

## EXTERNAL RESOLUTION 4 OF 2009 (unofficial translation)<sup>1</sup>

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(April 30)

Whereby regulations on foreign exchange matters are issued<sup>2</sup>.

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

Pursuant to the constitutional and legal powers vested upon it, especially those included in the second paragraph of article 66 of law 964 of 2005 and article 16 items h) and i) of law 31 of 1992, and in accordance with decree 1735 of 1993

**RESOLVES:**

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### CHAPTER I GENERAL PROVISIONS

**Article 1. Scope.** This resolution regulates foreign exchange trading systems, foreign exchange transaction registration systems, the requirements for authorized entities to administer said systems, and the conditions applicable to authorized agents to participate in such systems or in the over-the-counter markets. Likewise, it sets regulations related to foreign exchange settlement and clearing, and self-regulation in the foreign exchange market.

**Article 2. Negotiation of foreign exchange transactions.** Negotiation of foreign exchange transactions can be conducted through trading systems or other trading methods used by the market (over-the-counter market).

**Paragraph 1.** In compliance with this resolution, negotiation of foreign exchange transactions as used herein shall refer to the following: negotiation of spot transactions or non-standardized derivative financial instruments on foreign exchange.

**Paragraph 2.** Without prejudice to the exchange regulations applicable to standardized derivative instruments, the systems carrying out negotiation or registration of operations of standardized

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<sup>1</sup> The translations made by Banco de la República with respect to the contents of its websites are for information purposes. Therefore, when there is an inconsistency between the Spanish language version and the English language version, the native version shall prevail, that is to say, in the language in which it was initially written. In particular, with respect to legislation that has been translated into English (unofficial translation) by Banco de la República for information purposes, it is the responsibility of the user or visitor to verify the official version in the Spanish language. More information at [Legal Notice | Banco de la República](#) of our web site.

<sup>2</sup> Native version of this compendium: [Sistemas de Negociación y Registro de Divisas | Banco de la República](#)

instruments on foreign currencies, their administrators and affiliates, shall adhere to provisions of Law 964 of 2005 and to the decrees developing or regulating said law.

Modified E.R. 10/2009, Art. 1. Bulletin of Banco de la República, 31 (31 August 2009)

**Article 3. Foreign exchange trading systems and foreign exchange transactions.** For the purposes of the resolution herein, foreign exchange trading systems shall be understood as those which, through electronic, verbal, or combined means, have the features below:

They are multilateral, transactional, and allow for the gathering of participants under the rules and conditions set forth by the current applicable provisions and regulations, and:

- a) Receive, organize, and distribute in firm price quotations for the purchase or sale orders for foreign exchange transactions.
- b) Carry out transaction closures.
- c) Compile and spread pre-trade (price quotations) and post-trade (transaction prices and volumes) data.

**Paragraph.** Transaction systems include both the regulations issued for their operation and functioning, as well as the means and mechanisms used for the placement, presentation, confirmation, processing, execution, and reporting of purchase or sale bids for foreign exchange transactions, from the time they are received by the system until they are transmitted for purposes of the subsequent clearing and settlement thereof.

**Article 4. Other means of trading foreign exchange transactions (over-the-counter foreign exchange market).** The over-the-counter foreign exchange market comprises all means, other than trading systems, through which foreign exchange transactions are carried out.

**Article 5. Foreign Exchange Transaction Registration Systems:** Foreign exchange transaction registration systems are those mechanisms of which their purpose is to receive and register information on foreign exchange transactions carried out by members of said systems, or by affiliates to persons or entities which are not affiliated with such systems.

Modified E.R. 10/2009, Art. 2. Bulletin of Banco de la República, 31 (31 August 2009)

## CHAPTER II

### FOREIGN EXCHANGE TRADING SYSTEMS AND TRADE REGISTRATION SYSTEMS

**Article 6. Characteristics of foreign exchange trading and transaction registration systems.** Foreign exchange trading and transaction registration systems must comply with the following:

- a) Follow the regulations previously approved by the Financial Superintendency of Colombia.
- b) Promote the efficiency, integrity, transparency and liquidity of the foreign exchange market.
- c) Allow for the development, oversight, and control of the foreign exchange market.

- d) Promote the proper functioning of the payment system.
- e) Promote proper pricing.
- f) Allow the proper registration of all operations.
- g) Keep transparency rules in operations aimed at guaranteeing the spread of information regarding purchase and sale offers to its affiliates and the transactions carried out through them, or the registered transactions, as applicable.
- h) Disclose the regulations, circulars, instructions, and manuals, and keep the members properly informed in advance of any proposed changes to be made.
- i) Disclose widely and in a timely manner the prices and volumes of transactions carried out or recorded, in conformity with the terms set by regulations.
- j) Make available admission procedures and criteria leading to assure equal conditions to comparable users and adopt standardized contracts based on service types and access levels.
- k) Have continuous improvement policies in place so as to keep the integrity and soundness of the system and its operation.
- l) Establish mechanisms intended to protect the system and information integrity, allowing for management and prevention of arising incidents.
- m) Provide or give access to the information required by affiliates so they become enabled to manage market, operational, and credit risks that may arise from the use of the system.
- n) Keep the confidentiality of its members' information, without prejudice to the information that is to be reported from time to time to authorities or to self-regulatory bodies regarding the systems and their respective operations, either carried out or registered, or information that must be provided following orders by judicial or administrative decision.

Modified E.R. 10/2009, Art. 3. Bulletin of Banco de la República, 31 (31 August 2009)

**Paragraph.** Foreign exchange trading or transaction registration systems must provide access under special conditions to *Banco de la República* whenever it acts as the executor of the exchange rate policy. Said special conditions are to be recorded within the operating regulations of the trading or transaction registration systems.

## CHAPTER III

### AFFILIATES OF FOREIGN EXCHANGE TRADING AND TRADING REGISTRATION SYSTEMS

**Article 7. Types of Agents.** Trading systems and foreign exchange transaction registration systems shall display the following categories of affiliated agents: participants and observers.

For purposes of this resolution, a participating agent in the trading system is an affiliate who makes firm price quotations through the system in order to perform transactions.

Likewise, a participating agent of the registration system is an affiliate who registers foreign exchange transactions into the system.

Finally, an observer agent is an affiliate who can access information from the systems; however, it is not authorized to perform operations or make registrations through the systems.

Modified E.R. 10/2009, Art. 4. Bulletin of Banco de la República, 31 (31 August 2009)

**Article 8. Participation in the trading and registration systems.** The following requisites must be fulfilled to trade in the foreign exchange trading system or register in the foreign exchange registration system:

- a) Participation in the trading systems and/or the foreign exchange operations registration systems on one's own account and/or on behalf of third parties, requires to be an entity supervised by the Financial Superintendency of Colombia.

Modified E.R. 9/2015, Art. 1. Bulletin of Banco de la República, 40 (31 July 2015)

- b) Specifically confirm his adherence to the operating regulation and system operation, circulars, operational instructions, and all other rules issued by the managers, as well as regulations included herein and regulations amending or replacing it, and in general adhere to all applicable rules.
- c) Being at all times provided with the managerial, operational, technical, technological and communicative abilities required to operate in the trading system or the registration system of foreign exchange transactions, including therein a proper structure of management and control of risks and unforeseen events.
- d) Implement confidentiality codes about clients, operations and business, either made or registered in the past, present or future; all of this, without prejudice of the information that must be periodically or occasionally reported to the authorities of surveillance and control, or the information to be delivered for reasons of a judicial or administrative decision.
- e) Comply with the conduct standards herein described.

**Paragraph 1.** The Nation – The Ministry of Finance and Public Credit, and the foreign agents who are duly authorized to professionally perform foreign exchange derivative operations with foreign exchange market intermediaries can participate in the foreign exchange trading systems.

**Paragraph 2.** In transactions negotiated on foreign exchange trading systems, at least one of the counterparties must be a foreign exchange market intermediary or else a foreign agent authorized to carry out derivatives transactions at a professional level, with residents other than the foreign exchange market intermediaries of item 1 of article 59 of External Resolution 8 of 2000.”

Added E.R. 10/2009, Art. 5. Bulletin of Banco de la República, 31 (31 August 2009)

Modified E.R. 13/2014, Art. 1. Bulletin of Banco de la República, 46 (28 November 28, 2014)

**Article 9. Participation in the Over-the-Counter Market.** Foreign exchange market intermediaries trading in the over-the-counter foreign exchange market shall meet the following requirements:

- a) Be registered in a foreign exchange transaction registration system.

- b) Register the negotiated operations in accordance with provisions of Chapter VI herein.

## CHAPTER IV

### ADMINISTRATION OF TRADING SYSTEMS AND FOREIGN EXCHANGE REGISTRATION SYSTEMS

**Article 10. Organizational Requirements.** Entities intending to operate a foreign exchange trading system or a foreign exchange transaction registration system in Colombia must evidence that they meet the following requirements:

- a) Hold an authorization for their incorporation from the Financial Superintendency of Colombia, in accordance with provisions of Article 53 of the Organic Statute of the Financial System or any regulation that replaces or modifies it.
- b) Register as infrastructure suppliers in the National Registry of Market Agents, as provided by articles 1.1.3.3 and 1.1.3.8 of Resolution 400 of 1995 by the General Chamber of the Financial Superintendency of Colombia.
- c) Set adequate and sufficient policies and procedures to ensure that members of its board of directors, legal representatives, officers, staff, and other people associated with the entity meet the capacities and conditions of honorability and technical competence. Members of the Board of Directors, its Legal Representatives, and the Statutory Auditor shall complete the appointment process before the Financial Superintendency of Colombia in accordance with the terms set forth by the regulations for said purposes.
- d) Set effective administrative and organizational measures to prevent, manage, and disclose conflicts of interest.
- e) Adopt measures to ensure the continuity and regularity of the mechanisms and devices implemented for the operation of the trading or registration system. To this end, the management company must employ systems, resources, and procedures that are appropriate and proportional to the size, frequency, and complexity of transactions negotiated or registered through said systems.
- f) Have appropriate administrative and accounting procedures, internal control mechanisms, and effective mechanisms for controlling and safeguarding IT systems.

**Paragraph.** In the event of a contingency or as an exception to ensure the principles of transparency, efficiency, competition, or stability of the foreign exchange market, *Banco de la República* may administer foreign exchange trading systems or transaction registration systems without having to be subject to provisions set by this resolution.

**Article 11. Duties of the administrative entity.** Entities administering foreign exchange trading systems or foreign exchange transaction registration systems must:

- a) Issue and publish the regulations, circulars, instructions and operating manuals of the system or systems they manage.
- b) Adopt and keep effective mechanisms and procedures to enable the control and surveillance entities to overlook offers, price quotations, and transactions carried out or

registered through the systems, as well as verify their members' compliance with their duties accordingly.

- c) Make available to control and surveillance agencies and *Banco de la República*, upon request, terminals to enable the monitoring referred to in the above paragraph.
- d) Keep a log of all transactions through which are traded or registered through the system under its administration, including all purchases and sales placed in trading systems, as well as all messages and notices sent through said systems.
- e) Adopt mechanisms to facilitate the efficient clearing and settlement of foreign exchange transactions which are done or registered through the systems under its administration.
- f) Make available to the Financial Superintendency of Colombia all information they are aware of in connection with likely breaches which may have been committed by the system members and, in general, any fact that could be subject to investigation by said organization.
- g) Provide the necessary assistance to the Financial Superintendency of Colombia whenever it conducts inquiries and make the required timely information available to it.
- h) Trading or registration system administrators shall have filing processes and custody of auditing traces in place to ensure the traceability of orders and transactions which are executed or recorded through them. The filing and custody of auditing traces processes must be aimed at facilitating control and surveillance activities.
- i) Keep an updated log of affiliates and their operators.
- j) Publish the system fees regime and policies.
- k) Make solely the investments authorized for accomplishing the implementation of its corporate purpose.
- l) Comply with all the other provisions set forth herein or in the regulatory circulars issued by *Banco de la República*.

**Paragraph.** System administrators shall implement mechanisms for enabling affiliates to report, even under identity protection, any potential violations perpetrated by other affiliates and, in general, any incident that could be a matter of investigation. The lack of compliance by affiliates with this reporting liability will result in a conduct that badly affects the integrity of the foreign exchange market.

**Article 12. Special prohibitions to system administrators.** Administrators of foreign exchange trading or registration systems shall under no circumstances assume the role of counterparty in foreign exchange transactions carried out through trading or registration systems.

**Article 13. Regulations for foreign exchange trading systems and transaction registration systems.** Regulations issued for the operation and functioning of the foreign exchange trading system or the foreign exchange transaction registration system, as well as any amendments thereto, must be previously approved by the Financial Superintendency of Colombia, upon consultation with *Banco de la República* and shall include at least the following issues:

- a) Procedures for approval and amendments by the administrator.
- b) Criteria for the admission and disengagement of members.
- c) Rights and duties of members of the system assuring fair and equal treatment.

- d) Rights, powers and duties of the system administrator.
- e) Type of currency and description of the foreign currency products being traded or registered.
- f) Policies and rules for disclosing information to affiliates and the market.
- g) Rules and procedures for the operation and functioning of the foreign exchange trading or transaction registration system.
- h) Rules and mechanisms for the registration and confirmation of traded or registered transactions within the system and for the cancellation or modification of traded transactions.
- i) Rules to make sure that operations negotiated or registered really comply with provisions set forth by *Banco de la República* and/or its board of directors for the clearance and settlement of foreign currency transactions.
- j) Protection procedures and IT security policies to be adopted by members.
- k) Rules relating to the lack of compliance and mechanisms for conflicts resolution.
- l) Information confidentiality codes.
- m) Audit and internal control rules.
- n) Safety rules, operational safeguards and contingency and continuity plans.
- o) The system's fees and rates regime and policies.

## CHAPTER V

### CLEARING AND SETTLEMENT OF FOREIGN EXCHANGE TRANSACTIONS

**Article 14. Clearing and Settlement of Foreign Exchange Transactions.** Foreign exchange market intermediaries must adopt the necessary procedures to ensure that the clearing and/or settlement of foreign exchange transactions between intermediaries is carried out in conformity with principles as provided herein below:

- a) Contribute to the safe and efficient operation of the payment system.
- b) Incorporate the necessary settlement procedures into the comprehensive risk management policy of each foreign exchange market intermediary, keeping a straight relation to the scale and scope of activities thereof.
- c) Adequately anticipate and mitigate compliance risks in foreign exchange transactions, as well as in transactions involving other financial assets and other credit exposures of the same size and maturity.
- d) Be aware of risk exposure in the settlement and clearing of foreign currency transactions by adopting instruments which enable monitoring, measuring, and controlling such exposures. Said instruments must include at least the following components:
  - i. mechanisms that provide timely information on current and future exposures whenever a new transaction or trade is recorded in the system and that unpaid positions move through the settlement cycle.
  - ii. counterparty credit risk exposure limits, which must be closely related to the settlement method used.
- e) Reduce uncertainty in confirming compliance with counterparties obligations in a timely manner and mitigate credit liquidity and operational risks.



- f) Assure that legal security is in place, for which the support of agreements and contracts setting forth the obligations and rights of the parties must be provided.
- g) Incorporate clear and transparent risk policies and mechanisms for cases wherein one or more counterparties fail to meet their obligations or if a bankruptcy, intervention, takeover, dissolution or liquidation trial to a participant has been filed.
- h) Define contingency plans and programs to manage events of non-compliance and operational failures, ensuring that the entity will be able to take corrective actions quickly and efficiently, even in extreme cases where faults extend over to one or more of its counterparties.

**Paragraph:** The term clearing as used herein shall mean the process through which participants' liabilities in foreign exchange transactions are set forth for the delivery of foreign currency and transfer of COPs. Participants liabilities can therefore be provided through bilateral or multilateral mechanisms that may or may not incorporate the net value of such liabilities.

The term settlement shall mean the process by which liabilities arising from foreign exchange operations are definitively fulfilled, where one party delivers foreign currency while the other delivers COPs.

**Article 15. Clearing and settlement of payment against payment.** Spot transactions on foreign currencies carried out between intermediaries in the foreign exchange market in a foreign exchange trading system or recorded in a foreign exchange transaction registration system must be sent to a foreign exchange clearing and settlement system or to a central counterparty risk chamber on the day of their negotiation, for clearing and settlement, except for the express exceptions indicated in this article and those contained in the regulations of the foreign exchange clearing and settlement systems and central counterparty risk clearing house authorized by the Financial Superintendency of Colombia.

Spot transactions on foreign currencies carried out between a foreign exchange market intermediary and another entity supervised by the Financial Superintendency of Colombia that is a participant in a foreign exchange trading system must be sent to a foreign exchange clearing and settlement system or to a central counterparty risk clearing house on the day of their negotiation, for clearing and settlement purposes, except for specific exceptions listed herein and those appearing on the regulations of the foreign exchange clearing and settlement systems and the central counterparty risk clearing houses which are authorized by the Financial Superintendency of Colombia.

**Paragraph 1.** For purposes of this section, foreign exchange clearing and settlement systems are those organized in compliance with External Resolution 4 of 2006 by the Board of Directors of *Banco de la República*, with its amendments; and central counterparty risk clearing houses are those established and organized pursuant to Law 964 of 2005 and Decree 2555 of 2010 as amended.

**Paragraph 2.** The clearing and settlement of cash foreign currency purchase and sale transactions carried out between foreign exchange market intermediaries is not required to be carried out



through the foreign currency clearing and settlement systems referred to in External Resolution 4 of 2006.

**Paragraph 3.** *Banco de la República* may issue instructions regarding the interconnection of foreign exchange trading and registration systems with foreign exchange clearing and settlement systems and central counterparty risk clearing houses.

**Paragraph 4.** Cash transactions herein described can be cleared and settled by applying bilateral mechanisms in cases below:

- a) When the currency pairs of transactions are not offered by the foreign exchange clearing and settlement systems or by the central counterparty risk clearing house.
- b) When the negotiation is carried out after the closing time for transfer orders, correction orders or withdrawal orders, as determined by the foreign exchange clearing and settlement systems and by the central counterparty risk clearing house.
- c) When events occur that prevent the temporary provision of services by foreign exchange clearing and settlement systems and central counterparty risk clearing house.
- d) When dealing with the purchase and sale of foreign currency transactions of the exchange market intermediaries referred to in item 6 of article 8 of External Resolution 1 of 2018 by the Board of Directors of *Banco de la República*, as long as they are not participants in the foreign currency trading systems herein referred to.
- e) The clearing and settlement of cash foreign currency purchase and sale transactions carried out by and between foreign exchange market intermediaries

Added E.R. 10/2009, Art. 6. Bulletin of Banco de la República, 31 (31 August 2009)

Modified E.R. 13/2014, Art. 2. Bulletin of Banco de la República, 46 (28 November 2014)

Modified E.R. 3/2015, Art. 2. Bulletin of Banco de la República, 20 (24 April 2015)

Added E.R. 1/2020, Art. 5. Bulletin of Banco de la República, 8 (28 February 2020)

Modified E.R. 23/2020, Art. 1. Bulletin of Banco de la República, 76 (September 2020)

## CHAPTER VI

### FOREIGN CURRENCY TRANSACTION REGISTRATION

**Article 16. Obligation to register operations.** Foreign exchange market intermediaries carrying out foreign exchange transactions on the over-the-counter market shall record them into an authorized foreign exchange transaction registration system. Registration of transactions shall be a necessary and indispensable condition for the clearing and settlement of such transactions in accordance with provisions set by Chapter V of this resolution.

Entities supervised by the Financial Superintendency of Colombia, other than IMCs, which carry out spot foreign currency transactions in the over-the-counter market with foreign agents or foreign currency derivatives transactions with foreign agents authorized to carry out derivatives transactions or with *Banco de la República*, shall register them into an authorized foreign currency transaction registration system.

Modified E.R. 4/2022, Art. 1. Bulletin of Banco de la República, 11 (25 February 2022)

**Paragraph 1.** Entities supervised by the Financial Superintendency of Colombia might register the transactions they negotiate through a trading system into a foreign exchange transaction registration system.

**Paragraph 2.** Failure by entities supervised by the Financial Superintendency of Colombia to comply with obligations to record transactions is considered a conduct contrary to the integrity of the foreign exchange market.

Modified E.R. 1/2017, Art. 1. Bulletin of Banco de la República, 5 (24 February 2017)

Modified E.R. 2/2020, Art. 1. Bulletin of Banco de la República, 8 (28 February 2020)

**Article 17. Registration of transactions between two foreign exchange market intermediaries affiliated at the same foreign exchange transaction registration system.** In the case of a transaction between two foreign exchange market intermediaries affiliated with the same foreign exchange transaction registration system, both intermediaries must register for the transaction.

Modified E.R. 9/2015, Article 3. Bulletin of Banco de la República, 40 (31 July 2015)

**Article 18. Registration of transactions between two foreign exchange market intermediaries affiliated at different foreign exchange transaction registration systems.** In the case of a transaction between two foreign exchange market intermediaries affiliated at different foreign exchange transaction registration systems, intermediaries must agree, at the time of the negotiation and by verifiable means, which party shall make the corresponding registration.

Modified E.R. 9/2015, Art. 4. Bulletin of Banco de la República, 40 (31 July 2015)

**Article 19. Registration of other operations.** In case of an operation between a foreign exchange market intermediary affiliated to a foreign exchange transactions registration system and a non-affiliated entity or an entity supervised by the Financial Superintendency of Colombia, other than a foreign exchange market intermediary affiliated to a foreign exchange transactions registration system, the operation must be registered by the affiliated foreign exchange market intermediary.

**Paragraph 1.** In the event of transactions carried out as a result of participation of a foreign exchange market intermediary in the development of a commission or brokerage contract in the over-the-counter market, the respective records shall be made by said intermediary.

**Paragraph 2.** *Banco de la República*, through general regulation will indicate the characteristics and requirements for registering foreign currency transactions; however, it may also establish exceptions to the record, taking into account the nature and value of transactions.

Modified E.R. 9/2015, Article 5. Bulletin of Banco de la República, 40 (31 July 2015)

## CHAPTER VII

### INFORMATION MANAGEMENT

**Article 20. Disclosure of information of trading systems and foreign exchange transaction registration systems.** Trading and registration system administrators shall:

- a) Send to the Financial Superintendency of Colombia and to *Banco de la República* information related to transactions negotiated or recorded through them, in the frequency, manner, and terms indicated by said agencies.
- b) Disclose information related to transactions negotiated or recorded through it, under the terms and conditions determined by *Banco de la República*.

Modified E.R. 12/2009, Art. 1. Bulletin of Banco de la República, 48 (18 December 2009)

- c) Provide information on transactions negotiated or recorded through it to price providers upon request in accordance with the terms set by regulations.
- d) Provide the Financial Superintendency of Colombia with the data, reports, records, minute books, auxiliaries, documents, correspondence, and, in general, any information deemed necessary in the manner and terms as specified.
- e) Allow the Financial Superintendency of Colombia to access its offices, premises, and other facilities.

**Paragraph 1.** Administrators of trading systems and registration systems may provide information during sessions to those agents who are registered as observers.

**Paragraph 2.** *Banco de la República* shall, through general regulations, indicate the characteristics included by the information disclosed by the trading and registration systems for foreign exchange operations.

**Article 21. Information Preservation.** Administrators of foreign exchange trading and transaction registration systems shall keep and retain information related to transactions, records, price quotations, and messages or notices they make or post through the systems they manage, for the period provided for in Article 96 of the Organic Statute of the Financial System for the preservation of books, supporting documents, receipts, and other accounting documentation.

*Banco de la República* may, through a regulatory circular, specify the terms and conditions to be met by the information maintained by the foreign exchange trading and transaction registration systems.

Modified E.R. 1/2017, Art. 2. Bulletin of Banco de la República, 5 (24 February 2017)

## CHAPTER VIII

### SELF-REGULATION

**Article 22. Participation in self-regulation scheme.** Participants of foreign exchange trading or transaction registration systems might participate in a voluntary self-regulation scheme for the

foreign exchange market as provided by Decree 1565 of 2006, or by the additional or amending regulations.

**Paragraph 1.** Self-regulatory organizations of foreign trade shall determine the scope and methods to compliance with the principles stipulated in Chapter IX of this resolution, by acknowledging the business practices inherent to the foreign exchange market, and by the oversight and discipline to self-regulated entities, the compliance thereof shall be assured.

**Paragraph 2.** Administrators of systems of foreign exchange trading or transaction registration systems shall timely adhere to the request of information submitted by the entities of self – regulation in relation to operations, registrations, price quotations, messages or notices made or put through the systems they manage, and in general, they shall supply all information required by said self-regulation entities for the development and compliance of their duties. Information is to be delivered in a comprehensive and complete manner.

The self-regulation bodies of foreign exchange operations shall keep confidentiality in relation to data corresponding to those entities which are not voluntarily self-regulated. This procedure shall be implemented without prejudice of the duty of transferring to the Financial Superintendency of Colombia, the possible breaches that could have been committed and, in general, whatever fact that could be prone to be investigated by said organization.

Modified E.R. 10/2009, Art. 8. Bulletin of Banco de la República, 31 (31 August 2009)

Modified E.R. 13/2014, Art. 3. Bulletin of Banco de la República, 46 (28 November 2014)

## CHAPTER IX

### CODE OF CONDUCT

**Article 23. Application.** Participants and Associated Individuals who participate in the negotiation or registration of foreign exchange operations shall comply with the duties set forth in this chapter.

**Paragraph.** For purposes of this resolution, the following are Affiliated Individuals: administrators and other officials linked to Participants, regardless of the type of contractual relationship, who participate either directly or indirectly, in carrying out activities inherent to intermediation, negotiation and registration of foreign exchange transactions and management of risks and internal control associated with them.

Modified E.R. 13/2014, Art. 4. Bulletin of Banco de la República, 46 (28 November 2014)

**Article 24. General duties.** Participants shall act as prudent and diligent experts, acting with transparency, honesty, loyalty, impartiality, suitability and professionalism, complying with the regulatory and contractual liabilities inherent to the activity they perform.

Modified E.R. 13/2014, Art. 5. Bulletin of Banco de la República, 46 (28 November 2014)

**Article 25. Prevention and administration of conflicts of interest.** Participants shall set and apply policies and procedures for properly preventing and managing the onset of conflicts of interest in doing their foreign exchange operations.

Modified E.R. 13/2014, Art. 06. Bulletin of Banco de la República, 46 (28 November 2014)

**Article 26. Non-disclosure liability.** Foreign exchange market intermediaries shall keep discretion and confidentiality regarding the identity of their clients. They must also have policies and procedures implemented leading to assure the proper handling of information and characteristics of the foreign exchange transactions they carry out.

**Article 27. Customer Relations, Consulting, and Loyalty.** For customer transactions, the foreign exchange market intermediary shall adopt policies and procedures to ensure that:

- a) The client understands the terms, conditions and risks of the transaction.
- b) The information or explanations conveyed to the client during a foreign exchange transaction correspond to up-to-date market information.
- c) For transactions carried out under the commission agreement, clients may make an informed decision addressing their specific needs, based on the information provided and generally accepted market practices.
- d) When a foreign exchange market intermediary conducts foreign exchange transactions with his clients, he shall do so under the principles of fairness and generally accepted market practices. This includes those transactions involving a commission contract.

**Paragraph.** The term client shall be understood as anyone participating in any foreign exchange transaction in which a foreign exchange market intermediary also participates. Two foreign exchange intermediaries participating in foreign exchange transactions are not considered each other's clients, except under a commission agreement.

**Article 28. Intentions of firm purchases and sales.** Purchase or sale intentions disclosed by Participants to their counterparts, clients and markets (electronic, verbal or by a combination of both methods) shall be in firm, so that they reflect the intention of closing a foreign exchange operation.

Modified E.R. 13/2014, Art. 7. Bulletin of Banco de la República, 46 (28 November 2014)

**Article 29. Refrain from manipulation maneuvers.** Participants shall refrain from participating in manipulations actions, consisting of doing, cooperating, sponsoring, authorizing, participating either directly or indirectly, or helping through operations or other related actions intended to:

- a) Disclose false or deceiving information
- b) Distort the market or affect the free supply and demand of foreign currency

Modified E.R. 13/2014, Art. 8. Bulletin of Banco de la República, 46 (28 November 2014)

**Article 30. Best Practices.** *Banco de la República* may establish principles and provide instructions on best practices to be adopted by participants in the foreign exchange market regarding trading,

resolution of conflicts, operations, accounting, financial, and risk control functions, and principles applicable to individuals related to participants, among others.

## CHAPTER X

### SERVICES TO RESIDENTS

**Article 31. Services to Residents.** Offerings of foreign exchange trading or transaction registration services to residents in Colombia, other than through foreign exchange market intermediaries, through platforms, and in particular the offering of foreign currency exchange (FOREX) services, are subject to the terms and conditions set forth by Decree 2558 of 2007. Products or services offered through such platforms may only be promoted or advertised in the Colombian territory through representative offices, brokerage firms, or financial corporations, under the terms and conditions established by the Financial Superintendency of Colombia.

## CHAPTER XI

### FINAL PROVISIONS

**Article 32. Sanctions Regime.** The Financial Superintendency of Colombia will monitor the compliance with provisions included in this resolution and will have the power to impose to those who are breaching person, the penalties set forth in article 53 of Law 964 of 2005.

**Paragraph.** In conformity with provisions set by article 326, section 3, item a) of the Organic Statute of the Financial System, the Financial Superintendency of Colombia will be empowered to instruct the Participants and administrators of foreign exchange trading or transaction registration systems, on the way how provisions set forth herein are to be complied with, and set the technical and legal criteria facilitating their compliance with and finally indicate the best procedures leading to guarantee the proper application of said procedures.

Modified E.R. 13/2014, Art. 9. Bulletin of Banco de la República, 46 (28 November 2014)

**Article 33. Transition Regime.** Those entities which are currently managing foreign exchange trading systems or foreign exchange transaction registration systems, and their affiliates, will have a deadline until April 1, 2010, to adjust their operating conditions to those provided in the resolution herein. Within said deadline, said entities shall also request that the Financial Superintendency of Colombia to adjust the regulations of the foreign exchange trading or transaction registration systems managed by said organizations.

Modified E.R. 10/2009, Art. 9. Bulletin of Banco de la República, 31 (31 August 2009)

Modified E.R. 12/2009, Art. 2. Bulletin of Banco de la República, 48 (18 December 2009)

**Article 34. Validity and repeals.** This resolution repeals External Resolution 4 of 2003 and External Resolution 7 of 2004 and they will enter into force upon its publication.

Dated in Bogotá, DC, on the thirtieth (30th) day of April of year two thousand nine (2009)  
ÓSCAR IVÁN ZULUAGA-ESCOBAR / Chair of the Board of Directors  
GERARDO HERNÁNDEZ-CORREA / Secretary of the Board of Directors

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

External Resolution	Effective date	Articles which are modified
<b>4 of 2009</b>	4 May 2009	COMPENDIUM REPEALS Ext. Res. 4 of 2003 and Ext. Res. 7 of 2004
<b>10 of 2009</b>	31 August 2009	Article 2 Article 5 Article 6 Item n) Article 7 Article 8 Addition of paragraph Article 15 Addition of paragraph Article 16 Addition of paragraphs Article 22 paragraph 2. Article 33
<b>12 of 2009</b>	18 December 2009	Article 20, item b) Article 33
<b>5 of 2014</b>	31 December 2014	Paragraph 4 of Article 15
<b>13 of 2014</b>	28 November 2014	Article 8 Article 15 Article 22 Article 23 Article 28 Article 29 Article 32
<b>3 of 2015</b>	24 April 2015	Article 15 <i>(effective as of 1 December 2015)</i>
<b>9 of 2015</b>	31 July 2015	Article 8 Item a. Article 16 Paragraph 1 Article 17 Article 18 Article 19 <i>(effective as of 24 August 2015)</i>
<b>1 of 2017</b>	24 February 2017	Article 16 Article 21 <i>(effective as of 2 May 2017)</i>
<b>1 of 2020</b>	28 February 2020	Add Item d to paragraph 4 of article 15
	1 June 2020	Article 16 <i>(effective as of 1 June 2020)</i>
<b>23 of 2020</b>	25 September 2020	Article 15
<b>4 of 2022</b>	<b>25 February 2022</b>	Second paragraph of article 16