

EXTERNAL RESOLUTION 12 OF 2008 (unofficial translation)¹ CENTRAL COUNTERPARTY RISK CHAMBER, ITS OPERATORS, AND FOREIGN CURRENCY OPERATIONS AUTHORIZATION

(December 19)

Whereby regulations on the Central Counterparty Risk Chambers and their operators are issued, and foreign currency operations are authorized.².

THE BOARD OF DIRECTORS OF *BANCO DE LA REPÚBLICA*,

in compliance with and in respect of the constitutional and legal powers vested upon it, especially those conferred by Article 16 of Law 31 of 1992 and Articles 19 and 66 of Law 964 of 2005, hereby

RESOLVES:

Article 1. Authorization. The Central Counterparty Risk Chambers-CCRCs, established and organized in conformity with provisions set forth in Law 964 of 2005 and Decree 2555 of 2010 and other provisions amending them, shall be duly authorized to implement the trade-off and settlement as a counterparty of contracts for: (i) future contracts on exchange rate, (ii) forward contracts on exchange rate, (iii) options on exchange rate, (iv) cross currency swap, (v) COP-US dollars purchase and sale spot contracts, (vi) FX swap, and (vii) financial derivatives agreements in Colombian legal currency, made and entered by and between with foreign agents holding an authorization to carry out derivative transactions.

Derivative contracts referred to herein include standardized and non-standardized contracts.

Paragraph. Pursuant to operations authorized in this resolution, CCRCs shall, in their organization, operation and operation, be subject to the corresponding regulations set in Law

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² Native version of this compendium: [Cámaras de Riesgo Central de Contraparte \(CRCC\) | Banco de la República](#)

964 of 2005 and in Decree 2555 of 2010 and other provisions that amend them, as well as to provisions of the relevant operating regulations, in matters which are not contrary to what is herein provided.

Modified External Resolution 6/2009, Article 1°. Bulletin of *Banco de la República*, Number 20 (29 May 2009)

Modified External Resolution 6/2017, Article 1°. Bulletin of *Banco de la República*, Number 28 (31 August 2017)

Modified External Resolution 22/2020, Article 1°. Bulletin of *Banco de la República*, Number 75 (25 September 2020)

Modified External Resolution 5/2021, Article 1°. Bulletin of *Banco de la República*, Number 30 (28 May 2021)

Modified External Resolution 9/2022, Article 1°. Bulletin of *Banco de la República*, Number 45 (26 August 2022)

Article 2. Particulars of contracts. Derivative contracts referred to in article 01 herein which are cleared and settled through a CCRC shall be denominated in foreign currency, and their settlement shall be carried out in Colombian legal currency or by exchanging Colombian legal currency into US dollars.

The financial derivative contracts described in literal (vii) referred to in the first article of this resolution shall be denominated and settled in Colombian legal tender.

The COP-US dollars purchase and sale spot contracts referred to in the first article of this resolution which are cleared and settled through a CCRC must be settled applying the exchange in Colombian legal currency and dollars.

Banco de la República shall, through general regulations, set the terms and conditions for the settlement of operations through a CCRC.

Modified External Resolution 6/2009, Article 2°. Bulletin of *Banco de la República*, Number 20 (29 May 2009)

Modified External Resolution 6/2017, Article 2°. Bulletin of *Banco de la República*, Number 28 (31 August 2017)

Modified External Resolution 22/2020, Article 2° Bulletin of *Banco de la República*, Number 75 (25 September 2020)

Modified External Resolution 5/2021, Article 2°. Bulletin of *Banco de la República*, Number 30 (28 May 2021)

Modified External Resolution 9/2022. Article 2°. Bulletin of *Banco de la República*, Number 45 (26 August 2022)

Article 3. Counterparties. In compliance with this resolution, entities supervised by the Financial Superintendency of Colombia may act as counterparties CCRCs, on their own behalf and stead or on behalf of third parties, in derivatives transactions referred to in the first article herein, in accordance with the conditions and methods of access and in compliance with the requirements set for this purpose in the CCRCs' operating regulations.

Foreign exchange market intermediaries which are authorized to carry out derivatives transactions, in accordance with provisions of article 08 of External Resolution 01 of 2018 of the Board of Directors of *Banco de la República*, and *Banco de la República* itself are the only entities duly authorized to operate as clearing members before CCRCs in matters of derivatives transactions referred to in article 1 of this resolution. Entities supervised by the Financial Superintendency of Colombia may act only as non-clearing members of CCRCs in the derivatives transactions referred to in article 1 herein.

Entities supervised by the Financial Superintendency of Colombia and *Banco de la República* may operate as clearing members, on their own behalf and stead or on behalf of third parties, before CCRCs in the peso-dollar purchase and sale spot contracts referred to in the first article of the resolution herein.

Paragraph. The Ministry of Finance and Public Credit may act as a counterparty and clearing member before CCRCs on its own behalf and stead and on behalf of third parties in peso-dollar purchase and sale spot contracts referred to in the first article of this resolution; and act as counterparty and clearing member before CCRCs on its own behalf in derivative transactions referred to in the first article of the resolution herein.

[Modified External Resolution 6/2017, Article 3. Bulletin of Banco de la República, Number 28 \(31 August 2017\)](#)

[Modified External Resolution 18/2020, Article 1. Bulletin of Banco de la República, Number 56 \(30 June 2020\)](#)

[Modified External Resolution 22/2020, Article 3. Bulletin of Banco de la República, Number 75 \(25 September 2020\)](#)

[Modified External Resolution 8/2023, Article 1. Bulletin of Banco de la República, Number 49 \(19 December 2023\)](#)

Article 4. Foreign Exchange Market Intermediaries. CCRCs shall hold the status of foreign exchange market intermediaries.

In conformity with the above condition, CCRCs may:

- i. carry out clearing and settlement activities as counterparty to derivative contracts and purchase and sale spot contracts referred to in the first article of the resolution herein,
- ii. enter into purchase and sale spot transactions between pesos and dollars with intermediaries of the foreign exchange market, pursuant to the operations regime authorized in External Resolution 01 of 2018 of the Board of Directors of *Banco de la República* and its amendments, as required for assuring the proper fulfillment with operations which have already been honored by a CCRC, in case that delays or lack of compliance may arise by either one or more participants;
- iii. carry out peso-dollar derivative transactions with effective compliance which are settled within a term of three business days following their execution, with the authorized liquidity providers, and with the exchange market intermediaries referred to in section 01 of article 08 of External Resolution 01 of 2018 by the Board of Directors of *Banco de la*

República, in case that delays or lack of compliance may arise by either one or more participants.

Paragraph 1. The period provided for the derivative transactions settlement with liquidity providers shall be set by taking into consideration that this instrument refers to business days both in the local market and in banks of the Federal Reserve of the United States of America.

Paragraph 2. CCRCs shall not be subject to regulations on proprietary position, proprietary cash position, or gross leverage position.

Paragraph 3. As intermediaries in the foreign exchange market, CCRCs shall adhere to liabilities set forth in article 09 of External Resolution 01 of 2018 of the Board of Directors of *Banco de la República* and in *Banco de la República* regulations where applicable.

[Modified External Resolution 6/2009, Article 3. Bulletin of Banco de la República, Number 20 \(29 May 2009\)](#)

[Modified External Resolution 18/2020, Article 2. Bulletin of Banco de la República, Number 56 \(30 June 2020\)](#)

[Modified External Resolution 22/2020, Article 4. Bulletin of Banco de la República, Number 75 \(25 September 2020\)](#)

Article 5. Deposit accounts. CCRCs are authorized to open and keep deposit accounts in Colombian legal currency at Banco de la Republica for the purposes of settling operations, as well as the administration of collaterals and other operations as required to assure the proper performance of the clearing and settlement function as referred to in Article 15 of Law 964 of 2005.

The relevant contracts shall be ruled by provisions set by the Board of Directors of *Banco de la República* and its regulations on the matter.

Article 6. Acceptance of operations. Acceptance of operations referred to in this resolution by a CCRC is subject to the provisions of article 10 of Law 964 of 2005, and articles 2.12.1.1.6. and 2.13.1.1.11. of the Single Regulatory Decree 2555 of 2010 as well as provisions that modify or are add to them.

[Modified External Resolution 22/2020, Article 5. Bulletin of Banco de la República, Number 75 \(25 September 2020\)](#)

[Modified External Resolution 6/2021, Article 1. Bulletin of Banco de la República, Number 48 \(30 September 2021\)](#)

Article 7. Collateral. Collateral delivered on behalf of a counterparty to a CCRC in the course of clearing and settlement of contracts referred to in this resolution, whether their own or of a third party, which are affected by the fulfillment of operations accepted by CCRCs, are subject in their entirety to provisions of article 18 of Law 964 of 2005 and provisions of Decree 2555 of 2010, and any regulations that modify or are added to them.

Collateral received in foreign currency aimed at the fulfillment of operations that are cleared up and settled through CCRCs may be made effective in cases of delays or non-compliance in accordance with provisions of the corresponding CCRC.

Modified External Resolution 22/2020, Article 6. Bulletin of Banco de la República, Number 75 (25 September 2020)

Article 8. Method of Payment. For purposes of clearing and settlement of operations authorized by this resolution, CCRCs shall keep an adequate organizational, administrative, operational and technical structure, mechanisms for monitoring, measuring and controlling the risk exposure of counterparties, policies for establishing collateral and mitigating risk, as well as contingency plans leading to the safe and efficient operation of the payment system.

Banco de la República may establish additional conditions for the development of operations by a CCRC. It may likewise require foreign exchange market intermediaries acting as counterparties of CCRCs to adopt risk mitigation mechanisms associated with the clearing and settlement of operations they carry out on their own behalf and stead or on behalf of third parties.

In dealing with the above, *Banco de la República* may condition the establishing of new clearing and settlement operations of contracts referred to in this resolution through CCRCs, to the meeting of conditions or requirements as provided.

Paragraph. Provisions of this article and of article 09 herein shall apply to companies managing the currency clearing and settlement systems referred to in External Resolution 4 of 2006.

Article 9. Regulations, circulars and instructions. Without prejudice of authorizations to be issued by the Financial Superintendency of Colombia in dealing with Law 964 of 2005 and Decree 2893 of 2007, amendments to regulations of CCRCs, as well as circulars and instructions which are directly or indirectly issued in relation to hereby authorized operations or affecting their execution, including modifications to the risk mitigation mechanisms, shall be reported in advance to *Banco de la República*.

Banco de la República may at any time request whatever modifications that it deems appropriate to the regulations herein above, when it finds that their application affects the proper functioning of the payment method.

In accordance with the above, the Bank may subject the performance of new clearing and settlement operations of the contracts referred to herein through CCRCs, until the adjustments are made accordingly.

Paragraph 1. The CCRCs that are currently operating may carry out the operations authorized in this resolution once the operating regulations, circulars and instructions are properly modified.

Paragraph 2. Rules for offsetting purchase and sale spot contracts referred to in the first article of the resolution herein shall be established in the regulations and circulars regardless of rules provided for other products cleared by CCRCs.

Added External Resolution 22/2020, Article 7. Bulletin of *Banco de la República*, Number 75 (25 September 2020)

Article 10. Information. *Banco de la República* may request any information it deems relevant from a CCRC and its counterparties in relation to contracts referred to in this resolution, whether they are cleared and settled in its own name or in the name of third parties, including the identification and details of the latter's operations.

Article 11. Foreign exchange procedure. *Banco de la República* shall indicate the applicable foreign exchange procedure whenever clearing and settlement of the contracts referred to in this resolution occurs, bearing in mind the conditions and characteristics of such contracts and the nature of a CCRC.

Article 12. Surveillance and penalties. The Financial Superintendency of Colombia is liable to supervise the compliance with this resolution and, in the exercise of its legal powers, impose the corresponding sanctions to both a CCRC and the counterparties thereof and third parties.

Article 13. Liquidity providers. CCRCs must have liquidity providers in Colombian legal currency and in foreign currency aiming at assuring the normal development of payments for purchase and sale spot contracts referred to in the first article of the resolution herein.

In case of foreign currency, liquidity providers must be foreign agents who professionally carry out derivatives operations, foreign financial entities or foreign exchange market intermediaries as set out in paragraph 1 of article 08 of External Resolution 01 of 2018 of the Board of Directors of *Banco de la República*. In cases of Colombian legal tender, liquidity providers must be foreign exchange market intermediaries as set out in paragraph 01 of article 08 of External Resolution 01 of 2018 of the Board of Directors of *Banco de la República*.

Subject to the guidelines set by the Board of Directors, *Banco de la República* shall, through general regulations, indicate the characteristics and requirements which are to be met by the forementioned entities meet to be enabled to act as liquidity providers. In accordance with the above, it may set limits on the concentration of liquidity in foreign currency in one single liquidity provider.

Modified External Resolution 22/2020, Article 8. Bulletin of *Banco de la República*, Number 75 (25 September 2020)

Article 14. Risk control system. Within one year from the time when CCRCs start to clear the purchase and sale spot contracts referred to in article 01 of the resolution herein, CCRCs must incorporate into the risk control system and have the collateral ring scheme in operation for these contracts, under the same terms applicable to all other segments cleared by CCRCs. While this incorporation is being carried out, CCRCs must allocate a portion of their liquid assets exclusively to cover the residual risks not covered by the required collateral. This portion of the liquid assets shall correspond to the collateral ring incorporating the specific own resources, independently of the value of collective collateral fund.

Added External Resolution 22/2020, Article 9. Bulletin of *Banco de la República*, Number 75 (25 September 2020)

Article 15. Validity. This resolution shall be in effect from the date of its publication.

Added External Resolution 22/2020, Article 10. Bulletin of *Banco de la República*, Number 75 (25 September 2020)

Dated in Bogotá, D. C., on the nineteenth (19th) day of December two thousand eight (2008).

OSCAR IVAN ZULUAGA-ESCOBAR / Chair of the Board of Directors.

GERARDO HERNANDEZ CORREA / Secretary of the Board of Directors

AMENDMENTS TO EXTERNAL RESOLUTION 4 OF 2009 (April 30TH)

RULE	EFFECTIVE DATE	AMENDED ARTICLES
External Resolution 12 of 2008 (22 December) Bulletin of Banco de la República Number 52, 22 December 2008	22 December 2008 Effective as of 01 February 2009	COMPENDIUM
External Resolution 6 of 2009 (29 May) Bulletin of Banco de la República Number 20, 29 May 2009	29 May 2009	Article 1 Article 2 Article 4
External Resolution 6 of 2017 (31 August) Bulletin of Banco de la República Number 28, 31 August 2017	31 August 2017	Article 1 Article 2 Article 3
External Resolution 18 of 2020 (30th June) Bulletin of Banco de la República Number 56, 30 June, 2020	30 June 2020	Article 3 Article 4
External Resolution 22 of 2020 (25 September) Bulletin of Banco de la República Number 75, 25 September 2020	25 September 2020	Amendment of following articles: Article 1 Article 2 Article 3 Article 4 Article 6 Article 7 Article 13 Add Paragraph 2 to Article 9 Add article 14 Add article 15
External Resolution 5 of 2021 (28 May 2021) Bulletin of Banco de la República Number 30, 28 May 2021	28 May 2021	Amendment of following articles: Article 1 Article 2
External Resolution 6 of 2021 (30 September 2021) Bulletin of Banco de la República Number 48, 30 September 2021	30 September 2021	It amends Article 6

External Resolution 9 of 2022 (26 August 2022) Bulletin of Banco de la República Number 45, 26 August 2022	26 August 2022	Modifies the articles: Article 1 Article 2
External Resolution 8 of 2023 (19 December 2023) Bulletin of Banco de la República Number 49, 19 December 2023	19 December 2023	It amends article: Article 3