyer is longer than twelve (12) months from the date of the export declaration, the corresponding credit must be reported to the Banco de la República within twelve (12) months from the date of the export declaration if the amount thereof exceeds ten thousand United States dollars (US$10,000), or its equivalent in other currencies.

It must also be reported if the period of time to pay for the exports is going to exceed twelve (12) months from the date of the export declaration as a result of proceedings before judicial, arbitration or administrative authorities, or where the overseas importer directly disputes the payment with the supplier, or where the extensions granted by the exporter exceed said period.

Paragraph. These financings shall not be subject to the deposit requirement referred to in Article 26 hereof.

Article 16. PAYMENTS IN ADVANCE AND EXPORT PREFINANCING. Exports may be financed by payments in advance from the overseas buyer, or by means of export prefinancing loans in foreign currency provided by currency-market intermediaries or external financial entities.

1. Payments in advance. Foreign exchange received from overseas buyers for future exports of goods do not constitute an interest-earning financial obligation, nor do they create any obligation for the exporter other than delivery of the merchandise.

Exporters will have a period of four (4) months, from the date of channeling of the foreign exchange through the currency market, to make the corresponding exportation.

In the event that the period for making the exportation is longer than the period specified in the preceding sentence, the financing becomes a foreign-debt operation, and the deposit referred to in Article 26 hereof must be made, subject to the provisions of Chapter IV of this Title, within four (4) months from the date of channeling of the foreign exchange through the currency market.

Exporters unable to make the exportation for exceptional reasons beyond their control may be authorized by the Banco de la República to acquire foreign exchange in the currency market in an amount equal to the sums surrendered as payment in advance, in order to return them abroad, and, where applicable, to obtain advance restitution of the deposit according to the discount table referred to in Article 26 hereof. No authorization shall be required from the Banco de la República where the sums in question do not exceed fifteen percent (15%) of the surrendered value or where the deposit stands at 0%.

2. Export prefinancing. The disbursement and channeling of foreign-currency loans provided by currency-market intermediaries and external financial entities to prefinance exports shall require that a deposit be made at the Banco de la República on the conditions and in the amount and period determined in a general manner by the Board of Directors.

The exporter providing evidence that the exportation has been carried out may request advance restitution of the deposit in accordance with the procedure and the discount table established for the purpose by the Banco de la República.

The principal of the credit must be paid from the proceeds of the exportation. Nevertheless, if as a result of having financed the credit partly or wholly from the proceeds of the loan the value of the exportation is less than the value of the loan, the exporter may acquire foreign exchange in the currency market up to the financed value of the deposit, in order to complete the repayment value of the loan.

At all events, the exporter may acquire in the currency market the foreign exchanged needed to pay the corresponding principal and interest.

Paragraph 1. The foreign-exchange declaration must contain the conditions agreed on with the overseas buyer regarding payment and shipment of the merchandise.

Paragraph 2. The deposit referred to in Article 26 hereof shall not be required to be made in the case of exportation of the capital goods specified in Article 84 hereof.

Article 17. INFORMATION. The Banco de la República may request any information it considers relevant for monitoring the financings referred to in this Chapter.

Article 18. EXPORTS IN COLOMBIAN LEGAL TENDER. Residents of Colombia may receive payment for their exports in Colombian legal tender only through the currency-market intermediaries.

Article 19. NET SURRENDER. Residents of Colombia may use the foreign exchange from their exports to make direct payment of freight, insurance and other foreign-currency costs associated with the exportation.

Article 20. SALE OF PAYMENT INSTRUMENTS TO FINANCIAL ENTITIES. Residents of Colombia may sell, with or without liability on their part, to external financial entities or to currency-market intermediaries the foreign-currency payment instruments received from the overseas buyer for their exports, channeling the proceeds of the sale through the currency market.

They may also sell them in Colombian legal tender to commercial finance companies not meeting the requirement laid down in Article 59(1) hereof. Commercial finance companies must channel the foreign-exchange proceeds of these operations through the currency market.

Article 21. FOREIGN-EXCHANGE REFUNDS. Residents of Colombia must channel through the currency market the foreign exchange acquired under guarantees provided for their exports.

Where the foreign importer rejects all or part of the merchandise, or reduces the price thereof because of quality defects or failure to meet any of the conditions agreed on, the foreign exchange to be used for refunding the sums channeled through the currency market for goods exports must also be channeled through the currency market.

Article 22. MINIMUM SURRENDER PRICE FOR COFFEE EXPORTS. Without prejudice to the provisions of Article 2 hereof, for foreign-exchange purposes the minimum surrender price for green-coffee exports shall be the value stated in the Export Declaration.

The foreign-currency value of exports of non-caffeine green coffee, roasted coffee, soluble coffee, liquid coffee extracts and other types of coffee different from prime-quality green coffee shall be the effective selling price, which must be stated in the corresponding Export Declaration.

For purposes of the provisions of Law 9 of 1991, Article 19, the technical equivalencies for determining the fresh prime-quality green-coffee content of industrialized coffee exports shall be established by the National Committee of Coffee Growers, valued at the minimum surrender price indicated in the first sentence of this Article.

CHAPTER IV
EXPTERNAL BORROWING

Article 23. CHANNELING. Foreign-exchange receipts and payments in respect of foreign-currency credit obtained or provided by residents of Colombia must be channeled through the currency market. The Banco de la República may, by means of regulations of a general nature, specify exceptions to the foregoing obligation. Where it is intended to discharge the debtor's obligations by means of payment in kind, express authorization from the Banco de la República shall be required in each case.

Paragraph. The declarant must present evidence to the currency-market intermediary with whom he is making the operation that the deposit referred to in Article 26 has been made. Said intermediary shall verify the making of the deposit and the nature of currency-market intermediary or external financial entity on the part of the creditor, in such terms as the Banco de la República may specify.

Article 24. AUTHORIZTION, CREDIT DESTINATION AND CREDITORS. Residents of Colombia may obtain, from the external financial entities specified by the Banco de la República, foreign-currency credit, irrespective of the period and destination of the foreign exchange.

Residents of Colombia may also provide foreign-currency credit to overseas residents, irrespective of the period and destination of the foreign exchange.

Residents of Colombia and overseas residents may obtain foreign-currency credit from currency-market intermediaries directly or from the resources of public-sector rediscount entities, irrespective of the period and destination of the foreign exchange.

Article 25. PLACING SECURITIES IN THE INTERNATIONAL MARKET. The credit authorized by this Chapter may be obtained by placing securities in international capital markets, after making the deposit referred to in Article 26 hereof.

Article 26. DEPOSIT. The disbursement and channeling of foreign-currency credit obtained by residents shall require that before each disbursement a deposit be made at the Banco de la República, on such conditions and for such amount and period as the Board of Directors may specify in a general manner.

The deposit referred to in this Article shall be made through currency-market intermediaries, who shall deliver the respective sums to the Banco de la República within twenty-four (24) hours after they have been deposited. Where the disbursement is channeled through clearing current accounts, proof of the deposit shall be given in the foreign-exchange declaration to be presented together with the report of movements in the current account. Where, as provided by Article 23 hereof, disbursement of the credit is not channeled through the currency market, proof of the deposit must be given when the operation is reported to the Banco de la República.

The Banco de la República shall issue to the deposit holder a non-negotiable receipt indicating the term for return of the deposit, as determined by the Board of Directors.

The deposit may be divided into segments at the holder's request. In this case, the due date of the segmented deposit shall be the same as the original's.

The Banco de la República may only return the deposit before its due date subject to the discount table that it sets for this purpose.

Residents of Colombia and currency-market intermediaries who provide foreign-currency loans to overseas residents, directly or from the resources of pubic-sector rediscount entities, shall not have to make the deposit referred to in this Article but must report the loans to the Banco de la República.

Paragraph 1. The Banco de la República may request such information as it considers relevant for monitoring the loans.

Paragraph 2. Without prejudice to the special provisions of this Resolution, no deposit shall be required to be made under this Article in the following cases:

1. Where foreign-currency loans are to be used to finance the making of Colombian investments abroad.

2. Where foreign-currency loans are intended to pay for personal expenses through the system of international credit cards.

3. Where foreign-currency loans are provided for financing exports, with a maturity of one (1) year or less, by currency-market intermediaries from the resources of the Foreign Trade Bank –BANCOLDEX–, up to a total amount of five hundred and fifty million dollars (US$550,000,000) or its equivalent in other currencies.

4. Where concessionary loans with an aid component are made by foreign governments.

5. Where external loans are obtained to finance the initial margin or security and the maintenance margin or security required in overseas futures and options exchanges, as provided for in Article 45 hereof.

6. Where foreign-currency funding is obtained by public-sector rediscount entities for the purpose of making loans to residents under Article 81 hereof.

Article 27. LOAN AMENDMENTS. Amendments to the conditions of loans must be reported to the Banco de la República in such form and within such periods as this entity may establish.

Article 28. EXTERNAL PUBLIC-SECTOR BORROWING. Foreign-currency loans obtained by the Nation, the sub-national jurisdictions and their respective decentralized entities, whatever their nature, shall be subject to the obligations laid down in this Chapter including the deposit referred to in Article 26 of this Resolution. Entities that are currency-market intermediaries are exempt from the deposit.

The interest rate stipulated in the foreign-currency loans referred to in this Article must reflect market conditions and shall not exceed the applicable maximum rate that the Banco de la República specifies in a general manner. Determination of applicable maximum rates shall take into account the liquidity premium, the country risk and other risks associated with the project.

Where default interest has to be paid on overdue obligations under foreign-currency loans, the rate agreed on shall not exceed the applicable maximum rate by more than two points.

In the case of foreign-currency loans provided by currency-market intermediaries to the entities referred to in this Article, which loans have been rediscounted as provided by Article 81, the specified limits shall be applicable only to the loans obtained by the rediscount entities from external financial entities.

Interest-rate limits shall not be applicable to foreign-currency loans obtained by public-sector intermediaries in the currency market.

The interest-rate limits established herein are applicable to financing through placement of securities in international markets, except where the securities are governed by special laws and regulations, as in the case of external public-debt securities issued by the Nation.

Article 29. TERMS AND CONDITIONS. Under Law 9 of 1991, Article 11, the Banco de República's Board of Directors may lay down, in a general manner, the terms, interest rates, purpose, quantitative limits and other conditions for public- and private-sector external borrowing, in order to avoid any undesirable or undue pressure on the currency market from such borrowing.

CHAPTER V
FOREIGN CAPITAL INVESTMENTS

Article 30. CHANNELING AND REGISTRATION. The foreign exchange to be used for making foreign capital investments in Colombia must be channeled through currency-market intermediaries or clearing accounts, and their registration at the Banco de la República must be carried out in accordance with general regulations issued by this entity, by presenting documentary evidence that the investment has been made.

In the case of investments requiring authorization or a prior opinion, the number, date and conditions of the authorization or opinion must be stated.

Article 31. ACQUISITION OF FOREIGN EXCHANGE. Payments in a freely convertible currency in respect of the following items arising from a foreign-capital investment in Colombia registered at the Banco de la República must be channeled through the currency market:

1. Verified net profits periodically generated by foreign capital investments in Colombia, in accordance with the applicable rules.

2. Any sums obtained in respect of disposal of the investment inside Colombia, portfolio liquidation, winding up of the company, reduction of its capital or the investment additional to the allocated capital, subject to compliance with the provisions laid down in the Code of Commerce for each operation.

The corresponding foreign-exchange declaration must be submitted to the Banco de la República, together with such information as the Bank specifies in a general manner, containing all the essential data for determining the amount of the permitted transfers and payment of the corresponding taxes.

Article 32. TRANSFER OF FOREIGN EXCHANGE BETWEEN A FOREIGN COMPANY AND ITS BRANCH IN COLOMBIA. Foreign-exchange transfers between a foreign company and its branch in Colombia may only be made in respect of the following :

1. Transfer of allocated or additional capital.

2. Reimbursement of profits and allocated or additional capital

3. Payment in respect of reimbursable operations of foreign trade in goods, in accordance with the customs and tax rules.

Article 33. NON-FORMALIZED INVESTMENTS. Where the investment has not been formalized, foreign exchange may be transferred abroad in an amount equal to the local-currency sums obtained from surrender of foreign exchange for the purpose of making foreign investments in Colombia. To this end, the deposit referred to in Article 26 hereof is required to be made before the respective transfer is effected.

The foregoing notwithstanding, the transfer abroad may be made without meeting the deposit requirement in the following cases:

1. Where the period for requesting registration of the investment has not expired.

2. Where the registration has been obtained, and the sums in question are the foreign-exchange differential generated by trading of the surrendered foreign exchange and the actual capital contribution to the recipient company, not to exceed five percent (5%) of the value in pesos originally channeled through the currency market.

The Banco de la República may, for justified reasons, authorize the transfer abroad without the deposit requirement being met.

CHAPTER VI
COLOMBIAN INVESTMENTS ABROAD

SECTION 1
COLOMBIAN CAPITAL INVESTMENTS

Article 34. COLOMBIAN CAPITAL INVESTEMENTS ABROAD. Residents of Colombia must channel through the currency market the foreign exchange intended for making Colombian capital investments abroad, within the limits and on the conditions established by the Government.

Article 35. REGISTRATION. Operations under this Section must be registered at the Banco de la República in accordance with such general regulations as the Bank may issue.

SECTION II
OVERSEAS FINANCIAL AND ASSET INVESTMENTS

Article 36. OVERSEAS FINANCIAL AND ASSET INVESTMENTS. Residents of Colombia must channel the following operations through the currency market, except where these operations are made abroad with foreign exchange that does not have to be channeled through said market:

1. Purchase of securities issued abroad or assets located abroad.

2. Purchase abroad at a discount of all or part of private external obligations, public external debt, and bonds or securities of public external debt. This authorization does not cover external loans obtained or refinanced under the provisions of Monetary Board Resolutions 33 of 1984 and 36 of 1985.

The debt instruments referred to in this point (2) may be converted to domestic debt on such terms as the parties may voluntarily agree on.

3. Transfers abroad arising from the placement with residents of Colombia of securities issued by overseas companies and foreign governments or guaranteed by the latter, on the part of the issuer or its agents in Colombia, provided the respective placement is authorized by the Securities Superintendency.

Article 37. REGISTRATION. The operations referred to in this Section must be registered at the Banco de la República in accordance with the general regulations issued by the Bank, where the accumulated amount thereof is equal to or greater than five hundred thousand United States dollars (US$500,000) or the equivalent thereof in other currencies.

CHAPTER VII
FOREIGN-CURRENCY SURETIES AND GUARANTEES

Article 38. SURETIES AND GUARANTEES PROVIDED BY RESIDENTS OF COLOMBIA. Residents of Colombia may provide foreign-currency sureties and guarantees to back any obligation arising from a foreign-exchange operation, and the respective foreign-exchange receipts and payments must be channeled through the currency market.

Article 39. SURETIES PROVIDED BY OVERSEAS RESIDENTS. Foreign-exchange receipts and payments in respect of sureties and guarantees provided by external financial entities and other overseas residents on behalf of residents of Colombia, to back the fulfillment of obligations arising from foreign-exchange operations and domestic operations, must be channeled through the currency market.

Paragraph 1. The operations referred to in this Article must be registered at the Banco de la República before total or partial maturity of the secured or guaranteed obligation, on such terms as said entity may specify.

Paragraph 2. Where the secured or guaranteed operation is not subject to deposit, the channeling of foreign exchange through the currency market for reimbursing monies paid by the provider of the surety or guarantee shall require that the deposit referred to in Article 26 hereof be made.

CHAPTER VIII
DERIVATIVE OPERATIONS

SECTION I
COMMODITY DERIVATIVES

Article 40. AUTHORIZATION. Residents of Colombia, other than currency-market intermediaries, may enter into derivative transactions on commodity prices with overseas agents who engage in transactions of this kind professionally. The Banco de la República shall, by means regulations of a general nature, specify the characteristics and requirements to be met by said agents

Article 41. SETTLEMENT OF CONTRACTS. The contracts shall be settled in United States dollars or in the reserve currencies specified in Article 72 hereof and in legal tender of Venezuela and Ecuador.

SECTION II
FINANCIAL DERVATIVES

Article 42. AUTHORIZATION. Currency-market intermediaries and other residents may enter into transactions of interest-rate or exchange-rate financial derivatives traded with currency-market intermediaries or with overseas agents professionally engaged in transactions of this type. The Banco de la República shall, by means regulations of a general nature, specify the characteristics and requirements to be met by said agents.

Currency-market intermediaries may enter into transactions of exchange-rate financial derivatives with non-residents having a foreign investment registered at the Banco de la República.

These transactions may only be used with respect to the reserve currencies specified in Article 72 hereof and the legal tender of Colombia, Venezuela and Ecuador.

Article 42. SETTLEMENT OF CONTRACTS. Where the contract has been signed between residents or currency-market intermediaries and external agents professionally engaged in financial-derivative transactions, settlement of the contracts referred to in this Section shall be made in the currency stipulated.

Where the contract has been signed between currency-market intermediaries and non-residents having a foreign investment registered at the Banco de la República, settlement of the contracts referred to in this Section may be made in Colombian legal tender or in the currency stipulated.

Settlement of contracts signed between residents and currency-market intermediaries, or between the latter, must be made in Colombian legal tender at the benchmark rate agreed on or in the absence thereof at the representative market exchange rate prevailing on the day of payment, unless they have a pending external obligation and delivery of the foreign exchange has been agreed on between the parties. Payments of premiums, fees, margins, collateral deposits and other receipts and expenditures associated with derivative transactions must be made in Colombian legal tender, at the benchmark rate agreed on or in the absence thereof at the representative market exchange rate prevailing on the day of payment.

SECTION III

Article 44. AUTHORIZED OPERATIONS. The authorized operations include, among others, futures contracts, forwards, swaps, options contracts, any combination of the foregoing, and the products called caps, floors and collars.

Paragraph. In accordance with Article 70 hereof, the operations authorized by this Chapter are understood to be operations with an agreed maturity after the immediately following two (2) working days.

Article 45. MARGIN FINANCING. The deposit referred to in Article 26 hereof shall not be required in obtaining external credit from overseas financial entities or the currency-market intermediaries for financing the initial margin or security or the maintenance margin or security required by overseas futures and options exchanges.

Article 46. PROVIDING INFORMATION. The Banco de la República may request from residents and currency-market intermediaries information on the derivative operations under this Chapter, in such form and terms as the Bank may specify.

Article 47. LIMITATION. In derivative operations under this Chapter, the total purchase and sale of foreign exchange by authorized parties must not exceed the original amount of the operation plus the net result of the derivative operation.

CHAPTER IX
HYDROCARBON AND MINING SECTORS

Article 48. SURRENDER OF FOREIGN EXCHANGE. Foreign exchange may not be surrendered to the currency market when it represents the proceeds of foreign-currency sales made by companies that have foreign capital and are engaged in exploring for and exploiting oil, natural gas, coal, ferronickel or uranium or are exclusively engaged in providing technical services for oil exploration and exploitation under Law 9 of 1991, Article 16, Decree 2058 of 1991 and related laws and regulations, as amended or supplemented.

Article 49. EXPENDITURES ABROAD AND IN COLOMBIA. The companies referred to in the previous Article may not acquire foreign exchange in the currency market for any purpose, and they must surrender to the currency market the foreign exchange they need to meet expenses in Colombian legal tender.

Article 50. REGIMES. The companies referred to in Article 48 that do not wish to take advantage of the special provisions laid down in the preceding Articles must inform the Banco

de la República thereof and shall become exempt from the application of said provisions for an unchangeable period of at least ten years from the date of presentation of the respective communication. Consequently, all foreign-exchange operations that they carry out shall be subject to the ordinary provisions of the foreign-exchange regime, including those regarding the use of clearing mechanisms.

Article 51. AUTHORIZATION FOR FOREIGN-CURRENCY PAYMENTS. The provisions of Article 79 hereof notwithstanding , Colombian companies that have foreign capital and are engaged in exploring for and exploiting oil, natural gas, coal, ferronickel or uranium, and companies exclusively engaged in providing technical services for oil exploration and exploitation under Law 9 of 1991, Article 16, Decree 2058 of 1991 and related laws and regulations, as amended or supplemented, may enter into and make payments under foreign-currency contracts among themselves, inside Colombia, provided the respective foreign exchange comes from resources generated by their operation.

Furthermore, payment may be made in foreign currency for the purchase and sale between residents of Colombia of fuel for ships and aircraft on international routes, and the purchase and sale of domestically produced crude oil and natural gas by ECOPETROL and other entities engaged in the industrial activity of oil refining.

Residents of Colombia may make foreign-currency payments for domestically produced natural gas sold by companies that have foreign capital and are engaged in oil and natural-gas exploration and exploitation.

Article 52. BUDGET OF EMPRESA COLOMBIANA DE PETRÓLEOS. The Empresa Colombiana de Petróleos -ECOPETROL- must submit for approval by the Banco de la República's Board of Directors, no later than December 31st of each year, a budget that includes all its foreign-currency receipts and payments projected for the following year.

In addition, ECOPETROL shall submit to the Banco de la República's Board of Directors, within the first twenty (20) working days of each quarter, a report that includes all its foreign-currency receipts and payments for the immediately preceding quarter, highlighting the changes that have occurred relative to the budget originally approved.

CHAPTER X
INDUSTRIAL FREE ZONES

Article 53. USE OF FOREIGN EXCHANGE. The industrial users of goods installed within the perimeter of industrial free zones are not required to surrender to the currency market the foreign exchange they obtain from exports or other foreign-currency operations. Said companies may, however, channel through the currency market the foreign exchange they need for meeting their expenses in Colombian or foreign legal tender.

Paragraph. Users installed within the perimeter of industrial free zones of goods may obtain financing from their suppliers, currency-market intermediaries and external financial entities, for the purchase of merchandise, without being required to make the deposit referred to in Article 26 hereof.

The Banco de la República may request such information as it considers relevant for monitoring the financings referred to in this Article.

Article 54. OPERATIONS WITH RESIDENTS OF COLOMBIA. Payment may be made in foreign exchange or in Colombian legal tender for imports and exports of goods and services between residents of Colombia and industrial users of goods installed in industrial free zones.

CHAPTER XI
FOREIGN-CURRENCY CURRENT ACCOUNTS

Article 55. AUTHORIZATION. Residents of Colombia may freely deposit in overseas current accounts the foreign exchange acquired in the currency market or from residents of Colombia who are not required to channel it through the currency market.

The deposits made in these accounts may be used for any foreign-exchange operation other than those required to be channeled through the currency market under Article 7 hereof. The returns on investments or deposits made from these accounts may also be used for the same purposes.

The foregoing is without prejudice to compliance with applicable tax laws and regulations.

Article 56. CLEARING MECHANISM. In addition to the provisions of the previous Article, residents in Colombia who use overseas current accounts for operations required to be

channeled through the currency market must register them as clearing current accounts at the Banco de la República.

Registration of clearing accounts must be made no later than within the month following the date of opening thereof or the date of making an operation required to be channeled through the currency market.

The opening and maintaining of clearing accounts is subject to the following rules:

1. Foreign-exchange declaration. From the date of registration of the clearing accounts referred to in this Article, the holders thereof must submit to the Banco de la República, within each calendar month following said date, the foreign-exchange declaration corresponding to the operations carried out and a list of the operations performed through said accounts during the previous month, including the report on investments of their balances and on the origin of the deposited foreign exchange not obtained from the currency market.

2. Sale and use of foreign exchange. Foreign exchange from the accounts may be sold to currency-market intermediaries and to holders of other clearing current accounts and may be used to pay for any operation whether or not required to be channeled through the currency. Sales of foreign exchange to currency-market intermediaries must be recorded as having been made from a clearing account balance.

3. Prohibition. The opening and maintaining of registration of clearing accounts is conditional on the holder thereof not having been penalized for infractions of the foreign-exchange regime, for administrative customs infractions or for violation of control regulations on asset laundering, and not having become subject to suspension of the tax benefit provided by Tax Refund Certificates – CERT.

The Banco de la República shall be responsible for ordering, in each case, that the respective registration be cancelled or not made, if it establishes that the accounts have not been managed properly, or if the holders thereof do not make available to the State the information required under the foreign-exchange regime within the time prescribed therefor. Cancellation of the registration obliges the holder to sell the account balances to the currency market. The foregoing notwithstanding, the Banco de la República may, exceptionally and after analyzing the nature and extent of the fault committed and the requesting party's record, authorize or maintain the clearing account's registration.

The provisions of this Point 3are understood to be without prejudice to any penalties that may be imposed by the entities in charge of control and oversight of compliance with the foreign-exchange regime.

Article 57. MANAGEMENT OF THE NATIONAL COFFEE FUND'S FOREIGN-CURRENCY RESOURCES. The National Coffee Fund may keep resources in a Foreign-Currency Fund to meet overseas payments in respect of investments and costs of coffee commercialization, advertizing, running offices, and foreign-currency loans, in accordance with an annual budget to be submitted for approval of the National Committee of Coffee Producers and the Banco de la República's Board of Directors, no later than December 31st of the immediately preceding year.

The National Federation of Coffee Producers shall present the foreign-exchange declaration to the Banco de la República on a monthly basis in accordance with the provisions of the above Article.

CHAPTER XII
CURRENCY-MARKET INTERMEDIARIES

SECTION I

ARTICLE 58. AUTHORIZED INTERMEDIARIES. The currency-market intermediaries are: commercial banks, mortgage banks, investment banks, commercial finance companies, Financiera Energética Nacional -FEN-, Banco de Comercio Exterior de Colombia S.A. -BANCOLDEX-, financial cooperatives, stock-brokerage firms and foreign-exchange firms.

In their capacity as currency-market intermediaries the aforementioned entities shall be subject to the rules and obligations laid down in this Resolution.

SECTION II

Article 59. AUTHORIZED OPERATIONS. Currency-market intermediaries may carry out foreign-exchange operations in accordance with the following classification:

1. Commercial banks, mortgage banks, investment banks, as well as commercial finance companies and financial cooperatives whose paid-up capital and legal reserve amount to the minimum required for setting up an investment bank may carry out the following foreign-exchange operations:

a. Acquire and sell foreign exchange and instruments representing foreign exchange that is required to be channeled through the currency market, as well as foreign exchange that, despite being exempt from that obligation, is voluntarily channeled through said market.

b. Enter into transactions of purchase and sale of foreign exchange and instruments representing foreign exchange with the Banco de la República and currency-market intermediaries, as well as purchase and sale of clearing-account balances.

c. Obtain foreign-currency financing from external financial entities or currency-market intermediaries or through placement of securities abroad, for the purpose of carrying out the following activities:

i. To carry out expressly authorized active foreign-currency credit operations, with a maturity equal to or less than that of the financing obtained.

ii. To carry out active foreign-currency operations to cover derivatives positions, with a maturity equal to or less than that of the financing obtained.

This financing shall be exempt from deposit at the Banco de la República and may not be used for any purpose other than specified in this point.

d. To receive foreign-currency deposits from companies located in free zones, international transport companies, travel and tourist agencies, duty-free warehouses and depots, entities providing harbor and airport services, individuals and legal entities not residents of Colombia, diplomatic and consular missions accredited to the Government of Colombia, and multilateral organizations and their staff. These deposits shall not require registration at the Banco de la República.

To receive deposits also in Colombian legal tender from individuals and legal entities not residents of Colombia, which shall be used subject to the currency regulations. These deposits shall not require registration at the Banco de la República either.

e. To provide sureties guarantees to back obligations arising from foreign-exchange operations required to be channeled through the currency market, and also for the following purposes:

i. To provide bid and performance bonds to Colombian and foreign companies in competitive biddings or merit-based selection processes organized by public- or private-sector companies resident in Colombia or abroad.

ii. To back the fulfillment of obligations incurred by residents of Colombia under contracts for exporting goods or providing non-financial services overseas.

iii. To back obligations of overseas residents.

f. To provide foreign-currency loans to residents of Colombia and to overseas residents on the terms authorized by Chapter IV of this Title. These loans must be reported to the Banco de la República, regardless of their maturity, within the terms specified by this entity.

g. To carry out capital investments abroad in accordance with the applicable laws and regulations and make temporary financial investments and investments in financial assets issued by overseas banking entities other than their affiliates and subsidiaries, or in bonds and securities issued by foreign governments that allow returns to be obtained in foreign currency on the liquidation thereof

h. To send or receive foreign-currency payments and make foreign-exchange remittances to or from overseas, and arrange for collection or similar banking services.

i. To manage and administer international credit and debit card systems, according to the operations authorized for each class of intermediary.

j. To carry out derivative operations in accordance with the provisions of Chapter VIII of this Title hereof.

2. Commercial finance companies and financial cooperatives whose paid-up capital and legal reserve amount to less than the minimum required for setting up an investment bank, and stock-brokerage firms and foreign-exchange firms whose capital exceeds three and a half billion pesos (Col$3,500,000,000) may carry out the following foreign-exchange operations:

a. Sending or receiving foreign-currency transfers for operations of importation, exportation, foreign investment, and Colombian overseas investment.

b. Buying and selling foreign exchange for operations of goods importation and exportation, foreign capital investment, and Colombian overseas investment.

c. Managing and administering international credit and debit card systems, according to the operations authorized for each class of entity

d. Buying and selling foreign exchange to and from currency-market intermediaries and balances of clearing current accounts.

e. Sending or receiving transfers and remittances of foreign exchange not required to be channeled through the currency market.

f. Buying and selling foreign exchange or instruments representing same for operations not required to be channeled through the currency market.

g. Carrying out capital investments abroad in accordance with the applicable laws and regulations and making temporary financial investments and investments in financial assets issued by overseas banking entities other than their affiliates and subsidiaries, or in bonds and securities issued by foreign governments that allow returns to be paid in foreign currency on the liquidation thereof.

Paragraph 1. The foreign-exchange purchase and sale operations that stock-brokerage firms are authorized to perform may be carried out by debiting their own position or under fee contracts.

Paragraph 2. Currency-market intermediaries may not use their foreign-exchange liquidity for carrying out operations that they are not expressly authorized to perform.

Without prejudice to the provisions of this Article's point 1.c.ii, intermediaries may not incur foreign-exchange debt for the purpose of carrying out foreign-currency purchase and sale operations.

Stock-brokerage firms may not incur debt in Colombian legal tender or any foreign currency for the purpose of carrying out authorized foreign-exchange operations.

Paragraph 3. The capital amounts specified in this Article shall be adjusted annually in the same direction and percentage as the variation in the consumer price index reported by the National Statistics Office (DANE). The resulting value shall be rounded up to the next multiple of a million pesos. The first adjustment shall be made in January 2001on the basis of the consumer price index recorded for 2000.

Paragraph 4. Without prejudice to the provisions on capital requirements laid down in this Article, financial cooperatives may act as currency-market intermediaries on being authorized to do so by the Banking Superintendency. Said entity must assess the technical and operating conditions that allow the financial cooperative to manage properly and exercise due control over all the authorized foreign-exchange operations.

Article 60. OBLIGATIONS. Currency-market intermediaries shall be obliged to:

1. Require presentation of a foreign-exchange declaration for each operation they perform, and to check the declarant's identification against the identification stated on the foreign-exchange declaration. Where appropriate, they must ask for the documents specified by the foreign-exchange regime. For operations requiring a deposit, they must verify that evidence has bee provided of fulfillment of said obligation as a prior condition for channeling the foreign exchange through the currency market.

2. Provide the Banco de la República with information on the foreign-exchange operations they have carried out, in such form and within such terms as this entity may decide.

3. Report every day to the Banking Superintendency and the Securities Superintendency, as appropriate, in such terms as these entities may specify, the rates of exchange at which they make their operations of purchase and sale of foreign exchange or of instruments representing same.

4. Make quarterly reports to the Banking Superintendency or the Securities Superintendency, as appropriate, on movements in their overseas current accounts.

5. Make quarterly reports to the Banking Superintendency and the Banco de la República on accounts opened in a foreign currency or Colombian legal tender by individuals and legal entities not residents of Colombia and on movements in said accounts.

6. Provide information and cooperation required by the competent authorities, in particular the State Prosecutor's Office or the Financial Information and Analysis Unit, for the purpose of preventing criminal and asset-laundering activities.

Paragraph. Under Law 9 of 1991, the Fundamental Statute of the Financial System, and Law 27 of 1990, and related laws and regulations, failure to fulfill all or part of these obligations and, in general, this Resolution's provisions on currency-market intermediaries, shall lead to penalties being imposed by the Banking Superintendency or the Securities Superintendency, according to their authority, both on the entity and on the responsible employees who fail to comply with these provisions.

Article 61. SPECIAL OBLIGATIONS OF STOCK-BROKERAGE FIRMS. Without prejudice to fulfillment of the obligations laid down for currency-market intermediaries, stock-brokerage firms must provide evidence of compliance with the technical or operating conditions set in a general manner and within the framework of their authority by the Securities Superintendency's General Board or the Securities Superintendency. These bodies may set credit or counterparty risk control limits and impose on such firms the obligation of using electronic foreign-exchange trading systems in their operations.

SECTION III
FOREIGN-EXCHANGE FIRMS

Article 62. DEFINITION. Foreign-exchange firms are legal entities organized according to the provisions of this Resolution for the exclusive purpose of performing the foreign-exchange operations authorized by Article 59(2).

Foreign- exchange firms become legally established once the respective public notarial instrument has been signed but may not perform the activities constituting their authorized operations until they have obtained the authorization certificate issued to them by the Banking Superintendency.

Article 63. AUTHORIZATION OF FOREIGN-EXCHANGE FIRMS. Under Article 53 of the Fundamental Statute of the Financial System, as amended or supplemented, foreign-exchange firms must have the prior authorization of the Banking Superintendency.

The authorization shall be given by means of a reasoned resolution issued by the Banking Superintendency, once it has been verified that the requirements laid down in this Resolution have been met and the applicants have provided satisfactory evidence of the character, reliability, suitability and financial solvency of the parties participating in the operation, including the conduct shown by said parties in performing activities connected with managing, making use of or investing resources obtained from the public.

Paragraph. All stock transactions of foreign-exchange firms, regardless of the percentage, shall require, on pain of invalidity, prior authorization from the Banking Superintendency according to the terms of Article 88 of the Fundamental Statute of the Financial System.

Article 64. REQUIREMENTS. To obtain from the Banking Superintendency the authorization certificate referred to in the previous Article, foreign-exchange firms must provide said entity with evidence of the following requirements of:

a. Being organized as corporations.

b. Having a capital of over three and a half billion pesos (Col$3,500,000,000). This amount shall be readjusted annually in the same direction and percentage as the variation in the consumer price index reported by the National Statistics Office (DANE). The resulting value shall be rounded up to the next multiple of a million pesos. The first adjustment shall be made in January 2001on the basis of the consumer price index recorded for 2000.

c. Possessing an infrastructure that allows all their operations to be properly managed and duly controlled by the Banking Superintendency.

Paragraph. The minimum capital amount laid down in point (b) of this Article must be held permanently by foreign-exchanges firms that are authorized and in operation. The Banco de la República shall indicate in a general manner the capital accounts that shall be taken into account in calculating the capital.

Article 65. CANCELLATION. The Banking Superintendency may cancel a foreign-exchange firm's authorization in any of the following cases:

1. At the request of the legal representative.

2. In the event of the firm's liquidation.

3. Failure to meet the minimum capital requirement laid down in the previous Article.

4. Failure to carry out its corporate purpose for one (1) year or longer.

5. Where any information or documents presented in order to obtain the operating authorization and all other approvals specified in this Resolution prove to be incomplete or contrary to the facts.

6. Failure to fulfill any of the obligations established in the foreign-exchange regime, the Fundamental Statute of the Financial System where applicable, and the instructions given by the Banking Superintendency.

7. As a penalty, in the cases contemplated by the governing laws and regulations.

Article 66. OBLIGATIONS. Foreign-exchange firms and their administrators are subject to compliance with the following special obligations:

1. To perform exclusively the foreign-exchange operations allowed to them by the foreign-exchange regime, strictly subject to the requirements and conditions laid down in the relevant provisions, and in particular to comply with tax provisions on the withholding tax.

2. To cooperate actively with the entities responsible for oversight and monitoring of compliance with the foreign-exchange regime, and with such other entities as are authorized to request information from them. In performing this obligation they must:

a. Report to the Banking Superintendency the transactions made in carrying out their activities, within such time limits, in such form and on such conditions as said entity may establish for the purpose.

b. Allow and facilitate the inspection at any time by the Banking Superintendency of the books, vouchers, journal entries, supporting documents, bank statements and, in general, all documents connected with their activity.

c. Present to the Banking Superintendency the financial statements in the form and within the time limits set by this entity.

d. Provide the Banking Superintendency with information on the foreign-exchange purchase and sale transactions referred to in Articles 102 to 107 of the Fundamental Statute of the Financial System, as amended, supplemented or complemented.

e. Provide such information and cooperation as may be required by the State Prosecutor's Office under Articles 102 and 107 of the Fundamental Statute of the Financial System, as amended, supplemented or complemented, and by the Financial Information and Analysis Unit under Law 526 of 1999.

3. Perform regular accounting of their businesses in accordance with Banking Superintendency regulations.

4. Where appropriate, apply the withholding tax to the foreign-exchange operations they carry out.

5. Have an internal auditor, as stipulated by Article 79 of the Fundamental Statute of the Financial System and other legal provisions, to certify their financial statements and the vouchers and reports periodically required by the Banking Superintendency.

6. Fully identify the party with whom the transaction is being made, and the party's characteristics, in such form and quantities as the Banking Superintendency may decide. Said information is to be presented to the Superintendency and to all other authorities that so require in the performance of their functions.

7. Their directors, legal representatives and internal auditors must, before taking up the respective posts, be formally instated in them by the Banking Superintendency, which shall accord the instatement once the applicants have provided satisfactory evidence of their character, reliability, suitability and financial solvency in such manner as to inspire confidence in it about how they will participate in the firm's management, administration and control. At all events, the Superintendency shall asses the previous records of the persons concerned as regards matters of foreign exchange and customs and in relation to the Banking and Securities Superintendencies

8. To report any opening, relocation or closing of their business establishments within such time and in such form as the Banking Superintendency may direct.

9. Require the presentation of a foreign-exchange declaration in all the foreign-exchange operations they perform, and provide such information on these operations as is stipulated by the Banco de la República, within the terms specified by this entity and, at all events, within the next three days after the operation has been carried out.

Article 67. FOREIGN-EXCHANGE DECLARATION FOR SALE OF FOREIGN EXCHANGE TO CURRENCY-MARKET INTERMEDIARIES. Foreign-exchange firms must present a foreign-exchange declaration in all sales of foreign currency that they make to other currency-market intermediaries, together with a certificate issued by the firm's internal auditor certifying that all applicable legal provisions have been complied with in respect of the foreign exchange being sold.

SECTION IV
FINAL PROVISIONS

Article 68. OVERSEAS CURRENT ACCOUNTS. Currency-market intermediaries may possess and manage overseas current accounts for the normal performance of their activities. These accounts shall not be subject to registration at the Banco de la República.

Article 69. REPORT OF CONTINGENCY LOANS. Contingency loans or guarantees provided by currency-market intermediaries authorized to do so in favor of their respective overseas affiliates or subsidiaries must be reported to the Banco de la República, in such form and at such times as this entity may specify.

Intermediaries making contingency loans must undertake to provide to the Banking Superintendency, with such regularity as the latter may specify, all such information on the operations of its affiliate as said entity may require.

Article 70. INTERMEDIARIES' EXCHANGE RATES. The exchange rates for purchase and sale of foreign currency shall be such as are freely agreed between the parties to the transaction, and no fees shall be charged, except in the case of operations carried out by stock-brokerage firms under fee contracts.

Intermediaries may enter into spot operations for the purchase and sale of foreign exchange, to be executed within the next two working days, and shall announce on a daily basis the purchase and sale rates they offer the public for over-the-counter operations.

In foreign-exchange purchase and sale operations carried out under fee contracts, the rates offered must include the corresponding fees.

Paragraph 1. The foreign exchange required for payment of overseas personal expenses through international credit and debit card systems administered by currency-market intermediaries shall be paid for in Colombian legal tender at the exchange rate they announce to the public.

Paragraph 2. The Banking and Securities Superintendencies, as appropriate, shall establish the form in which the foreign-exchange purchase and sale rates referred to in this Article must be published.

Article 71. PAYMENT AND SURRENDER CURRENCIES. Currency-market intermediaries may comply with requests for sale of any currency needed to pay for overseas obligations stipulated in a different currency. Similarly, residents of Colombia may channel through the currency market a currency different from the one originally stipulated

CHAPTER XIII
ON THE BANCO DE LA REPÚBLICA

Article 72. RESERVE CURRENCIES. The Banco de la República may perform its operations in Special Drawing Rights and the following currencies and shall publish on a daily basis their rates of conversion to the United States dollar: Swedish crowns, Danish crowns, Austrian shillings, euros, Dutch guilders, Belgian francs, French francs, Swiss francs, pounds sterling, Italian lira, Deutsche mark, Spanish pesetas and Japanese yen.

Article 73. MARKET INTERVENTION. The Banco de la República may intervene in the currency market to prevent undesirable fluctuations both in the exchange rate and in the amount of the international reserves, in accordance with guidelines set by the Bank's Board of Directors, through direct or indirect, spot or future purchase or sale of foreign exchange from or to commercial banks, mortgage banks, investment banks, commercial finance companies, financial cooperatives, Financiera Energética Nacional -FEN-, Banco de Comercio Exterior de

Colombia S.A. -BANCOLDEX-, and the Nation represented by the Ministry of Finance and Public Credit.

The Banco de la República may buy and sell foreign exchange at market rates.

Furthermore, the Banco de la República may issue and place instruments representing foreign exchange, in accordance with regulations issued by the Board of Directors.

Paragraph. The Banco de la República may carry out the operations referred to in this Article by means of the various systems and mechanisms through which interbank foreign-exchange operations are performed.

Article 74. FOREIGN-CURRENCY PAYMENTS. The foreign-currency payments that the Banco de la República has to make in the normal course of its activities shall be debited from the international reserves, subject to such quantities and limits as may be set by the Board of Directors.

TITLE II
COMPLEMENTARY PROVISIONS

CHAPTER I
HOLDING, POSSESSING AND TRADING IN FOREIGN EXCHANGE

Article 75. PROHIBITION. Save as otherwise provided by special provisions of this Resolution, it is not allowed to make deposits or any other financial operations in a foreign currency or, in general, any contract or agreement between residents of Colombia in a foreign currency through use of the foreign exchange referred to in this Title.

Residents of Colombia may buy and sell foreign exchange professionally. Said activity may be performed after enrollment in the official registry of commercial concerns. The parties performing this activity must provide such information and cooperation as may be required by the competent authorities, in particular the State Prosecutor's Office or the Financial Information and Analysis Unit, for the purpose of preventing criminal and asset-laundering activities.

Article 76. USE OF FOREIGN EXCHANGE. Foreign exchange received by residents of Colombia from operations not required to be channeled through the currency market may only be used for being sold to other residents and , where appropriate, for paying in Colombia for international freight and transport tickets, personal expenses made through international credit cards, premiums of foreign-currency denominated insurance contracts under Decree 2921 of 1991 and related provisions, and for payment of obligations under external reinsurance contracts or for making payments abroad or in Colombia of the value of claims that insurance companies established in Colombia have to cover in foreign currency, in accordance with government decisions under Law 9 of 1991, Article 14. They may also be used to make overseas financial and asset investments, and any other operations different from those required to be channeled through the currency market, or to channel them voluntarily through said market.

Article 77. PURCHASE OF FOREIGN EXCHANGE FROM TOURISTS. Tourist agencies and hotels receiving foreign exchange from selling goods and services to foreign tourists must fully identify the party they make the transaction with and must keep the information regarding said party's name and address, number and type of foreign identity document, amount and date of the operation and form of payment of the transaction.

Currency-market intermediaries buying foreign exchange from tourist agencies and hotels must require certification from the respective establishment's public accountant or internal auditor that the provisions of this Article have been complied with.

Persons entering or leaving Colombia with foreign exchange in cash or instruments representing foreign exchange in an amount exceeding ten thousand United States dollars (US$10,000) or its equivalent in other currencies must present the corresponding Customs Declaration.

Article 78. PAYMENT FOR FOREIGN EXCHANGE. Payment by currency-market intermediaries for the purchase of foreign currency in an amount equal to or greater than ten thousand United States dollars (US$10,000) or the equivalent thereof in other currencies shall be made in the following manner:

Payment shall be made by issuing a check payable to the foreign-exchange beneficiary, with a clause limiting its free negotiability and "for deposit only". But in the case of transfers through commercial banks and mortgage banks, payment may only be made by means of a deposit to a current account or savings account.

Paragraph. In the case of foreign-exchange firms the amount established in this Article shall be three thousand United States dollars (US$3,000) regarding the acquisition of foreign exchange or receipt of transfers from abroad.

CHAPTER II
STIPULATION OF FOREIGN-CURRENCY OBLIGATIONS

Article 79. FOREIGN-CURRENCY OBLIGATIONS. Obligations stipulated in a foreign currency and not pertaining to foreign-exchange operations shall be paid in Colombian legal tender at the representative market exchange rate prevailing on the date they were incurred, unless a different date or benchmark rate has been agreed on by the parties.

Obligations stipulated in a foreign currency and pertaining to foreign-exchange operations shall be paid in the currency stipulated.

Paragraph 1. Where obligations pertaining to foreign-exchange operations are stipulated in a foreign currency, and for legal purposes they are required to be liquidated in Colombian legal tender, the representative market exchange rate prevailing on the date of payment shall be applied.

Paragraph 2. Operations by the entities subject to Banking Superintendency inspection and oversight may not be stipulated in a foreign currency, except for expressly authorized foreign-exchange operations, import leasing contracts, life insurance, or the procurement of such insurance as the Government may determine under Law 9 of 1991, Article 14.

Paragraph 3. In the case of obligations stipulated in a foreign currency other than the United States dollar, the conversion rate determined according to Article 72 hereof shall be used for purposes of the present Article.

Paragraph 4. To calculate the amount of the coffee levy paid abroad in United States dollars, on authorization from the Government, the representative market exchange rate certified by the Banking Superintendency for the date of payment must be used.

Paragraph 5. Residents of Colombia may make and receive foreign-currency payments in discharge of obligations arising from domestic operations, if so agreed, by means of transferring or receiving foreign currency to or in clearing current accounts opened for the purpose.

These operations are subject to the following conditions:

a. The accounts through which foreign exchange is transferred for payment of obligations between residents may only be created with funds from operations mandatorily required to be channeled through the currency market.

Such foreign exchange must be used to make payments for obligations between residents. The balances may be sold to currency- market intermediaries or to holders of other clearing accounts.

b. The funds in the accounts through which foreign exchange is received from payment of obligations between residents may only be used for operations mandatorily required to be channeled through the currency market. These balances, too, may be sold to currency-market intermediaries or to holders of other clearing accounts.

c. The accounts referred to in this Paragraph 5 shall be subject to the obligations laid down in Article 56 hereof.

Paragraph 6. Residents of Colombia providing airport operation services under concession contracts may receive payments in foreign currency from other residents in respect of runway charges for international flights.

Article 80. REPRESENTATIVE MARKET EXCHANGE RATE. For purposes hereof, "representative market exchange rate" shall mean the exchange rate for foreign-currency purchase and sale operations that is calculated and certified by the Banking Superintendency on the basis of available information, in accordance with the methodology laid down by the Banco de la República. Over-the-counter and derivative operations shall not be taken into account in calculating said rate.

Until such time as the Banco de la República lays down the regulations under this Article, use shall be made of the methodology set forth in External Resolution 21 of 1993, Article 96.

Article 81. AUTHORIZATION. The country's public-sector rediscount entities may obtain credit from external financial entities for the purpose of making loans to residents of Colombia either through rediscounting to currency-market intermediaries or directly, with a maturity equal to or less than that of the financing obtained from abroad.

Credit obtained from external financial entities by public-sector rediscount entities shall be exempt from deposit at the Banco de la República only if the credit is used for the above purpose. If credit obtained by public-sector rediscount entities is not used for providing or rediscounting loans to residents of Colombia, said entities must make the deposit referred to in Article 26 hereof before disbursing the credit.

The ultimate users of the funds must make the deposit referred to in Article 26 hereof as a requirement for disbursement and channeling of the loans referred to in this Article, unless the public-sector rediscount entity has done so by that time.

The loans made or rediscounted under this Article by public-sector rediscount entities may be stipulated in a foreign currency. Nevertheless, at the creditor's choice, their disbursement and repayment may be agreed to be made in the stipulated foreign currency or in Colombian legal

tender at the representative market exchange rate prevailing on the date of the respective operations.

CHAPTER III
FINAL PROVISIONS

Article 82. INFLOW OR OUTLOW OF COLOMBIAN LEGAL TENDER. Except for operations performed by the Banco de la República, inflows or outflows of Colombian legal tender into or out of Colombia must be made solely through currency-market intermediaries.

Travelers leaving or entering Colombia may take with them Colombian legal tender in bills up to a maximum amount equivalent to ten thousand United States dollars (US$10,000) calculated at the representative market exchange rate on the day of leaving or entering the country.

People leaving or entering the country with Colombian legal tender in bills in an amount greater than that specified above must present the respective Customs Declaration.

Article 83. FINAL PROVISIONS. In accordance with External Resolution 6 of 2000, the deposit on external borrowing referred to herein shall be zero percent (0%).

External loans registered at the Banco de la República before the entry into force of External Resolution 5 of 1997 shall remain subject to the rules set forth in Article 2 thereof. In that case, where applicable, a deposit must be made at the Banco de la República, in legal tender equivalent to 10% calculated at the representative market exchange rate prevailing on the date of deposit for a period of six (6) months in accordance with the rules laid down for the purpose in External Resolution 21 of 1993, Article 30. The deposit obligation does not apply to loans registered before External Resolution 5 of 1997 where their financial conditions are amended as a result of restructuring agreements provided for by Law 550 of 1999.

Article 84. CAPITAL GOODS. For purposes of this Resolution capital goods shall mean machinery and equipment classified as such in the lists issued by the Tax and Customs Administration and by the High Council on Foreign Trade.

The provisions of External Resolution 7 of 1994 shall continue to apply to books, magazines, serial pamphlets or collectibles, all of a scientific or cultural nature, included under customs tariff number 49.01 and daily publications included under number 40.02.

Article 85. TRANSITORY REGIME. Foreign-exchange firms not meeting the minimum capital requirements specified in Article 64 hereof upon entry into force of this Resolution must, within a period of one (1) year from said date, make the respective capital adjustments in order to be able to perform the operations authorized for currency-market intermediaries by the provisions of said Article.

During that period of transition said entities may perform only the following exchange operations:

1. Buying and selling foreign exchange or instruments representing same in operations not required to be channeled through and currency market.

2. Buying and selling foreign exchange to and from currency-market intermediaries.

3. Sending or receiving foreign-exchange transfers in operations not required to be channeled through the currency market.

Paragraph. Foreign-exchange firms failing to provide evidence of the adjustment referred to in this Article within the specified period must be wound up or make the necessary changes to their corporate name and corporate purpose.

Article 85. ENTRY INTO FORCE. The present Resolution comes into effect from its date of publication and overrides External Resolution 21 of 1993 except for Article 30 and 96 thereof which shall remain in effect for purposes of Article 80 and 83 hereof. The provisions regarding stock-brokerage firms shall not come into effect until July 1, 2000.

Done in Santa Fe de Bogotá, D.C., on the fifth (5th) of May in the year Two Thousand (2000).

JUAN CAMILO RESTREPO SALAZAR

President

GERARDO HERNÁNDEZ CORREA

Secretary

Exhibit 2

Banco de Republica – Foreign Exchange Declaration Form

Declaración de Cambio por Servicios, transferencias y otros conceptos
Formulario No. 5
Circular Reglamentaria Externa DCIN-83 de febrero 24 de 2011

I. TIPO DE OPERACIÓN

1. Número:	
2. Operación de:	

II. IDENTIFICACIÓN DE LA DECLARACIÓN

3. Nit del I.M.C.	4. Fecha AAAA-MM-DD	5. Número

III. IDENTIFICACIÓN DE LA DECLARACIÓN DE CAMBIO ANTERIOR

6. Nit del I.M.C.	7. Fecha AAAA-MM-DD	8. Número

IV. IDENTIFICACIÓN DE LA EMPRESA O PERSONA NATURAL QUE COMPRA O VENDE DIVISAS

9. Tipo	10. Número de identificación	DV	11. Nombre

12. Teléfono	13. Dirección	14. Código ciudad

V. DESCRIPCIÓN DE LA OPERACIÓN

15. Código moneda de giro o reintegro	16. Valor moneda giro o reintegro	17. Tipo de cambio a USD	18. Valor total USD

VI. INFORMACIÓN DE LA(S) OPERACIÓN(ES)

19. Numeral	20. Valor USD	19. Numeral	20. Valor USD

Observaciones:

Para los fines previstos en el articulo 83 de la constitución política de Colombia, declaro bajo la gravedad de juramento que los conceptos, cantidades y demás datos consignados en el presente formulario son correctos y la fiel expresión de la verdad.

VII. IDENTIFICACIÓN DEL DECLARANTE

21. Nombre	22 Número de identificación	23. Firma