

**Agree to issue the REGULATION OF THE LAW AGAINST MONEY OR OTHER ASSETS
LAUNDERING**

GOVERNMENT AGREEMENT NUMBER 118-2002

Guatemala April 17th, 2002

The President of the Republic,

whereas:

That Decree number 67-2001 of the Congress of the Republic issued on December 11th, 2001, Law Against Money and Other Assets Laundering, has as essential purpose to prevent, control and punish money laundering, by establishing the rules, procedures and suitable internal controls to accomplish the objectives of said law.

Whereas:

That in accordance with the stated in article 44 of the law before mentioned, the Banking Superintendency, through the Intendancy of Special Verification must elaborate the Regulation of the Law Against Money and Other Assets Laundering, to subdue to approval of the President of the Republic, procedure that has been fulfilled and coordinated with the legal advisors of the Presidency of the Republic. Therefore: In exercise of the attributions conferred by article 183, letter e) of the Political Constitution of the Republic of Guatemala, and with reliability in article 44 of Decree number 67-2001 of the Congress of the Republic, Agrees: to issue the following:

REGULATION OF THE LAW AGAINST MONEY OR OTHER ASSETS LAUNDERING.

**CHAPTER I
GENERAL PROVISIONS**

Article 1. Objective. The current Regulation has as objective to develop the principles established in the Law against Money or Other Assets Laundering, Decree number 67-2001 of the Congress of the Republic of Guatemala.

Article 2. Definitions. For the effects of this Regulation, the terms that appear in the same will be understood as follows:

- a) **Cash:** National or foreign currency represented in bills and coins.
- b) **Transaction:** Any operation or act performed by a client with the liable persons.
- c) **unusual transaction:** Is the operation of which quantity, frequency, amount or characteristics do not have relation with the profile of the client.
- d) **Suspicious transaction:** Is the unusual transaction duly examined and documented by the liable person, that for not having a clear economic or legal reason, could constitute a crime.
- e) **Client:** Is the individual or juristic person who performs one or more transactions with a liable person, in the normal or apparent line of business of said liable person.

- f) **Compliance officer:** Is the manager in charge of surveil the compliance of the programs and internal procedures, as well as the compliance of the liabilities imposed by Law.
- g) **The Law:** It refers to Decree number 67-2001 of the Congress of the Republic of Guatemala, Law Against Money or Other Assets Laundering.
- h) **Intendancy:** It refers to the Intendancy of Special Verification.

CHAPTER II CUSTODY AND TEMPORARY USE OF GOODS

Article 3. Custody and return. In accordance with the established in article 13 of the Law, in the cases in which by resolution dictated by the Ministerio Público [Equivalent to the Department of Justice.], the goods, products or instruments object of precautionary measure, to be handed over to another person or institution appointed by this, the handing over must be stated in administrative deed, in which the conditions of such goods, products or instruments will be indicated. To the deed will be attached a copy of the corresponding inventory, the person or the representative of the receiving institution must sign the deed, and a copy of it and of the inventory must be given to that person. The person or institution to whom the Ministerio Público [Equivalent to the Department of Justice.] entrusts the custody of the goods, products or instruments object of the precautionary measure according with the established in the Law, from the moment of the delivery, will be legally responsible of guarantying its guard, conservation and custody, having the necessary and adequate means to fulfill his or her mission, for which must take the proper measures and the use of the trusted goods with any purpose is prohibited. The return of the goods, products or instruments to which the previous paragraph refers, if it proceeds, will be performed by the proper court or judge in accordance with what the law establishes for the effect.

Article 4. Temporary use of the goods, products or instruments object of the precautionary measures. The period of three months to which article 15 of the Law refers, will begin from the date that the precautionary measure dictated by the corresponding judge, comes into force.

CHAPTER III OF THE LIABLE PERSONS

Article 5. Liable persons. For the effects of the Law and this Regulation, and in accordance with the volume of operations, and attending the nature of their activities, the liable persons are subdivided in:

I. Group A. This group includes:

- a) Banco de Guatemala (Central Bank);
- b) Banks of the system;
- c) finance companies;
- d) exchange houses;
- e) Individual or juristic persons dedicated to brokerage or to the intermediation of securities trading;
- f) Credit cards issuers and operators; and
- g) Off-shore entities.

II. Group B. This group includes:

- a) Companies dedicated to systematic or substantial fund transfers and / or capital flows;
- b) Insurances and guaranteed bonds companies;
- c) Companies dedicated to perform systematic or substantial operations of payment of checks;
- d) Instituto de Fomento de Hipotecas Aseguradas [Promotion of Insured Mortgages Institution.];
- e) Companies dedicated to agentship;
- f) Companies dedicated to financial leasing;
- g) General warehouses of deposit; and
- h) Others that the legislation submits specifically to the surveillance and inspection of the Banking Superintendency.
- i) The cooperatives that perform savings and credit operations, independently of its denomination. *(It was amended in accordance with Government Agreement 438-2002, published on November 14th, 2002 in Diario de Centro América)*
- j) Entities authorized by the Ministry of the Interior to operate lotteries, raffles, and alike, regardless their name. *(It was amended in accordance with Government Agreement 524-2007, published on Monday, December 3rd, 2007 in Diario de Centro América)*

Depending on the volume of its operations, and attending the nature of its activities, the Banking Superintendency, through the Intendancy, will be able to transfer the liable persons from one group to another, according with the previous clauses, which will be communicated by a notification on the resolution or by its publication, twice in a period of fifteen days, in Diario Oficial and another newspaper of ample circulation in the country.

Article 6. Agencies, branch offices, subsidiaries or other offices abroad. The liable persons will keep a vigil over their agencies, branch offices, subsidiaries or other offices incorporated abroad, to fulfill the legal dispositions of the host country, regarding the prevention of money or other assets laundering.

CHAPTER IV OF THE LIABILITIES OF THE LIABLE PERSONS

Article 7. General information of the liable persons. The liable persons must send to the Banking Superintendency, through the Intendancy, just once, their general information required, in the forms that for the effect will be designed. The liable persons will have one calendar month, counting from the legal force of the Regulation, to send the stated information. When there are modifications in the general information reported, the liable persons must inform it to the Banking Superintendency, through the Intendancy, in a period of fifteen (15) days after performing the modification.

Article 8. Incorporation of other liable persons. Applying the established in article 18, numeral 5), letter g), of the Law, the President of the Republic, through a Government Agreement will be able to modify article 5 of this Regulation, to make extensive the application of the liabilities established in the mentioned legal body, to any other activity that, for the nature of its operations, might be used for the perpetration of a crime of money or other assets laundering, establishing in the same, in which group of liable persons will be located the new included person or persons.

Article 9. Compliance programs. The liable persons must send to the Banking Superintendency through, the Intendancy, at least three (3) months after the legal force of this Regulation, the programs, rules, procedures and internal controls referred in article 19 of the Law, in what is applicable to these, duly approved by their board of directors, the Administrations Board, or its superior executive committee. In the case of extensions or

modifications to the mentioned programs, rules, procedures and internal controls, these must be informed to the Banking Superintendency, through the Intendancy, within a period not longer than a calendar month after its approval.

Article 10. Registry of employees. The liable persons, as part of their internal controls, must have a registry of each of their employees, in which evidence of the procedures used for the compliance of the established in letter a) of article 19 of the Law must be included. This registry must be updated, in its most relevant aspects, at least once a year. Likewise, they will have to give the training programs referred in letter b) of article 19 of the Law, to all the personnel performing or authorizing operations which may be used to perform money or other assets laundering; having a registry of such trainings. In the case that the liable persons hire with other companies the rendering services of personnel, they must assure reasonably of the procedures used by such companies, with the purpose of guarantying a high level of integrity and acknowledgment of personal, working and patrimonial background of the personnel, as well as their training in money or other assets laundering matters.

Article 11. Audit programs. The liable persons who have internal audit, must include as part of its procedures, the tending mechanisms to verify and evaluate the effectiveness and compliance of the programs, rules and procedures to prevent and detect the money or other assets laundering. Likewise, when hiring external audit, it must be stated in the contract to subscribe that in the corresponding report the audit issues an opinion about the compliance of the established in this article.

Article 12. Registry of clients. For the effects of the registry referred in article 21 of the Law, the liable persons, when they begin commercial relationships or relationships of normal or apparent line of their businesses with a client, particularly when referring to the opening of new accounts, the performing of fiduciary transactions, rental of safe deposit boxes or of the performance of cash transactions that exceed the established amount in article 24 of the Law, must establish the necessary mechanisms with the purpose of having minimum information required in the form that for the effect will elaborate the Banking Superintendency, through the Intendancy, to which other relevant information may be added. The liable persons must keep a vigil over the update of the registry referred in this article. In compliance of article 22 of the Law, liable persons must ask their clients to indicate if they are acting as intermediary of other person, in which case the beneficiary must be properly identified. With the purpose to fulfill the objective of the Law, the liable persons will not be able to perform any transaction with clients who don not provide at the right time the required information and documentation. In application of the established in the second paragraph or article 21 of the Law, the liable persons must establish the procedures that they consider appropriate to verify the information provided by their clients in accordance with the Law and the current Regulation. Likewise, they must leave written evidence of the applied procedure.

Article 13. Updating and maintenance of registries. The registries referred in the Law and this Regulation, must be classified according to a proper archive system, in documents, magnetic resources or any other electronic devise, so they can be efficiently used by the entity and allow to attend the requirements of the competent authorities. When magnetic resources or any other electronic devises are used, security copies must be held. The liable persons must inform to the Banking Superintendency, through the Intendancy, at least with one (1) month of anticipation to the date in which the registries will be destroyed, after the minimum period of conservation established by law has passed.

Article 14. Daily registries. The information of the registries of the daily operations that the liable persons must maintain in compliance with article 24 of the Law, will be sent monthly, to the Banking Superintendency, through the Intendancy, in the way and conditions determined by this. Said information must be presented within the first five (5) working days of the next corresponding month. If during one month no cash transactions as referred in the previous

paragraph, are performed, this must be informed to the Banking Superintendency, through the Intendancy, in the same period.

Article 15. Registry of unusual transactions. Through the compliance officer, liable persons must examine the unusual transactions to determine if they have suspicious character, and will open files that may contain documents, magnetic resources or any other electronic device, assigning them numbers that will be used as identification for subsequent procedures. All the support documentation will be kept in the file, even if it is determined that the transaction does not have suspicious quality and that it is not necessary to report it to the Banking Superintendency, through the Intendancy.

Article 16. Communication of suspicious transaction. Liable persons must inform the Banking Superintendency, through the Intendancy, about the transactions detected as suspicious, applying the procedure described next:

- a) The officers or employees who detect an unusual transaction must inform it to the compliance officer, or deputy, using the internally established channels;
- b) The compliance officer, or deputy, will be the person in charge of determining if the unusual transaction has suspicious character, detail that must be performed in a period not longer than fifteen (15) days, counting from his or her acknowledgement of this transaction;
- c) Once the stated period in the previous numeral has passed, the compliance officer, or deputy, will write a note in the corresponding file, in a way of summary, his or her observations, and of the officer or employee who detected the operation;
- d) The compliance officer, or deputy, within the following ten (10) days to the related annotation in the previous numeral, will notify the suspicious transaction to the Banking Superintendency, through the Intendancy, in the forms that for the effect this will establish, together with the documentation indicated in the same forms.
- e) Attach to the corresponding file, a copy of the notification form.

For the effects of detecting and preventing the performance of suspicious transactions, each liable person must define alert signals, considering the ones that by the issuance of circular letters, the Banking Superintendency informs through the media it considers pertinent.

Article 17. Quarterly report of no detection of suspicious transactions. The liable persons that in a calendar trimester do not detect any suspicious transaction, must inform it through the compliance officer or deputy, to the Banking Superintendency, through the Intendancy, within the following month to the corresponding end of the trimester.

Article 18. Liability to inform. In addition to the foreseen in the previous articles, the liable persons must provide the information that the Banking Superintendency, through the Intendancy, requests, in the way and period determined.

Article 19. Extension of time. In the cases that the liable persons are not able to provide the information required within the period established for the effect, they will be able to request to the Banking Superintendency, through the Intendancy, an extension of time, duly justified, with the purpose of complying such liability. The extension of time must be requested by written, at least, two (2) days before the end of the original period given.

Article 20. Acquaintance and identification of clients. In compliance of the established in article 19. letter d), of the Law, the liable persons must create, put to work and maintain

programs with specific measures to know and identify their clients. In the case of the transactions referred in article 21 of the Law, the liable persons must obtain from their clients general information, in accordance with the forms that for the effect will design the Banking Superintendency, through the Intendancy, which may be modified by such institution, aspect that should be of the knowledge of liable persons at the right time. The liable persons must review and update the data of the form indicated in this article, at least once a year, leaving written evidence of the date that the review or update was performed.

Article 21. Compliance Officers. The liable persons must appoint managers in charge of the liabilities referred in the second paragraph of article 19 of the Law, in a period of two (2) months, counting from the legal force of this Regulation, who will be called 'compliance officers'. In the case of the entities subject to surveillance and inspection of the Banking Superintendency, the period is of ten (10) days, counting from the same date, to confirm the designation of the officers appointed; or to appoint new officers who have the acknowledgement and experience to fulfill with the functions established in the Law and this Regulation. The appointment or confirmation of the compliance officers must be communicated to the Banking Superintendency, through the Intendancy, within a period of ten (10) days after its performance. To this communication must be attached the curriculum vitae of the designated or confirmed officer. Likewise, each time that a compliance officer is substituted, it must be communicated to the Banking Superintendency, through the Intendancy, and submit the curriculum vitae of the deputy, within the stated period. The compliance officers must dedicate themselves exclusively to the fulfillment of their functions, except in the case of the liable persons included in Group B to whom article 5 of this Regulation refers, in which a manager of these liable persons will be responsible for the fulfillment of the liabilities of the officer.

Article 22. Attributions of the compliance officer. The compliance officer, to develop the functions that the last paragraph of article 19 of the Law assigns, will have the following attributions:

- a) Propose to the liable person the programs, rules, procedures and internal controls that should be adopted, developed and executed to avoid the inadequate use of its services and products in activities of money or other assets laundering;
- b) Inform to the personnel of the liable person about all the legal and regulatory dispositions, as well as the existing internal procedures related to the prevention and detection of money or other assets laundering;
- c) Coordinate with other instances of the entity, the implementation of the programs, rules, and internal controls established by the Law and keep vigil over the fulfillment of these;
- d) Prepare and document the information that must be submitted to the Banking Superintendency, through the Intendancy, with relation to the data and documentation that the Law refers to; specially the reports of the suspicious transactions detected in the entity;
- e) Keep a constant technical and legal update of the subject of prevention and detection of money or other assets laundering, as well as establish communication and cooperation channels with the compliance officers, or deputies, in other liable persons, regarding the training and patterns of money or other assets laundering, taking care always of the confidentiality of information established in the Law;

- f) Organize the training of the personnel in the aspects related with the prevention and detection of money or other assets laundering, submitting to the Banking Superintendency, through the Intendancy, a semiannual report of this training;
- g) Document the efforts performed by the institution, regarding the prevention of money or other assets laundering;
- h) Present quarterly reports to the administration body of the liable person about the effectiveness of the mechanisms of internal control executed in the institution, related with the compliance program; e,
- i) Others stated by the regarding laws.

Article 23. Compliance of the programs, rules and procedures. The officers and employees of the liable persons must fulfill the corresponding programs, rules and procedures used by these.

CHAPTER V INTENDANCY OF SPECIAL VERIFICATION

Article 24. Intendancy of Special Verification. The Intendancy of Special Verification is part of the organization structure of the Banking Superintendency. The Banking Superintendent is the highest authority of the hierarchic structure and the Intendant of Special Verification is the person who will be in charge of the Intendancy. The hiring of the personnel of the Intendancy will be performed by following the policies and procedures established by the Banking Superintendency. The functions of the Intendancy, referred in article 33 of the Law, must be strictly performed in the administrative scope. The legal investigation will be under the charge of the Ministerio Público [Equivalent to the Department of Justice.]

Article 25. Communication of new patterns of money or other assets laundering. In the cases in which; coming from the analysis of information obtained about patterns internationally known and of communication received from specialized institutions, the existence of patterns of money or other assets laundering is determined, the Banking Superintendency, through the Intendancy, must inform the liable persons, through the media it deems convenient, the new ways of operating in assets laundering, for this to apply the corresponding precautionary measures. In addition, the Banking Superintendency, through the Intendancy, will be able to instruct the liable persons, in the way it deems proper, about the new measures that they should use, in the scope of the applicable legislation, to prevent the institution to be used in the money or other assets laundering.

Article 26. Confidentiality and statistics. For the elaboration and maintenance of the statistics referred in the second paragraph of article 36 of the Law, the Intendancy must develop an information system that allows to guarantee the confidentiality and safety of the information in possession, which will be approved by the Banking Superintendent. The information referred in this article and all the other information in possession of the Intendancy, will be of exclusive use of the same, except for the statistical information that by disposition of the Law may be published and included as part of the periodical publications performed by the Banking Superintendency.

Article 27. Subscription of understanding memoranda or cooperation agreements. In compliance of letter d), of article 33 of the Law, the Banking Superintendency will be able to subscribe understanding memoranda or cooperation agreements with entities of other countries, similar to the Intendancy of Special Verification. For the effects of this article,

international patterns will be used as basis, as long as they do not act contrary to the national legislation.

Article 28. Assistance of the Ministerio Público [Equivalent to the Department of Justice]. The assistance that the Banking Superintendency through the Intendancy must render to the Ministerio Público [Equivalent to the Department of Justice.] regarding to money or other assets laundering, in compliance with letter f) of article 33 of the Law, will stay strictly limited to the unit or prosecuting authority specifically designated for the effect in the organization structure of said institution, with basis on written request of the fiscal agent in charge of the unit or prosecuting authority, which will be a link between the Intendancy and the Ministerio Público [Equivalent to the Department of Justice.]

Article 29. Mutual legal assistance. The rendering of mutual legal assistance referrer in article 34 of the Law, must be performed in accordance with the international agreements or treaties related to the subject, subscribed and ratified by Guatemala, or in accordance with the established in understanding memoranda or cooperation agreements subscribed between the Ministerio Público [Equivalent to the Department of Justice.] and its equivalents in other countries.

Article 30. Procedure for administrative assistance. For the rendering of administrative assistance referred in article 35 of the Law, understanding memoranda or cooperation agreements will be subscribed, in accordance with the legislation in force. For this, the procedure established in article 27 of this Regulation must be followed.

Article 31. Collaboration of public or private entities. The public or private entities must provide to the Banking Superintendency, through the Intendancy, the collaboration requested by the Superintendency, in accordance with the last paragraph of article 34 of the Law. The request must be written, clearly stating the collaboration required, as well as the time limit and the way it must be provided. When public entities have data bases, a proper mechanism may be coordinated with the Banking Superintendency, through the Intendancy, for this to be able to consult them.

CHAPTER VI SANCTIONS

Article 32. Impositions of sanctions. The breaches committed by the liable persons to any of the dispositions of the Law, will be punished by the Banking Superintendency. For this effect the Banking Superintendency will define the parameters that must be taken into account to determine the seriousness of the occurrence and impose the proper sanction.

Article 33. Sanction procedure. When the Banking Superintendency, through the Intendancy, detects a breach, it will hear the corresponding liable person for a period of ten (10) days, to explain its arguments and submit evidence of defense that it deems convenient. After the time limit and fulfilled or not the hearing, it will dictate the legally corresponding resolution, which must be notified. The sanctions imposed to liable persons do not absolve them from fulfilling the omitted liability that gave place to the sanction, in the period that for the effect is fixed in the corresponding resolution.

Article 34. Resources. The liable persons subject to surveillance and inspection of the Banking Superintendency that are punished, will be able to lodge an appeal against the corresponding resolutions, before the Monetary Board, which will be conducted in accordance with the established in the applicable law. The other liable persons will be able to lodge an appeal of annulment before the Monetary Board, which will be conducted in accordance with the established in Law of the Contentious-Administrative.

Article 35. Fulfillment of the sanctions. To make effective the sanctions, the Banking Superintendency, will issue a payment order that must be paid in the cash desks of Banco de Guatemala (Central Bank), in a period of five (5) days counting from the next day of the notification. The amount of the fines will constitute restricted funds of the Banking Superintendency, to be distributed in accordance with article 37 of the Law.

CHAPTER VII FINAL DISPOSITIONS

Article 36. Links. The compliance officer, or deputy, will be the link between the Banking Superintendency, through the Intendancy, and the liable person, and the information requests will be canalized through this officer.

Article 37. Declaration. The affidavit that in accordance with the established in article 25 of the Law must perform the person carrying money in cash or in documents representing cash, equal or higher that ten thousand dollars (US\$ 10,000.00) or its equivalent in national currency, from or to abroad; will be performed in the form that for the effect the Banking Superintendency will design through the Intendancy. Such forms will be provided to the public by the Superintendencia de Administración Tributaria -SAT- [Superintendency of Fiscal Administration.], at the migratory posts. With the same purpose, a proper mechanism for the designation of a link person, may be coordinated between the Banking Superintendency through the Intendancy, and the public entities that for the effect the Superintendency determines. SAT will elaborate a monthly report of the affidavits referred in the previous paragraph, in which will include the date of entry or departure, the name of the affiant, and the amount declared. Such report must be submitted to the Banking Superintendency through the Intendancy, within the following month to the corresponding. When the seizure of cash or documents is performed, these must be submitted immediately to the Ministerio Público [Equivalent to the Department of Justice.], who must be assisted by Policía Nacional Civil [National Police.], with the purpose of guaranteeing the safeguard of these. At the moment of submitting the confiscated documents or money, a deed must be issued to state the performance of such act, in the established way in article 3 of this Regulation.

Article 38. Legal Force. The current Regulation will come into force eight (8) days after its publication in Diario Oficial. Let it be known.

[Illegible signature.] Alfonso Portillo. [There appears a round rubberstamp that translates:] Presidency of the Republic. Guatemala, C.A.

[Illegible signature.] Arturo Montenegro C. Ministro de Economía [Roughly equivalent to Secretary of Commerce. There appears a round rubberstamp that translates:] Ministerio de Economía [Roughly equivalent to the Department of Commerce.] Republic of Guatemala C.A.

[Illegible signature.] Major General Eduardo Arévalo Lacs. Ministro de Gobernación [Roughly equivalent to Secretary of Home Office. There appears a round rubberstamp that translates:] Ministerio de Gobernación [Equivalent to the Home Office.] Secretary Office. Guatemala, C.A.]

[Illegible signature.] J. Luis Mijangos C. General Secretary. Presidency of the Republic.