

Dépôt  
Annexe

CENTRAL  
BANKING  
LEGISLATION



136456

# CENTRAL BANKING LEGISLATION

A collection of  
Central Bank, Monetary and Banking Laws



Statutes and related materials  
selected and annotated by

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INTERNATIONAL MONETARY FUND

WASHINGTON D.C.

## **GUATEMALA**

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## Publication of Statutes and Decrees

Laws and decrees are published in the *Diario de Centro América—El Guatemalteco*. Special fields of law are governed by codes: there is, for example, a Civil Code (1877) and a Commercial Code (1942).

## The Organic Law of the Bank of Guatemala<sup>1</sup>

The Congress of the Republic of Guatemala,

### CONSIDERING:

That the issue of Decrees Nos. 203 and 212 presupposes the creation of an autonomous State Bank;<sup>2</sup> and that, on the other hand, the present economic conditions of the Nation demand a radical reform in the banking and credit system;

THEREFORE DECREES the following:

### ORGANIC LAW OF THE BANK OF GUATEMALA

#### TITLE I. CREATION AND PURPOSE

**Art. 1.** There is hereby created a State Bank under the name of "Bank Creation of Guatemala."

The Bank shall function as an autonomous institution, and shall be governed by the provisions of this law and by the Monetary Law.

**Art. 2.** The principal object of the Bank of Guatemala shall be to promote the establishment and the maintenance of the monetary, exchange and credit conditions most favorable to the orderly development of the national economy. Purpose.

**Art. 3.** In the domestic sphere the Bank shall in particular:

Duties.

- (a) Adapt the means of payment and credit policy to the legitimate needs of the country and to the development of productive activity; and prevent any inflationary, speculative and deflationary tendencies detrimental to the general interests;
- (b) Promote the liquidity, solvency and proper functioning of the national banking system, and a distribution of credit adequate to the general interests of the national economy; and,
- (c) Effect the necessary coordination between the various economic and financial activities of the State which influence the monetary and credit market, and especially between fiscal and monetary policy.

**Art. 4.** In the international sphere the Bank shall in particular:

- (a) Maintain the external value and convertibility of the national currency, in conformity with the system established in the Monetary Law;

<sup>1</sup> Decree No. 215 of December 20, 1945 as amended through 1959. For the Spanish text of the original version of the Law, see the pamphlet edition entitled *Ley Orgánica del Banco de Guatemala* (Guatemala City, 1946).

<sup>2</sup> For the texts of Decrees Nos. 203 and 212, see below, pp. 802-821 and 822-824.

- (b) Administer the international monetary reserves of the Nation and the system of international transfers, with the object of protecting the country from undue monetary pressures, and of moderating—by means of an adequate monetary, banking and credit policy—the injurious effects of seasonal, cyclical or incidental disequilibria of the balance of payments, upon money supply, credit, prices and economic activities in general; and,
- (c) Safeguard the international economic equilibrium of the country and the competitive position of national producers in the domestic and foreign markets.

## Means of action.

**Art. 5.** For the fulfillment of these objectives and duties, the Bank shall count on its moral suasion, on its legal powers for the regulation of money, exchange and credit, and on the fullest support and cooperation on the part of the State and all its agencies.

Accordingly, the State guarantees to the Bank the independence and autonomy necessary for the effective fulfillment of its objectives.

## International responsibilities.

**Art. 6.** The Bank shall act in conformity with the international monetary and banking agreements subscribed to and ratified by the Republic.

It shall legally represent the State in all transactions, negotiations and decisions resulting from such agreements, subjecting its action to the pertinent legal provisions and to the instructions which the Government may impart to it in the cases foreseen in this Law and in the Monetary Law.

## Domicile.

**Art. 7.** The Bank shall have its domicile in the City of Guatemala.

## TITLE II. GUARANTEE FUND AND PROFITS

## Guarantee Fund.

**Art. 8.** The Bank shall be established with an initial Guarantee Fund of five hundred thousand quetzales (Q 500,000.00), which shall be contributed by the State.

**Art. 9.** The Guarantee Fund shall be used to cover any possible losses which the Bank may suffer in the course of its legal operations, except those resulting from modifications in the legal parities of the currencies.

## Use of net profits.

**Art. 10.** The annual net profits of the Bank, after judicious amortization of assets, shall be used in their entirety to increase the Guarantee Fund, until this Fund reaches a sum equivalent to 10 per cent of the total assets of the Bank, provided that this percentage exceeds five hundred thousand quetzales. In making this calculation, there shall be subtracted from assets that part of the Monetary Stabilization Fund which is maintained in gold, in sight deposits abroad and in other equivalent international reserves, disposable at sight and at par.

Profits originating in modifications in the legal parities of the currencies shall not enter into the computation of net annual profits.

**Art. 11.** Whenever the Guarantee Fund reaches the higher of the two limits mentioned in the preceding article, the balance of net annual profits shall be used in its entirety for the constitution or increase of a "Fund for the Regulation of the Bond Market."

This Fund shall operate in the manner and for the ends specified in this Law.

**Art. 12.** Any profits resulting from modifications in the legal parities of the currencies, in conformity with the pertinent provisions of the Monetary Law, shall be used immediately for the amortization of the "Consolidation Bond of Subsidiary Issues," mentioned in Article 58 (e) of the present Law.

Once said bond has been canceled, these profits shall be entered and shall accumulate in a liability account, denominated "Liability Account of Exchange Revaluations," whose resources shall not be drawn upon by the Bank.

**Art. 13.** Any losses resulting from modifications in said legal parities shall be entered and shall accumulate in the same manner in a parallel asset account, denominated "Asset Account of Exchange Revaluations."

At the close of each financial period, a balance shall be struck between the two exchange revaluation accounts, and only the net difference shall appear in the Bank's balance sheet under the general heading "Exchange Revaluations Account," under either liabilities or assets, according to whether there have been net profits or net losses.

Accordingly, these profits or losses shall not enter into the computation of the net profits or losses of the financial period.

**Art. 14.** The amount of any reduction in outstanding notes and coin due to losses, destruction or demonetization of monetary specie, determined in accordance with the pertinent provisions of the Monetary Law, shall be applied either to the amortization of the Consolidation Bond of Subsidiary Issues, or to the reduction or cancellation of the net balance of the Exchange Revaluations Account, or to the general profits of the Bank, according to the resolution adopted on the matter by the Monetary Board.

Profits from reductions in the monetary issue.

## TITLE III. DIRECTION AND ADMINISTRATION

## CHAPTER I. THE MONETARY BOARD

**Art. 15.** The Bank of Guatemala shall function under the general Composition direction of the Monetary Board, which shall be composed of six members, designated in the following manner:

- (a) The President of the Republic shall appoint two regular members and two alternates for six-year periods, from a list of six persons submitted by the other regular members of the Board. The regular members designated by the President of the Republic shall exercise, in accordance with their appointment, the functions of President and Vice President of the Monetary Board and of the Bank of Guatemala.
- (b) The Minister of Finance shall be an ex officio member of the Monetary Board and shall have authority to delegate his functions, when he deems it advisable, to one of the high officers of the Ministry.
- (c) The Minister of Economy shall also be an ex officio member of the Monetary Board and shall have authority to delegate his functions, when he deems it advisable, to one of the high officers of the Ministry.
- (d) The Superior Council of the Autonomous University of San Carlos of Guatemala shall designate a regular member and an alternate for a six-year period from a list of three persons for the regular member, and another list of three for the alternate, submitted by the Board of Directors of the Faculty of Economics.
- (e) The private banks which operate in the Republic shall elect annually a regular member and an alternate for a period of one year. For the election of these members, each of the private banks shall have a single vote; and preferably they shall elect one of their directors, managers or assistant managers.

**Art. 16.** Alternates shall serve in the place of regular members in case of their absence or temporary incapacity, and preferably the alternate named in the same manner as the absent regular member shall serve in his place.

Nevertheless, the alternate of the President of the Board shall substitute for him only in his capacity as member of the Board but not as President.

**Art. 17.** The alternates, when not substituting for the regular members, may attend the sessions of the Board, with the right to be heard but not to vote.

Expiration of terms.

**Art. 18.** The terms of the President and Vice President of the Bank and of the member designated by the autonomous University of San Carlos of Guatemala shall be staggered so as to provide for a new appointment every other year. For this purpose, the initial appointment of the President shall be made for a period of two years, that of the Vice President for a period of four years, and only that of the member designated by the Autonomous University of San Carlos of Guatemala for the normal term of six years.

The same terms shall apply to the respective alternates.

**Art. 19.** Appointments of members of the Monetary Board to replace members whose terms have expired must take place within the thirty days prior to the expiration of such term. Regular members and alternates shall be eligible for reappointment.

**Art. 20.** In case a vacancy is created through the death, resignation, incapacity, removal or other permanent inability of a regular member or alternate to discharge the duties of the office, there shall be designated a new regular member or alternate, as the case may be, to complete the term of the vacating member.

This designation shall be made in the form provided for the designation of the vacating member.

**Art. 21.** The President and Vice President must be persons of unquestioned integrity and recognized training and competence in economic and financial matters. For the designation of the other regular members and alternates of the Monetary Board, preference shall be given to persons of recognized integrity and competence in banking, commercial, agricultural, pastoral or industrial matters.

The six members of the Board shall be Guatemalans as referred to in Article 6 of the Constitution of the Republic.

**Art. 22.** None of the following may be regular members or alternates of the Monetary Board:

- (a) Persons less than 25 or over 70 years of age;
- (b) Leaders of organizations of a political character, except that this prohibition shall not apply to ex officio members and their delegates;
- (c) Persons occupying remunerated public positions or offices, whether by popular election or by appointment, in any agency of the State or the municipalities, except positions of an educational character; this prohibition shall not extend to the Ministers of Finance and Economy and their delegates;
- (d) Directors, managers or employees of other banks, except in the case of regular and alternate members elected by the banks in accordance with Article 15(e);
- (e) Persons related within the fourth degree of consanguinity or second degree of affinity, to the President of the Republic, the Minister of Finance or the Minister of Economy;
- (f) Two or more persons related within the fourth degree of consanguinity or the second degree of affinity; or belonging to the same company; or forming part of the same directorate in a corporation;
- (g) Insolvent or bankrupt persons who have not been legally restored to solvency;

- (h) Persons who have been condemned for offenses which imply lack of probity;
- (i) Persons who, for any reason whatsoever, are legally incapable of discharging said functions.

**Art. 23.** When any of the disqualifications mentioned in the preceding article exists or occurs, the appointment or authority of the affected member shall lapse, and action shall be taken to replace him in the manner provided for in the case of a vacancy. The finding and declaration of disqualification shall be made by the Monetary Board.

Notwithstanding such disqualification, any acts or contracts authorized by the member prior to his disqualification shall not be invalidated, either with respect to the Bank of Guatemala or with respect to third parties.

#### Removal.

**Art. 24.** A member of the Monetary Board shall be removed only by resolution of the President of the Republic, upon sentence pronounced in summary proceedings by the Tribunal of Accounts, and for the following reasons:

- (a) If any one of the disqualifications mentioned in Article 22 of this Law appears, and the Monetary Board fails to declare the disqualification of the member concerned;
- (b) If the member is responsible for acts or operations of a fraudulent or illegal character, or manifestly opposed to the aims or interests of the institution;
- (c) If final sentence is passed upon the member in a criminal prosecution. In the case of detention awaiting trial, he shall be incapacitated for the discharge of his office and shall be replaced by the alternate.

The denunciation of a member shall be made before the Tribunal of Accounts by the Superintendent of Banks or by any regular or alternate member of the Monetary Board.

#### Sessions.

**Art. 25.** The sessions of the Monetary Board shall be called by the President, by the member serving in his place, or by any member with the approval of a majority of the Board, and shall be convened at least once a week.

The Board shall meet validly with the attendance of at least five members, and its resolutions shall be adopted by a simple majority of those present, except when the law requires a special majority.

#### Advisors.

**Art. 26.** The Manager, the Superintendent of Banks, the Director of the Department of Economic Research, the Director of the Exchange Department and such other officers of the Bank of Guatemala as may be designated by the Monetary Board shall participate in the discussions of the Board as advisors, with the right to be heard but not to vote.

**Art. 27.** When the Board deems it advisable, it may invite to participate in its deliberations, with the right to be heard but not to vote, any other qualified person, and especially its alternate members and the representatives of the other financial institutions of the State.

**Art. 28.** The presence of regular and alternate members and of advisors at the sessions of the Board shall entitle them to a fixed fee, determined in the regulations of the Bank with the approval of the Executive Power. Remuneration may not take the form of commissions, or be related to the earnings of the institution.

Persons not connected with the institution and domiciled outside the capital shall be reimbursed for traveling expenses when invited to a session in an advisory capacity.

**Art. 29.** Whenever the Board's deliberations or resolutions involve a personal interest on the part of one of the attendants, or of his associates or relatives within the fourth degree of consanguinity or second degree of affinity, he shall be barred from participation in such deliberations or resolutions, and must withdraw from the meeting.

Participants having a personal interest.

**Art. 30.** The Monetary Board shall be responsible for the determination of the monetary, exchange and credit policy of the Republic, and for the general direction of the Bank of Guatemala.

To this end, the Monetary Board shall have the following powers and duties:

- (a) To execute and enforce the general policy and duties assigned to the Bank of Guatemala, through the use of its powers and the performance of legal operations;
- (b) To approve, amend and interpret the regulations of the Bank of Guatemala, subject to ratification by the Executive Power in the special cases provided for in the law;
- (c) To approve annually the report of the Bank, its balances and profit and loss accounts, as well as the allocation of its profits, in conformity with the legal provisions;
- (d) To vote the annual budget of the Bank, set up the necessary positions for the administration of its affairs and determine the corresponding remunerations;
- (e) To appoint and remove the Manager, the directors of the departments, the advisors and other higher officers of the Bank of Guatemala, and assign them their functions within the provisions of this Law;
- (f) To propose to the President of the Republic the appointment of the Superintendent of Banks from a list of three names;

- (g) To appoint the advisors required for the proper functioning of the Bank and the efficient performance of its operations;
- (h) To determine, modify and publish the rediscount and interest rates of the Bank of Guatemala;
- (i) To regulate the rediscount and credit services of the Bank of Guatemala, and determine the general conditions and limits of the various operations of the Bank authorized in this Law;
- (j) To designate the officers and employees of the Bank who shall be empowered to authorize specific operations, and determine the limits and conditions within which they may exercise such authority;
- (k) To determine and modify the legal reserves of the banks, in accordance with this Law, and regulate clearings between the banks;
- (l) To determine the maximum rates of interest on the borrowing and lending operations of the banks, and to regulate bank credit in accordance with the provisions of this Law;
- (m) To direct the general policy of all banking institutions of an official or semiofficial character, in respect of the monetary, exchange and credit policy of the Republic, through:
  - (i) Instructions, recommendations and suggestions relating to the general credit policy of such institutions and their issues of securities and other obligations;
  - (ii) Intervention in the organization of the directorates and the administration of the institutions, in the form established in the pertinent laws;
  - (iii) Determination of the rates to be charged or paid for borrowing and lending operations; and,
  - (iv) The limitations which the Board may deem necessary to impose, according to the conditions prevailing in the money market, upon the granting of credits and the issue of obligations by those institutions;
- (n) To exercise the other functions and powers assigned to it in accordance with this Law, the Monetary Law and other pertinent provisions.

#### Responsibility.

**Art. 31.** The Board shall exercise its functions with absolute independence and under its exclusive responsibility, within the authority determined by this Law and the regulations.

Any act, resolution or omission of the Board which violates legal provisions, or which implies the intent to cause damage to the Bank of Guatemala, shall make all members present at the meeting liable personally and jointly to the Bank of Guatemala, the State and any third party, for the injuries and damages caused.

Exempted from this responsibility shall be the regular members who have recorded their dissenting vote, and the others present who have registered their objection in the minutes of the meeting at which the matter was discussed.

The same responsibility shall be incurred by those who divulge any information of a confidential character about matters discussed by the Board, or who make use of such information for personal gain, or in detriment to the Nation, the Bank or third parties.

#### CHAPTER II. THE PRESIDENCY

**Art. 32.** The President shall call and preside over the sessions of the Powers and Monetary Board and shall guide its deliberations.

The President shall have the following responsibilities:

- (a) To assure the fulfillment of the objectives and duties of the Bank of Guatemala;
- (b) To study and prepare the bases and norms of the monetary, exchange and credit policy of the institution, present them to the Monetary Board and assure their implementation;
- (c) To present to the Monetary Board the projected regulations of the Bank of Guatemala, and the amendments which experience may suggest;
- (d) To propose to the Monetary Board the annual budget of the Bank, and suggest modifications whenever necessary;
- (e) To submit for the consideration of the Monetary Board all matters on which it should act, and give his opinion on them, orally or in writing, depending on the importance of the case;
- (f) To impart to the Department of Economic Research the instructions necessary for the drafting of the Annual Report of the Bank, and submit the broad outline of this report for the approval of the Monetary Board; and,
- (g) To perform the other duties and powers assigned to him in this Law, the regulations of the Bank and other pertinent provisions.

The President shall exercise his functions with the collaboration of the Manager, the Superintendent of Banks, the directors of the departments and other officers whose cooperation he deems useful in the circumstances.

**Art. 33.** The President shall be the principal representative of the Bank Representation of Guatemala and in that capacity shall have the following functions:

- (a) To conduct relations with the authorities of the Republic, especially the Executive Power, and promote coordination between the eco-

nomic, financial and fiscal policy of the State and the policy of the Bank of Guatemala, in accordance with the instructions or recommendations of the Monetary Board;

- (b) To conduct, directly or through the Manager, relations with other central banks, with foreign official entities and with international financial institutions, in all respects that do not pertain to current operations of the Bank of Guatemala;
- (c) To intervene in the name of the Bank in all matters which, by reason of their nature or magnitude, exceed the authority of the Manager or the Superintendent of Banks, in accordance with the decisions of the Monetary Board;
- (d) To authorize with his signature, separately or jointly with the Manager, the contracts entered into by the Bank of Guatemala, the notes or securities which it issues and the obligations which it contracts, as well as the reports, balances, profit and loss accounts, correspondence and other documents, in accordance with the laws and regulations of the Bank and the resolutions of the Monetary Board;
- (e) To delegate his power to represent the Bank of Guatemala to the Manager or to other officers of the institution, except when his intervention is legally required; and,
- (f) To grant powers of attorney in the name of the Bank.

#### Direction.

**Art. 34.** The President shall supervise the general progress of the Bank, and guide the Manager in the execution of its policies, and the Superintendent of Banks in the functions of inspection and examinations.

The President of the Bank shall resolve in last instance all matters not reserved to the decision of the Monetary Board.

#### Urgent decisions.

**Art. 35.** The President shall also have authority, jointly with the Manager and the Superintendent of Banks:

- (a) To decide, in cases of extreme urgency and when it is impossible to arrange an immediate session of the Monetary Board, any matter under the jurisdiction of the Board itself; and,
- (b) To suspend the resolutions or decisions of the Board, when an unforeseen fact or a serious and urgent need so demand.

In both cases the President shall have the obligation to call the Monetary Board as soon as possible, in order to give account of his action and explain why he has deviated from normal procedures.

#### Incompatibility.

**Art. 36.** The President shall be under obligation to dedicate his activities chiefly to the service of the Bank of Guatemala, and his functions shall be incompatible with any other employment, public or private,

whether remunerated or *ad honorem*, with the exception of positions of an educational character and of commissions directly related to the direction of monetary and banking policy.

**Art. 37.** In case of the absence or temporary incapacity of the President, the Vice President shall act as President. Provision for alternate.

#### CHAPTER III. THE MANAGEMENT

**Art. 38.** The Manager shall be in charge of directing the operations and internal administration of the Bank of Guatemala, and shall be responsible to the President and to the Monetary Board for the correct and efficient functioning of the institution. Functions.

The Manager shall be the chief administrative officer of the Bank of Guatemala and of its personnel, with the exception of the Superintendent of Banks.

**Art. 39.** The Manager shall have the following powers and duties:

- (a) To supervise continuously the progress of the Bank, the observance of pertinent laws and regulations, and the fulfillment of resolutions of the Monetary Board;
- (b) To furnish the President and the Monetary Board with such regular, precise and complete information as may be desirable to assure the proper management of the Bank;
- (c) To prepare the cases that must be submitted for the consideration of the Monetary Board, and, with the President, decide the order in which they shall be submitted;
- (d) To prepare the annual budget of the Bank and assure its correct application;
- (e) To suggest to the Monetary Board the appointment of the higher officers of the Bank of Guatemala;
- (f) To appoint and remove directly the other employees, assigning them their functions and salaries, in accordance with the regulations and within the authorizations of the budget;
- (g) To make decisions on operations and other matters within his competence, and communicate to the officers and employees the instructions, observations or recommendations which he deems advisable for the proper progress of operations and the efficient administration of the Bank; and,
- (h) To exercise the other functions and powers pertaining to his office in accordance with this Law, the regulations and other pertinent provisions.

Powers and  
duties.

Representation.

**Art. 40.** The Manager shall represent the Bank of Guatemala in current matters and operations and in this capacity shall authorize, separately or jointly with the President, the contracts entered into by the Bank of Guatemala, the notes or securities which it issues and the obligations which it contracts, as well as the reports, balances, profit and loss statements, correspondence and other documents, in accordance with the laws and the regulations of the institution and the resolutions of the Monetary Board.

Provision for alternate.

**Art. 41.** In case of the absence or temporary incapacity of the Manager, the Monetary Board shall designate one of the Assistant Managers to replace him, or in his absence, a director of any of the departments of the institution.

Eligibility and incompatibilities.

**Art. 42.** The Manager or his alternate must have the same qualifications as those required for the Presidency of the institution.

Those who fall under any of the disqualifications mentioned in Article 22 of this Law, insofar as they are applicable, shall be ineligible for the position.

The positions listed in Article 36 of this Law as incompatible with the office of President of the Bank of Guatemala are also incompatible with the office of Manager.

#### CHAPTER IV. THE OFFICE OF THE SUPERINTENDENT OF BANKS

Functions.

**Art. 43.** The Superintendency of Banks shall exercise continuous supervision and inspection of the Bank of Guatemala, the banks of the system and the other institutions subject by law to its control.

The Superintendent shall be directly responsible to the Monetary Board.

Powers and duties.

**Art. 44.** The functions of the Superintendent of Banks are the following:

- (a) To execute and ensure the execution of the laws, regulations and provisions applicable to the Bank of Guatemala, other banks of the system and other institutions subject to its control;
- (b) To audit all operations and activities of the Bank of Guatemala, verifying its accounts and holdings through inventories and other relevant procedures; to examine balances and statements of account, checking them against the books and documents, and certifying them when he deems them to be correct;
- (c) To supervise, with direct responsibility, the issue of notes and coin, and especially the operations of printing, minting, issuance, replacement, withdrawal, cancellation, demonetization, incineration and custody of notes and coin;

(d) To report to the Manager any irregularity or infraction which he observes in the operations and activities of the Bank of Guatemala, and in case the Manager does not adopt, within the next three working days, measures which, in the opinion of the Superintendent, are adequate to correct the deficiencies, submit the matter to the President and to the Monetary Board;

(e) In case the Monetary Board does not adopt adequate measures to rectify irregularities or violations brought to its attention, or in case it adopts resolutions or regulations violating legal provisions, or acquiesces in decisions which adversely affect the prestige and solidity of the Bank, or cause it to deviate substantially from its functions, to report the situation to the Ministry of Economy and the Comptroller of Accounts, with such pertinent evidence as the case may require;

(f) To inspect banking institutions regularly and check balances and carry out other suitable examinations;

These inspections and verifications must be made at least twice a year without previous notice to the institutions to be inspected;

(g) To present to the banking institutions the suggestions or recommendations which he deems advisable; to instruct these institutions to correct any deficiencies or irregularities which may have occurred; and to take the measures within his competence, or recommend to other authorities measures within their competence, to punish and correct any violations which may have taken place;

The executive or interpretative resolutions which the Superintendent adopts with relation to the functions of inspection and examination of banking institutions may be appealed to the Monetary Board;

(h) To present summary reports on the inspections and examinations of the banking institutions to the Monetary Board, which may request, when it deems it appropriate, the complete report of the Superintendent, as well as any other confidential information on the inspected institutions;

(i) To collaborate with the Bank of Guatemala and the other banks of the system in carrying out their duties;

(j) To propose to the Monetary Board, by means of a list of three names in each case, the appointment of the General Secretary, section chiefs and assistant chiefs, advisors, and inspectors of the Superintendency of Banks;

(k) To appoint and dismiss the other personnel of the Superintendency of Banks;

- (l) To prepare the annual draft budget of the Superintendency of Banks for submission to the approval of the Monetary Board, and to see to the correct application of this budget; and,
- (m) To exercise the other functions of inspection and examination pertaining to his position, in accordance with the laws, regulations and other pertinent provisions.

## Qualifications.

**Art. 45.** The Superintendent of Banks must be a person of recognized probity and ample knowledge and experience in accounting, auditing and banking practice.

Those who fall under any of the disqualifications mentioned in Article 22 of this Law, insofar as they are applicable, shall be ineligible for the position of Superintendent.

**Art. 46.** The Superintendent of Banks shall be appointed by the President of the Republic from a list of three proposed by the Monetary Board, for a period of five years calculated from the date of his appointment, and he may be re-elected in the same way.

In the case of the absence or temporary disability of the Superintendent of Banks, he shall be replaced by the General Secretary of the Superintendency and in the latter's absence, by an officer designated by the Monetary Board.

## Removal from office.

**Art. 47.** The Superintendent of Banks may be removed only by the President of the Republic at his own initiative or at the request of the Monetary Board, after proof of facts in summary proceedings and only in the following cases:

- (a) If he falls under any of the disqualifications mentioned in Article 22 of this Law, insofar as they are applicable;
- (b) If he has committed grave faults of a legal or moral character disqualifying him for the honorable performance of his position; and,
- (c) In case of manifest incompetence for the discharge of his functions.

## Incompatibilities and prohibitions.

**Art. 48.** Neither the Superintendent of Banks nor his subordinates may be directors, managers, administrators, partners, employees or shareholders of the institutions subject to inspection.

Nor shall they be allowed to accept, directly or indirectly, gifts or presents of any kind from these institutions or from their directors.

The prohibitions mentioned in this article shall extend to the wives and minor children of the Superintendent of Banks and of his subordinates.

## Confidential information.

**Art. 49.** The information obtained by the Superintendent of Banks and by his assistants in the exercise of their functions shall be strictly confiden-

tial. These officers and employees may not reveal or comment upon data obtained or acts observed in the inspection, except by order of the acting judge.

**Art. 50.** Violation of the prohibitions contained in the two preceding articles shall be considered a serious offense, and shall cause the immediate removal of those responsible, in addition to the application of such other penalties as may be provided for in the Penal Code.

**Art. 51.** The institutions subject to the control of the Superintendency shall bear the cost of the services of inspection, paying to the Superintendency an annual quota established by the Monetary Board. Cost of inspection.

This quota shall be calculated in relation to the assets of these institutions, according to their certified general balance sheets as of the close of the preceding fiscal year or, in regard to new banks, according to the balance sheet with which they begin their operations, and in no case shall it exceed  $\frac{1}{10}$  of 1 per cent of the assets of the institutions, after deduction of their bank reserves and other available funds.

As to the Bank of Guatemala, its contributions shall be the difference between the sum of the quotas of the other institutions established in conformity with the preceding paragraph and the total amount of the Superintendency's estimate.

**Art. 52.** The Monetary Board may hire the services of professionals of recognized prestige specializing in auditing to assist in the functions of the Superintendency of Banks, particularly in regard to inspection of the Bank of Guatemala.

Supplementary auditing.

## CHAPTER V. THE DEPARTMENT OF ECONOMIC RESEARCH

**Art. 53.** The Bank of Guatemala shall have a Department of Economic Research, in charge of obtaining the data and making the investigations advisable for the guidance of monetary policy and the attainment of the Bank's objectives.

The Department shall be headed by a Director and shall include the necessary assistants. All must be specialized in economic matters.

**Art. 54.** The Director of the Department shall have the following responsibilities:

- (a) To prepare, with the assistance of the Exchange Department, estimates of the balance of payments;
- (b) To collaborate with the Superintendent of Banks in the preparation of monetary and banking statistics or information;

- (c) To maintain constantly the minimum statistical information referred to in Article 129 of this Law, and submit it regularly to the Manager;
- (d) To prepare any other statistical reports and economic studies which, in his judgment, may be useful to the Bank, as well as those requested from him by the Monetary Board, the President or the Manager;
- (e) To collaborate with the Ministries of State, the Bureau of Statistics and other official agencies, in the preparation of economic information and studies, and especially in the improvement of the statistical services of the country;
- (f) To maintain a greater exchange of information with other central banks, financial institutions abroad and international banking institutions;
- (g) To draft the Annual Report of the Bank, in accordance with the instructions imparted by the President;
- (h) To issue releases and publications, and perform other activities in the field of dissemination of knowledge relating to economics;
- (i) To supervise the preparation and assure the accuracy of the official publications of the Bank of Guatemala; and,
- (j) To exercise the other functions and powers pertaining to his office in accordance with the law, regulations and other relevant provisions.

Training of technical personnel.

**Art. 55.** The Department of Economic Research shall consider it part of its functions to participate in training technical personnel in economic matters, especially in the field of money, credit and banking.

To this end, the Bank of Guatemala, in accordance with the reports and suggestions of the Director of the Department, shall have authority to defray the cost of studies abroad by outstanding employees of the institution and other qualified persons, and to pay for the services of foreign experts called upon to train the personnel in economic matters.

Access to information.

**Art. 56.** The Ministries of State, the Tribunal of Accounts, the Bureau of Statistics and all other agencies of the State shall make promptly available to the Department of Economic Research the data which it may solicit for the fulfillment of its functions.

#### CHAPTER VI. THE OTHER DEPARTMENTS

Organization and regulation.

**Art. 57.** The Monetary Board shall organize and regulate the other departments necessary for the functioning of the Bank, and especially the Exchange Department and the Credit Department.

#### TITLE IV. OPERATIONS OF THE BANK

##### CHAPTER I. ASSETS AND LIABILITIES

**Art. 58.** The Bank of Guatemala may compute as assets only the Assets following:

- (a) The international monetary reserves which constitute the Monetary Stabilization Fund of the institution;
- (b) The credit and investment operations effected in accordance with the provisions of this Law;
- (c) The Exchange Revaluations Account which may appear in accordance with Articles 12 and 13;
- (d) The assets resulting from its participation in international banking institutions, and from its credit operations abroad;
- (e) The consolidation bonds of subsidiary issues received from the State, until full amortization; and,
- (f) The other items resulting from operations provided for in this Law.

**Art. 59.** The liabilities of the Bank of Guatemala shall be covered fully Liabilities, and exclusively by the assets mentioned in the preceding article, and shall include the following:

- (a) The monetary issue defined in Article 61 of this Law;
- (b) The stabilization bonds, notes and certificates issued by the Bank;
- (c) The time deposits which the Bank may receive in accordance with the provisions of the present Law;
- (d) The Exchange Revaluations Account which may appear in accordance with Articles 12 and 13;
- (e) The liabilities resulting from the Bank's participation in international banking institutions and from its credit operations abroad;
- (f) The Guarantee Fund of the Bank; and,
- (g) The other items resulting from operations provided for in this Law.

##### CHAPTER II. THE MONETARY ISSUE

**Art. 60.** The Bank of Guatemala, in its capacity of sole issuer, shall be Issue privilege, the only entity which may issue notes and coin within the national territory, and receive on deposit the reserves of the banks.

**Art. 61.** The monetary issue of the Bank of Guatemala shall consist of: Monetary issue.

- (a) The notes and coin of the Bank in actual circulation; and,
- (b) The deposits of the State, official entities and banks, with the Bank of Guatemala, payable upon presentation of checks.

The notes and coin in possession of the Bank of Guatemala shall not be included in the monetary issue and shall not appear in either the assets or the liabilities of the institution.

**System of issue.**

**Art. 62.** The functions and obligations of the Bank of Guatemala with respect to the monetary issue shall be governed by the pertinent provisions of the Monetary Law, this Law and the regulations of the Bank.

**Bank reserve.**

**Art. 63.** The banks shall be obliged to maintain constantly with the Bank of Guatemala, in the form of demand deposits, a reserve proportional to their deposit liabilities. This reserve, added to the cash fund maintained by the banks in their tills, in both their main offices and their branches and agencies, shall constitute the bank reserve.

The bank reserve shall be at least equivalent to the minimum amounts established by the Monetary Board in conformity with the precepts of this Law. The cash funds of the banks referred to may in no case represent, for purposes of the reserve, an amount exceeding 25 per cent of the total amount of the required reserve.

The obligation to maintain bank reserves pertain to all national and foreign banking institutions operating in the country, whether private, mixed or official.

**Reserves against deposits in national currency.**

**Art. 64.** The Monetary Board shall determine the minimum bank reserves which the banks must maintain with relation to their deposits in national currency, and to this end shall have authority:

- (a) To determine, in a general and uniform manner, the reserves required to be held by the banks against such deposits, provided that the requirement shall be not less than 10 per cent nor more than 50 per cent for the various classes of deposits; and,
- (b) To require the banks to maintain more than 50 per cent reserves against any increase in deposits above the amount outstanding at the time such measure should be adopted; in case of the imposition of such reserve requirements, the Monetary Board must order the payment of interest, at a rate not in excess of 3 per cent a year, on the part of the required reserves which exceeds 50 per cent of the deposit obligations of the respective banks.

**Reserves against deposits in foreign currencies.**

**Art. 65.** The Monetary Board may prohibit or authorize the receipt of deposits in foreign currencies by the banks. Whenever such authorization is given, the Board shall regulate the administration of the deposits and determine what reserves shall be held against them; to this end, the Board shall have authority:

- (a) To determine, in a general and uniform manner, the reserves required to be held against such deposits, provided that the requirement shall be not less than 10 per cent nor more than 100 per cent,

for the various classes of deposits, without obligation to pay interest to the banks on any part of such reserves;

- (b) To determine the form and the currency, either national or foreign, in which such reserves shall be maintained by the banks; and,
- (c) Whenever the Board does not require reserves of 100 per cent against deposits in foreign exchange, it may demand that other assets be maintained in the currencies of the deposits, in order to equilibrate, as far as possible, the assets and liabilities in such currencies.

The bank reserves and other assets in foreign currencies maintained by the banks against their liabilities in foreign currencies in accordance with the regulations and decisions of the Monetary Board, shall be exempted from the prohibitions and restrictions issued against the holding of foreign exchange assets by the banks.

**Art. 66.** Whenever it becomes advisable to increase bank reserves against deposit obligations, either in national or in foreign currencies, the Monetary Board shall decide the increases in a gradual and progressive manner, notifying the banks of any resolution which it adopts to this effect, well in advance of the date at which it will become effective.

**Art. 67.** With respect to constituting and maintaining bank reserves, the following definitions are established:

- (a) For deposits in national currency:
  - (i) "*Monetary deposits*" are deposits payable at the request of the depositor by means of checks;
  - (ii) "*Short-term deposits*" are those payable within a period not exceeding thirty days, or subject for their payment to previous notice not exceeding that period;
  - (iii) "*Long-term deposits*" are those payable only after thirty days, or subject for their payment to previous notice exceeding that period;
  - (iv) "*Savings deposits*" are those consisting of obligations payable on special conditions agreed upon with the depositor, or established by the laws regulating saving;
- (b) For deposits in foreign currencies:
  - (i) "*Short-term deposits*" are those payable at any time not exceeding thirty days, or subject for their payment to previous notice not exceeding that period;
  - (ii) "*Long-term deposits*" are all those payable only after thirty days or more, or subject for their payment to previous notice exceeding that period.

Classes of reserves.

**Art. 68.** The Monetary Board may, within the limits established in this Law, determine different rates of bank reserves for the different classes of deposits defined in the preceding article.

If it deems it advisable, the Board may also subject to reserve requirements any liability accounts similar to deposit liabilities, and determine the corresponding reserve requirements, within the limits established for deposits in national and in foreign currencies respectively.

Clearing House.

**Art. 69.** The reserves and other funds deposited by the banks in the Bank of Guatemala shall serve as a basis for a system of check settlement through a Clearing House. In the functioning of this system, when the deposit of any bank falls below the required reserves, it must be brought up to the proper level immediately.

The Monetary Board shall organize and regulate the Clearing House and supervise its operation.

Computation of reserves.

**Art. 70.** The reserve position of each bank shall be computed monthly, on the basis of the amount of its reserves and deposits at the end of each day; but any bank shall normally be permitted to compensate for any deficiency in its reserves during one or more days of the month with its excess reserves in the other days of the same month.

Nevertheless, in case of abuse, the Monetary Board may deny to any bank the privilege of compensating reserve deficiencies and excesses, and consider the sum of the daily deficiencies to be the monthly deficiency.

All offices maintained in the national territory by a banking institution shall be considered as a single unit for the calculation of bank reserves.

Penalties.

**Art. 71.** Whenever there is a monthly deficiency in the reserves of any bank, calculated in accordance with the provisions of the preceding article, the Superintendent of Banks shall so advise the directors and managers of said bank in writing, and shall impose a fine of  $\frac{1}{10}$  of 1 per cent of the amount of the deficiency.

If the deficiency persists for more than twelve months after the first written notice, the Monetary Board shall have authority to prohibit the bank from making new loans or investments and from paying dividends to its shareholders, until it has maintained reserves at the required level for at least a full month; and the deficient bank shall remain subject to the fines to be applied by the Superintendent of Banks in accordance with the preceding paragraph.

If a deficiency persists for four consecutive months or occurs in six different months within a period of two years, the Monetary Board may request the competent judicial authorities to liquidate the deficient bank.

### CHAPTER III. EXTERNAL MONETARY STABILIZATION

**Art. 72.** The Bank of Guatemala shall maintain the external stability of the national currency, and assure its convertibility into foreign currencies in accordance with the regime established in the Monetary Law.

**Art. 73.** In order to achieve the ends specified in the preceding article, the Bank of Guatemala shall establish and maintain a "Monetary Stabilization Fund," in which shall be centralized and shall accumulate the international monetary reserves of the institution.

**Art. 74.** With relation to the reserves which make up the "Monetary Stabilization Fund," there shall be distinguished the concepts of "absolute reserves" and "net reserves."

The absolute reserves shall consist of the aggregate assets in gold metal and foreign exchange at the disposal of the Bank of Guatemala.

Net reserves shall be determined by deducting from the total assets in gold metal and foreign exchange the following obligations:

- (a) The total amount of the Bank's gold and foreign exchange obligations falling due within thirty days;
- (b) Seventy-five per cent of the Bank's gold and foreign exchange obligations falling due after thirty days, but within a year;
- (c) Fifty per cent of the gold and foreign exchange obligations of the Bank falling due after one year but within three years; and 50 per cent of similar obligations of indefinite maturity;
- (d) Twenty-five per cent of the gold and foreign exchange obligations of the Bank falling due after three years; and,
- (e) The other obligations owed abroad, either by the Bank or by third parties with the Bank's guarantee, in accordance with the percentages indicated above for obligations of corresponding maturities.

**Art. 75.** The absolute reserves of the Monetary Stabilization Fund shall be distributed between gold metal and the principal foreign currencies of recognized soundness which most affect the balance of payments of the country.

This distribution shall be made in approximate proportion to the anticipated needs of the net balance of international payments for each of the aforesaid currencies, taking into account the *de facto* convertibility, or inconvertibility, between gold metal and the various currencies.

**Art. 76.** The investment of the absolute reserves of the Monetary Stabilization Fund shall be in accordance with the following objectives:

- (a) To maintain the strongest possible guarantee that the Bank of Guatemala shall always command the liquid assets which may be neces-

Investment of reserves.

Investment in  
gold and foreign  
assets.

sary to cover any foreseeable deficit in the balance of payments, and thus maintain the external convertibility and stability of the currency; and,

- (b) To avoid excessive and costly accumulation of idle and sterile funds, without advantage to the national economy.

**Art. 77.** In consequence, the assets of the Monetary Stabilization Fund shall be distributed in accordance with the following rules:

(a) Whenever the net reserves of the Fund do not exceed 40 per cent of annual average sales of exchange during the three preceding years, the Fund shall maintain its assets exclusively in:

- (i) Gold metal deposited in the vaults of the Bank of Guatemala, or left in the custody of either international financial institutions or foreign central banks; or,
- (ii) Demand deposits or equivalent first-class investments, disposable at par and at sight, at the request of the Bank, in the same institutions or in first-class foreign banks; or,
- (iii) First-class drafts on foreign countries, with maturities not exceeding seven days; or,
- (iv) First-class official foreign obligations, disposable at any time in a constant market, and with maturities not in excess of three months; or,
- (v) Notes and coin of other countries, up to the amounts required for current transactions in such notes and coin.

(b) Any reserves in excess of the 40 per cent mentioned above may be maintained in:

- (i) The forms specified in Section (a) of this article; or,
- (ii) Time deposits in the institutions specified in Section (a), payable within a maximum period of six months; or,
- (iii) First-class drafts on foreign countries, with maturities not exceeding three months; or,
- (iv) First-class official foreign obligations, or securities guaranteed by international agreements or by governments of recognized solvency, provided that their maturities do not exceed twelve months.

(c) Any reserves in excess of 75 per cent of the annual average of exchange sales during the three preceding years may be maintained:

- (i) In the forms specified in Sections (a) and (b) of this article; or,
- (ii) In time deposits in the institutions specified in Section (a) of this article, payable within a maximum period of one year; or,
- (iii) In first-class official foreign obligations, or in securities guaranteed by international agreements or by governments of recognized solvency, provided that their maturities do not exceed five years.

**Art. 78.** Whenever the net reserves of the Monetary Stabilization Fund exceed 75 per cent of the annual average of exchange sales during the three preceding years, the Monetary Board shall have authority to invest, totally or partially, the excess reserves in the acquisition of regularly serviced obligations of the foreign debt of the Government of the Republic. In this case, the amount invested in the acquisition of these securities shall no longer be considered as international reserves, and shall not be included among the assets of the Monetary Stabilization Fund.

Investment in na-  
tional obligations  
of the foreign  
debt.

**Art. 79.** The Bank of Guatemala may transact business with international banking institutions, in accordance with the international agreements subscribed to and ratified by the Republic and with the legal provisions which may be enacted on the subject.

Transactions with  
international  
institutions.

**Art. 80.** The Bank of Guatemala may carry on, with other central banks and with first-class foreign banks, credit transactions as well as other operations appropriate to a central bank.

Transactions with  
foreign banks.

**Art. 81.** The Bank of Guatemala may act, in all operations appropriate to a central bank, as agent or correspondent of other central banks, of international banking institutions and of first-class foreign banks, and may appoint such entities as its agents or correspondents abroad.

Functions of  
correspondent.

**Art. 82.** The Director of the Exchange Department shall submit to the Monetary Board, in each ordinary session, a statistical summary of the movements of supply and demand in the foreign exchange market.

Statistical  
information.

Similarly, the Director of the Department of Economic Research shall submit to the Monetary Board, in the month of February of each year, a report containing estimates of the balance of payments for the coming year. These estimates shall be revised and rectified, at least every three months, in accordance with any new developments which may have appeared.

Before the first of May of each year, the Director of the Department of Economic Research shall also present to the Monetary Board the final statement of the balance of payments of the preceding year.

**Art. 83.** The Bank of Guatemala shall utilize the reserves of the Monetary Stabilization Fund for the protection of the stability of the currency against temporary disequilibria in the balance of payments.

Temporary dis-  
equilibria in the  
balance of pay-  
ments.

Nevertheless, if international reserves fall in the proportion, or to the levels, indicated in the Monetary Law, the Monetary Board may petition the President of the Republic to institute the Emergency System of international transfers referred to in the same law.

Fundamental disequilibria in the balance of payments.

**Art. 84.** In the case of a fundamental and persistent disequilibrium in the balance of payments related to disparities between domestic and external prices and production costs, the Monetary Board must adopt the measures appropriate to correct the disequilibrium and to re-establish the normal competitive position of the national producers in the domestic and international markets.

The Monetary Board shall use to this end the powers accorded it by law to assure monetary stability, and, when such action is indispensable, shall request the modification of the gold parity of the national currency in conformity with the principles of the Monetary Law.

In such case, the Monetary Board shall present to the Congress of the Republic and to the Executive Power, through the medium of the Ministry of Economy, a detailed report on the factors of disequilibrium, the measures of defense adopted, and the further legal, economic, fiscal or administrative measures which it considers advisable to recommend.

#### CHAPTER IV. CREDIT OPERATIONS

Authorized operations.

Discounts.

Advances in normal times.

**Art. 85.** The Bank of Guatemala may conduct, exclusively with the banking institutions of the Republic, the following credit operations:

- (a) Rediscount, discount, buy and sell bills of exchange, acceptances, promissory notes and other credit documents with maturities not beyond one year from the date of their acquisition by the Bank, and resulting from operations related to:
  - (i) The production or processing of agricultural, pastoral and industrial goods;
  - (ii) The importation, exportation, purchase or sale of readily salable goods or merchandise, or their transportation within the national territory; and
  - (iii) The storing of nonperishable agricultural, pastoral and industrial goods, or of import or export merchandise, insured and deposited, under conditions assuring its preservation, in authorized general deposit warehouses, or in other places approved by the Monetary Board;
- (b) Grant advances for fixed periods, not to exceed one year, upon the following kinds of collateral:
  - (i) Gold coin or bars whose sale to the Bank of Guatemala has not been required by the Monetary Board, under the authority conferred on it by law;
  - (ii) The credit documents specified in Section (a) of this article; and,
  - (iii) Debtor balances of credits on current account related to the operations mentioned in Section (a) of this article, and certi-

fied as to amount and liquidity by the manager and the accounting chief of the institution which solicits the advance;

- (c) Grant advances, in periods of emergency which directly threaten monetary or banking stability, upon the guarantee of any other assets which the Monetary Board shall temporarily include as acceptable collateral; provided that this decision be adopted with the concurrent vote of at least five members of the Board;

- (d) Rediscount, discount, purchase and sell bills of exchange, acceptances, promissory notes, and other credit documents, with a maturity not exceeding one year calculated from the date of purchase by the Bank, resulting from operations connected with the granting of credits to the State and public institutions, and grant advances for fixed periods not exceeding one year with the guarantee of such documents; provided that the operations concerned are legally authorized and guaranteed by the State;

The Monetary Board shall establish annually the maximum amounts of investments that the Bank of Guatemala may make by purchasing or accepting as guarantees the documents referred to in this section, taking into account monetary conditions, financial and budgetary equilibrium, and other relevant factors. The amounts established, with supporting documents, shall be published in the Official Gazette;

- (e) Grant credits and advances, for a period not exceeding one year, to finance purchases by the institutions which, in accordance with the laws, are placed in charge of the stabilization of the prices of produce and manufactured goods (buffer stocks);

Such loans must be fully guaranteed by the State and secured by the goods purchased, which shall be deposited under insurance in authorized general deposit warehouses or in other places approved by the Monetary Board;

The amounts due the Bank of Guatemala for such loans shall be repaid as rapidly as the products bought are sold; and the Bank of Guatemala itself shall intervene in the sales;

- (f) Grant credits in national currency, subject to specific regulations, with the resources obtained abroad by the Bank of Guatemala in accordance with Article 80 of this Law. The granting of such credits shall be approved by the affirmative vote of at least five of the members of the Monetary Board, and the funds must be used for granting loans of a productive nature, in conformity with the monetary, exchange and credit policy established by the Monetary Board, the return of these funds being fully guaranteed by the borrowing bank. The terms granted to banks shall be in proportion to the terms of the operations concluded between the Bank of Guatemala and the foreign banks concerned.

Advances in times of emergency.

Financing of public credit operations.

Financing of stabilization operations.

General conditions of operations.

**Art. 86.** The Monetary Board shall establish, within the general limitations provided for in this Law, the other norms which shall govern the credit operations of the Bank of Guatemala.

Similarly, the Board may, by specific action, further limit the maximum maturities mentioned in Article 85, and demand security margins between the value of the credits granted and the value of the collateral, in accordance with the various types of operations which gave rise to the credit operations.

Rates.

**Art. 87.** The Monetary Board shall determine the rediscount and interest rates applicable to the various credit operations authorized in this Law, taking into account the monetary situation, the needs of the market and the composition of the Bank's portfolio.

Banking endorsement.

**Art. 88.** The documents bought or accepted as collateral by the Bank of Guatemala must bear the endorsement of the institution from which they are received.

Freedom of decision.

**Art. 89.** The Bank of Guatemala shall have complete independence in accepting or rejecting any request for credit presented to it.

Procedures.

**Art. 90.** Credit requests to the Bank shall be considered and decided upon by a Credit Committee.

The Committee shall be composed of three members, who shall be the Manager and two other high officers of the Bank of Guatemala designated by the Monetary Board. Regular and alternate members of the Board may not serve on the Credit Committee.

The Monetary Board shall determine the limits and conditions of the Committee's authority and shall impart to the Committee additional instructions for its guidance, in accordance with Article 86 of this Law.

Action of Credit Committee.

**Art. 91.** The Committee shall examine the credit requests presented to it, and adopt its decisions with the affirmative vote of at least two of its members.

All approvals of credits shall require the favorable vote of the Manager; but rejections may be adopted on the vote of the other two members.

The credits granted by the Committee with the favorable vote of the Manager shall be acted upon without any other formality. Those denied by the Committee shall be submitted for the consideration of the Monetary Board if the Manager so decides, or if the institution interested in obtaining the credit so requests.

Action of Monetary Board.

**Art. 92.** The Monetary Board shall consider and decide individual credit requests only in the following cases:

(a) Requests related to credit operations of the State and of public entities;

(b) Other operations which by their amount or nature exceed the competence of the Credit Committee; and

(c) When the Committee has refused the granting of credit.

In these cases the Manager shall submit the matter to the Monetary Board through the medium of the President of the Bank and shall make such recommendations as seem appropriate.

Liquidity of the Bank's portfolio.

**Art. 93.** The Monetary Board shall review monthly the composition of the portfolio of the Bank of Guatemala and, after examination of the situation of the monetary and credit market, shall issue the instructions which it deems appropriate in order to stabilize the market and to prevent excessive immobilization of the assets of the institution.

Repayment of credits.

**Art. 94.** The documents discounted, rediscounted or accepted as collateral by the Bank of Guatemala must be withdrawn by the borrowing institution at the dates of their maturities, through the payment of the respective credits, except that they may be withdrawn earlier, upon payment of the obligations which they represent.

#### CHAPTER V. INTERNAL MONETARY STABILIZATION

**Art. 95.** The Bank of Guatemala shall promote the maximum development of the country's productive activities, and counteract or moderate fluctuations of a deflationary or inflationary character which may arise in the money and credit market.

Internal stability.

**Art. 96.** The Bank of Guatemala shall control any abnormal expansion or contraction of the money supply which threatens to cause harmful instability in internal prices and in the general economic activity of the country. The money supply is composed of:

Control of money supply.

- (a) The national notes and coin in the hands of the public; and,
- (b) Official and private monetary deposits outstanding in all the banks, excluding interbank deposits.

**Art. 97.** When the money supply increases or decreases by more than 15 per cent within a period of twelve months, the Monetary Board must transmit to the Executive Power a detailed report showing:

Abnormal movements of money supply.

- (a) The external or internal factors causing such expansion or contraction;
- (b) Its repercussions on monetary, exchange and credit conditions and on the level of employment, national production, prices and economic activities in general;
- (c) The inflationary or deflationary symptoms which such an analysis may reveal in the different sectors of the economy; and,

- (d) The measures adopted to combat the disturbances mentioned in the preceding section, and the other legal, economic, fiscal or administrative measures which it considers advisable to recommend.

The Board shall continue to inform the Executive Power periodically, and at least semiannually, of the results achieved by the measures taken, until the monetary disturbances have disappeared.

Instruments of control.

**Art. 98.** In the performance of its task of internal monetary stabilization, the Bank of Guatemala shall utilize especially the following instruments:

- (a) The determination of its rediscount and interest rates, and the authority to accept or reject applications for credit presented to it (Articles 87 and 89);
- (b) The influence which it may exercise over the banking system through:
  - (i) Establishment of minimum bank reserves (Articles 64, 65 and 68);<sup>2</sup>
  - (ii) Regulation of the minimum proportions of capital and surplus which the banks must maintain in relation to their lending operations, in accordance with the provisions of the General Banking Law;
  - (iii) Establishment of the maximum rates of interest for borrowing and lending operations (Articles 99 through 101); and,
  - (iv) Control of the issues of obligations by the banks, and restrictions upon the granting of bank credit as provided for in Articles 102 and 103;
- (c) The guidance of the general policy of banking institutions of an official or semiofficial character (Article 30(m));
- (d) The intervention in the open market, through the purchase, sale or retirement of Stabilization Bonds issued by the Bank, and the negotiation of securities issued by other entities (Articles 104 and 108);
- (e) The acceptance and repayment of the time deposits which the Bank may receive (Article 109);
- (f) The management of the Fund for the Regulation of the Bond Market, and of official deposits (Articles 114 and 118);
- (g) The intervention of the Board in credit operations of the State and of public entities, and its functions as advisor and fiscal agent of the Government (Article 123); and,
- (h) The other powers conferred on it by this Law, the Monetary Law and other pertinent provisions.

<sup>2</sup> See also Art. 63 as amended by Decree No. 1314 of September 22, 1959 (above, p. 778).

**Art. 99.** The Monetary Board shall determine the maximum rates which the banks may charge for different types of loans and for any other lending operations. Rates for lending operations.

When the Monetary Board deems it advisable, however, it may abstain from fixing maximum rates on specific classes of lending operations, and leave the matter to the discretion of the banks. Nevertheless, in case of such abstention, the Monetary Board may establish the maximum difference which may exist between the rediscount or interest rates of the Bank of Guatemala, and the rates which may be charged by the banks for different types of credits, if the credit documents are not to lose their eligibility for rediscount or advances at the Bank of Guatemala.

Any bank which grants loans, or effects other lending operations, at rates of interest exceeding the maximum rates fixed by the Monetary Board in accordance with the first paragraph of this article, shall be subject to the penalties provided for in the laws against usury.

**Art. 100.** The Monetary Board shall determine the maximum rates which the banks may establish or pay to their clients upon the various classes of deposits, issue of obligations and any other borrowing operations. Rates for borrowing operations.

When the Monetary Board deems it desirable, it may abstain from fixing maximum rates on specific classes of borrowing operations, and leave the matter to the discretion of the banks.

If a bank engages in borrowing operations on which it establishes or pays interest in excess of the maximum rates fixed by the Monetary Board in accordance with the first paragraph of this article, the Bank of Guatemala shall advise the Ministry of Economy, in order that the Ministry may fine the guilty bank up to five times the amount of the excessive interests established or paid.

**Art. 101.** Any change which the Monetary Board may decree with respect to maximum rates for the lending and borrowing operations of the banks, shall govern only future operations, and shall not apply to those effected prior to the effective date of the change. Change in rates.

**Art. 102.** The Monetary Board may, if it deems it essential to prevent excessive security issues, subject to previous authorization by the Bank of Guatemala the issue of securities or other obligations by the banks, taking into consideration the economic and monetary situation of the country and the absorption capacity of the market. Limitation on security issues.

**Art. 103.** The Monetary Board shall restrict the granting of bank credit for speculative purposes, and shall encourage a distribution of credit conforming to the general interests of the national economy, using to this end the powers expressly granted by the laws as well as other provisions of a general character. Selective control.

In case of a pronounced inflationary trend in bank credit, the Monetary Board may, with the concurrent vote of four of its members, through the establishment of ceilings on bank portfolios, limit in a general manner and without discrimination the maximum volume of bank loans. Such ceiling may not be maintained for more than a year, except in cases of exceptional gravity and by unanimous vote of the members of the Monetary Board.

Open market operations.

**Art. 104.** Intervention of the Bank of Guatemala in the open market shall be exercised through the purchase and sale of securities defined as eligible by the present Law, and issued either by the Bank of Guatemala itself or by other entities.

Such operations shall be directed toward stabilizing the money market, through the temporary withdrawal from circulation of excess funds exerting inflationary pressures upon the economy, and the placement of additional funds in circulation whenever desirable to combat deflationary tendencies.

Stabilization bonds.

**Art. 105.** For purposes of monetary stabilization, the Monetary Board may order the issue by the Bank of Guatemala of freely negotiable credit obligations, denominated "stabilization bonds." The Monetary Board shall determine:

- (a) The interest rates payable on such bonds;
- (b) The maturity dates;
- (c) The conditions under which they shall be repaid, and the manner in which the Bank may effect extraordinary amortization; and,
- (d) The currency in which they shall be exchanged and paid, the Board being allowed to contract the obligation in gold or foreign exchange when circumstances so advise.

The Bank of Guatemala may repurchase its stabilization bonds, either in the market at a price not less than their face value, or through redemption at par and by lot if the Bank has reserved the right to effect extraordinary amortization.

**Art. 106.** The stabilization bonds acquired, amortized or redeemed by the Bank of Guatemala, ordinarily or extraordinarily, shall be immediately retired and shall no longer be considered assets of the institution.

Interest due and bonds not presented for payment within ten years from the date at which they become payable shall be canceled in favor of the Bank of Guatemala.

**Art. 107.** As long as the net reserves of the Monetary Stabilization Fund exceed 25 per cent of the annual average of exchange sales during the three preceding years, the Bank of Guatemala may acquire for its own account:

- (a) Bonds or obligations legally issued or guaranteed by the Government or by public entities;

(b) Bonds or obligations legally issued by official or semiofficial financial institutions;

(c) Other first-class national bonds or securities defined as eligible by the vote of at least five members of the Monetary Board.

Bonds or securities issued or guaranteed by the State or by public institutions shall have gradual and cumulative amortization, which shall not extend beyond a period of fifteen years. The Monetary Board shall investigate whether such bonds and securities have been issued in conformity with the law and a financial plan appropriate to the possibilities of paying the service on the debt, and shall see that the relevant budgets include appropriations to assure fulfillment of these obligations.

**Art. 108.** The purchases of bonds and obligations referred to in the preceding article shall be adjusted to the situation of the money market, so as to maintain the money supply at normal and noninflationary levels.

The Bank of Guatemala shall especially use such purchases to combat movements of a deflationary character. When inflationary tendencies exist, the Bank shall be under obligation to contract its holdings of such securities, through sales to the public or through regular or extraordinary amortization.

**Art. 109.** When inflationary tendencies exist, the Monetary Board may authorize the acceptance by the Bank of Guatemala of private time deposits. In case of such action, the Board shall determine at the same time the interest rates, maturities and other pertinent conditions. Such authority shall be canceled as soon as the inflationary danger has passed.

Actual operations of receipt and withdrawal of the deposits may be made through the medium of banks authorized and qualified for the purpose by the Monetary Board; but the funds deposited may not be maintained in the banks and must be credited immediately to the Bank of Guatemala, which shall be responsible for their repayment.

**Art. 110.** In periods of excessive inflows of foreign exchange of an inflationary character, if it is not possible for the Bank to reduce the money supply to normal levels through the use of its ordinary instruments of monetary policy, the Board shall request the Executive Power to propose to the Congress of the Republic the adoption of legal measures tending either partially to sterilize the funds originating in the inflow of foreign exchange, or to promote their investment in noninflationary operations, or to secure their absorption through fiscal provisions directed toward social improvements.

Extraordinary instruments of control.

#### CHAPTER VI. RELATIONS WITH THE STATE

**Art. 111.** The Bank of Guatemala shall exercise the functions of advisor, Functions, fiscal agent and banker of the State.

Fund for the Regulation of the Bond Market.

**Art. 112.** As agent of the State, the Bank of Guatemala shall form a "Fund for the Regulation of the Bond Market."

This fund shall be administered by a "Security Commission," composed of the President and Manager of the Bank and the Ministers of Finance and Economy. The resolutions of the Commission shall be adopted by concurrent vote of at least three of its members.

Composition.

**Art. 113.** The Fund for the Regulation of the Bond Market shall consist of:

- (a) The amounts initially contributed for its constitution by the State, in accordance with the transitory provisions of this Law;
- (b) Other contributions of the State in conformity with special laws or through budgetary assignments;
- (c) The net profits of the Bank of Guatemala which, in accordance with Article 11 of this Law, are earmarked for the increase of the Fund; and,
- (d) Idle funds resulting from budgetary surpluses or unused balances of the National Treasury which may be temporarily included in the resources of the Fund by decision of the Monetary Board, with the favorable vote of the Minister of Finance.

Administration and investment.

**Art. 114.** The administration and investment of the resources of the Fund for the Regulation of the Bond Market shall be directed toward the stabilization of the quotations on securities issued or guaranteed by the State or by public entities, and of such other official or semiofficial obligations as may be decided upon by the Security Commission.

Such stabilization shall be accomplished through the purchase and sale of these bonds and obligations in the open market, with avoidance of any intervention which would run counter to fundamental trends of the market and threaten the exhaustion of the Fund's resources.

Profits.

**Art. 115.** The profits realized through the investments of the Fund for the Regulation of the Bond Market, either from purchase and sale operations or through the receipt of interest on bonds and obligations acquired, shall accrue to the Fund itself, in order to increase its resources and capacity for action and to accumulate reserves to cover possible losses in future operations.

Official banking operations.

**Art. 116.** The Government of the Republic, and, in general, all agencies of the State, shall effect all their remittances, exchange and monetary transactions, within the country as well as abroad, through the medium of the Bank of Guatemala.

Official deposits.

**Art. 117.** The cash balances of the National Treasury, of public entities and of other official agencies shall be deposited in the Bank of Guatemala,

with the exception of the amounts handled in the offices themselves, in conformity with the law, for payments of small amount.

Guarantee deposits in favor of the State, or any of its agencies, as well as all classes of judicial deposits, shall also be made in the Bank of Guatemala.

The Bank of Guatemala may accept the custody of securities, documents and other valuable objects belonging to the State or its agencies.

**Art. 118.** The Monetary Board may, with the favorable vote of the Minister of Finance, and depending on the line of action which the monetary, exchange and credit situation makes advisable:

- (a) Maintain official deposits in one or more banks of the country, or keep them temporarily sterilized in the Bank of Guatemala; and,
- (b) Invest idle amounts in foreign exchange, or in foreign securities of the types mentioned in Article 77, or in national bonds or obligations, through their temporary inclusion in the Fund for the Regulation of the Bond Market, in accordance with Article 113 of this Law.

**Art. 119.** The Bank of Guatemala shall open a general cash account for the National Treasury, in which all liquid funds of the Government of the Republic shall be deposited.

Transfers of funds from this account to other secondary accounts may be made only by order of the competent officer, with the approval of the Comptroller of Accounts.

**Art. 120.** The Bank of Guatemala may take charge of the collection of public revenues, directly or indirectly, in accordance with such agreements as it may conclude with the Government of the Republic.

Such funds shall be collected for the account and at the risk of the Bank of Guatemala, and shall be deposited in the general cash account of the National Treasury.

**Art. 121.** In the execution of fiscal operations for the State, the Bank of Guatemala may use the services of one or more banks maintaining branches or agencies in the departments of the Republic.

**Art. 122.** The Bank of Guatemala shall charge for the services which it renders the State and its agencies the rates and commissions agreed upon with the respective authorities.

The Bank shall not pay interest upon Government deposits nor upon deposits of public entities.

**Art. 123.** Whenever the Government of the Republic intends to effect financial advice, any credit operation abroad, the Minister of Finance shall request the opin-

ion of the Monetary Board before deciding on the operation. Similar advice must also be requested by all official institutions for their credit operations abroad.

The advice of the Board shall be based on the gold and foreign exchange resources and obligations of the country, and on the incidence of the contemplated operation upon the balance of payments and the volume of the money supply.

Whenever the Government of the Republic or official institutions intend to contract loans within the country itself, they shall also request the previous advice of the Monetary Board, in order that the Board may communicate its opinion on the advisability of the project and coordinate its monetary and credit policy with financial and fiscal policy.

#### TITLE V. BALANCE SHEETS AND PUBLICATIONS

##### Balance sheets.

**Art. 124.** The bank shall prepare and publish within the first fifteen days of each month a general balance sheet which shall cover the position of its assets and liabilities as of the last working day of the preceding month.

##### Financial year.

**Art. 125.** The financial year of the Bank of Guatemala shall be the calendar year.

##### Annual Report.

**Art. 126.** Before May 31 of each year the Bank of Guatemala shall publish an Annual Report containing:

- (a) An analysis of the financial situation of the institution and of its operations during the past year;
- (b) A report and analysis of the monetary, financial and economic events of importance to the country; and,
- (c) The information necessary to explain the monetary, credit and exchange policy of the Bank.

##### Additional information.

**Art. 127.** The Annual Report shall include, as appendices, pertinent tables and graphs, and especially:

- (a) The monthly movement of the money supply, distinguishing between:
  - (i) Notes, coin and official and private deposits of monetary character;
  - (ii) That part of the money supply attributable to external factors, and that part which corresponds to internal monetary creation by the Bank of Guatemala and the other banks;
  - (iii) The various factors of expansion and contraction which have determined the internal monetary creation;
- (b) The final statement of the balance of payments for the past year;

the net inflow or outflow of international reserves, and the monthly movement of exchange rates;

- (c) Price indices for both the Republic and the principal foreign countries of importance to Guatemala as purchasers, sellers or competitors; and the comparative price movements of the principal national export products;
- (d) The monthly movement, in summary, of exports and imports, by volume and value;
- (e) The principal data on receipts and expenditures of the public Treasury, and on the national debt, both internal and external;
- (f) The monthly movement, in condensed form, of the accounts of the Bank of Guatemala and of the other banks, according to the groupings and classifications which the Manager of the Bank shall determine, in agreement with the Director of the Department of Economic Research and the Superintendent of Banks, and with the approval of the Monetary Board;
- (g) A list of the stabilization bonds which have matured or have been drawn during the past ten years, but have not been presented for payment; and,
- (h) The text of important legal or administrative provisions adopted during the preceding year which relate to the functions of the Bank of Guatemala.

**Art. 128.** The balance sheets, accounts and statements of the Bank of Guatemala shall be signed by the officers responsible for their preparation and, in addition, by the President and the Manager of the Bank.

**Art. 129.** The Bank of Guatemala shall publish, in periodicals having wide circulation within the country, and preferably in the Official Gazette:

- (a) The resolutions establishing or modifying the minimum rediscount rates of the Bank of Guatemala, and the maximum rates on lending and borrowing operations of the banks;
- (b) The resolutions establishing or modifying the minimum bank reserves and regulating the clearing system; and,
- (c) The measures of general character applicable to exchange and banking activities, adopted by the Bank of Guatemala under the authority conferred on it by law, for the regulation of currency, credit and exchange.

The measures referred to in this article shall become effective on the dates established for their application, which dates may never be prior to the date of their publication.

Prohibited transactions.

#### TITLE VI. GENERAL PROVISIONS

**Art. 130.** The Bank of Guatemala is forbidden to:

- (a) Rediscount, discount, buy and sell credit documents for the account of:
  - (i) The regular or alternate members of the Monetary Board, the Manager, the officers or employees of the Bank of Guatemala and their wives and minor children;
  - (ii) The President of the Republic, the Ministers of State, the secretaries of the Presidency and their wives and minor children; and,
  - (iii) The firms or companies in which the persons referred to in this section hold participation or interest, with the exception of the banking institutions operating within the country;
- (b) Grant extensions, renewals or substitutions of the credit documents acquired by the Bank, or of the advances and loans made by it, except in special cases, upon determination by the Monetary Board; in such cases the Board may extend the obligation once only, and for a period not to exceed one half of its original period. Exception shall be made for credits granted for the financing of operations of price stabilization in accordance with Article 85(e) of this Law;
- (c) Effect any operations not authorized by this Law or by the Monetary Law, except those which, though not prohibited, are compatible with its central banking character and necessary for the fulfillment of its duties and functions.

The members of the Monetary Board, officers and employees of the Bank of Guatemala who authorize, or acquiesce in, any prohibited operation shall be removed from their positions; in addition, they shall be held personally and jointly responsible for any damage or impairment their action has caused.

General exemption.

**Art. 131.** The Bank of Guatemala shall be exempt from all kinds of taxes, rates and assessments, fiscal or municipal, now in force or to be established in the future.

The preceding exemptions cover all movable or immovable property of the Bank of Guatemala, its resources, profits and income of every kind, as well as all kinds of deeds, contracts and business which it may transact; but they shall apply only to taxes for which the Bank itself is liable, and not to taxes payable by individuals who negotiate or contract with the institution.

Exemption from customs duties.

**Art. 132.** The Bank of Guatemala shall be fully exempt from customs duties for the import and export of gold and metals used in monetary coinage, and for the importation of all equipment needed for the organization, installation and functioning of its offices.

The preceding exemptions shall be subject to the procedure established by the laws of the Republic, and the importing and exporting shall be effected with complete freedom from fiscal and consular duties, as well as from any other assessments, taxes, rates and surcharges related to the import or export of merchandise, or collected by reason thereof.

Notwithstanding the exemption from import duties, the Bank of Guatemala shall give preference to national products when they can be obtained under conditions equal to those applying to imports.

**Art. 133.** Amendments to the present Law shall require for their approval the favorable vote of two thirds of the representatives composing the Congress of the Republic. Amendments.

**Art. 134.** Decree No. 67 of the Revolutionary Council of Government is hereby abrogated, together with all laws, decrees, resolutions and provisions contrary to the present Law. Abrogation of laws in conflict with present Law.

**Art. 135.** The notes issued by the Central Bank of Guatemala and the national coins which form the present monetary circulation of the Republic shall continue with their same value, and shall circulate legally as unlimited legal tender, as long as they are not legally replaced by the notes and coins issued by the Bank of Guatemala. Legal tender status of national currency.

**Art. 136.** [Repealed]

**Art. 137.** The present Law shall become effective ten days after its publication in the Official Gazette.

Nevertheless, the provisions granting attributions, powers and functions to the Bank of Guatemala and to the Monetary Board shall enter into force three days after the resolution in which the Executive Power shall declare the Bank of Guatemala to be established.

The present decree shall be sent to the Executive Power for its publication and enforcement.

*[The promulgation clause has been omitted here. The Law was promulgated on December 20, 1945.]*