

## UNOFFICIAL TRANSLATION

**ORDER TO AMEND AND SUPPLEMENT THE GENERAL PROVISIONS REFERRED TO IN ARTICLE 115 OF THE CREDIT INSTITUTIONS LAW**

I, ERNESTO JAVIER CORDERO ARROYO, Secretary of Finance and Public Credit, pursuant to the provisions of Article 31(VII) and (XXV) of the Federal Public Administration Law and Article 115 of the Credit Institutions Law; in exercise of the powers conferred upon me under Article 6 (XXXIV) of the Internal Regulations of the Secretariat of Finance and Public Credit; based on the opinion of the National Banking and Securities Commission [*Comisión Nacional Bancaria y de Valores*], [CNBV] issued via official letter number 213/RAPG-36218/2010 of June 8, 2010; and

**WHEREAS**

Over the past few years, several changes have been made to the legal framework for the prevention of transactions involving illegally obtained funds, particularly the strengthening of controls for the identification of clients and users, as well as the monitoring of transactions in foreign currency;

To supplement these measures, Mexico's financial authorities have been systematically collecting information on cash transactions conducted in United States dollars within the Mexican financial system;

An analysis of the information referred to in the paragraph above demonstrates that credit institutions in recent years have received large amounts of U.S. dollars, which may have been generated through unlawful activities and could, therefore, could pose a significant risk to the banking system;

In order to prevent the foregoing, certain credit institutions limited the purchase of cash dollars by individuals or legal entities in certain regions, cities, or branch offices in the country;

In view of this situation, the financial authorities and the credit institutions that conduct cash transactions in U.S. dollars have agreed that additional, uniform control measures applicable to such transactions must be designed and implemented, with the fundamental purpose of preventing the entry into the banking system of funds that may have been generated through unlawful activities;

In this context, the Government of Mexico decided to design a series of regulatory measures to meet the general public's need to exchange dollars for pesos while harmonizing banking policies applicable to the receipt of U.S. dollars in cash, through the establishment of certain requirements aimed at preventing transactions involving illegally obtained funds and terrorist financing;

The abovementioned measures will in no way prevent any person from acquiring the U.S. dollars in cash required to conduct activities or travel abroad, without prejudice to the rules requiring credit institutions to collect and report certain information in accordance with the amounts acquired;

Such measures will not affect the daily activities of the tourism sector, which is one of the sectors essential to the country's development;

Having heard the opinion of the National Banking and Securities Commission,

Hereby issue the following:

**ORDER TO AMEND AND SUPPLEMENT THE GENERAL PROVISIONS REFERRED TO IN ARTICLE 115 OF THE CREDIT INSTITUTIONS ACT.**

**SINGLE ARTICLE.-** The first paragraph of Provision 17; the first and penultimate paragraphs of Provision 18; Provision 51 (II); and the first paragraph of Provision 59 shall be **AMENDED**; and the following shall be **ADDED**: a final paragraph to Provision 17; a third paragraph to Provision 18; a Chapter III BIS entitled "CASH TRANSACTIONS IN U.S. DOLLARS," containing Provisions 33 Bis and 33 Ter; a Chapter IV BIS entitled "REPORTING ON CASH TRANSACTIONS IN U.S. DOLLARS," containing Provision 34 Bis; all of which are among the General Provisions referred to in Article 115 of the Credit institutions Act; to read as follows:

**17.-** Whenever a user conducts any individual foreign currency transaction using cash or travelers' checks in an amount equal to or greater than 500 U.S. dollars, or the equivalent amount in the foreign currency in question, the respective institution shall, at the time of the transaction, collect the following information and retain it in the systems referred to in Provision **51** herein. Such information shall be obtained, when appropriate, from one of the official forms of identification referred to in No. **4** of these Provisions:

**I. and II. ...**

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With respect to the transactions referred to in the first paragraph of No. **33 Ter** herein, institutions shall be subject solely to the penultimate paragraph of that Provision.

**18.-** Institutions shall establish mechanisms to monitor and, if appropriate, aggregate the individual foreign currency transactions made by their clients or users with cash or travelers' checks, in amounts equal to or greater than 500 U.S. dollars, or the foreign currency equivalent.

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Institutions shall monitor and aggregate all of the transactions made by their clients or users that are referred to in **33 Bis** and **33 Ter** herein, regardless of their amount.

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Institutions shall establish multi-level internal approval mechanisms for the receipt of foreign currency in cash at their branch offices in amounts greater than the equivalent of 10,000 U.S. dollars or, in national currency, amounts greater than 300,000 pesos, for individual transactions involving the purchase of currency, receipt of deposits, receipt of payment for loans or services, or transfers or remittances of funds on behalf of their individual clients or users. Institutions shall establish the same mechanisms for the receipt of foreign currency in cash from clients or users that are legal entities, or through trusts, in amounts greater than the equivalent of 50,000 U.S. dollars or, in national currency, in amounts greater than 500,000 pesos, for the execution of the aforementioned transactions.

### **CHAPTER III BIS CASH TRANSACTIONS IN U.S. DOLLARS**

**33 Bis.-** Institutions shall not receive U.S. dollars in cash from their individual clients for transactions involving the purchase of currency, receipt of deposits, receipt of payment for loans or services, or transfers or remittances of funds, in a total amount greater than 4,000 U.S. dollars per client per calendar month.

Institutions shall not receive U.S. dollars in cash from clients that are legal entities, or through trusts, transactions involving the purchase of currency, receipt of deposits, receipt of payment for loans or services, or transfers or remittances of funds, except for:

- I.** Clients that are legal entities domiciled and with their principal places of business in municipalities located in tourist regions that receive high levels of foreign tourism and whose economic activity is highly dependent on revenues from such tourism, or in towns located within twenty-kilometer from Mexico's northern international border or in the states of Baja California or Baja California Sur. In such cases, institutions may only receive U.S. dollars in cash for a total amount of up to 7,000 U.S. dollars per client per calendar month.

Institutions may receive the foreign currency referred to in this subsection only at the branches located in the aforementioned regions, municipalities, and states.

The Secretariat shall provide notice, through publication in the appropriate media, of the places to be considered tourist areas for purposes of this subsection.

- II.** Clients who are the diplomatic or consular representatives of foreign governments, international organizations, and similar institutions, or of government agencies responsible for managing and disposing of assets that have

been impounded, seized, forfeited through abandonment procedures, or otherwise forfeited under the applicable legal proceedings, and

**III.** Other Institutions when acting on their own behalf.

Institutions may receive U.S. dollars in cash from their clients for the purposes set forth in this Provision, provided that they have the respective client identification file with all of the information and documents indicated in number **4** of these Provisions, without prejudice to the other obligations established herein. Otherwise, the institutions shall adhere to No. **33 Ter** of these Provisions as it applies to users.

**33 Ter.-** Institutions shall not receive U.S. dollars in cash from individual users for daily individual transactions involving the purchase of currency and receipt of payment for services, or transfers or remittances of funds in a total amount greater than 300 U.S. dollars per user.

Transactions conducted by individual users who are foreign nationals shall not be subject to the daily limit set forth in the preceding paragraph. In such case, institutions shall collect and retain a copy of the passport verifying the person's nationality and, if the person has one, the official document issued by the National Immigration Service [*Instituto Nacional de Migración*] verifying his admission or lawful presence in the country.

In any case, institutions shall not receive U.S. dollars in cash from individual users for transactions involving the purchase of currency and receipt of payment for services, or transfers or remittances of funds in a total amount greater than 1,500 U.S. dollars per user per calendar month.

When receiving U.S. dollars in cash from individual users for the purposes provided in the preceding paragraphs, institutions shall collect the information specified in No. **17(I)** of these Provisions and retain this information in the systems referred to in No. **51** herein; they shall also collect:

- I.** In the case of national individual users, a copy of the person's passport, voter registration card, or consular registration certificate, and
- II.** In the case of individual users who are foreign nationals, a copy of the passport verifying the person's nationality and, if the person has one, the official document issued by the National Immigration Service verifying his admission or lawful presence in the country.

Institutions shall abide by the provisions of the previous paragraph regardless of the amount of U.S. dollars in cash they receive.

Institutions shall not receive U.S. dollars in cash from users that are legal entities, or on behalf of trusts, for transactions involving the purchase of currency and receipt of payment for services, or transfers or remittances of funds.

## **CHAPTER IV BIS REPORTS ON CASH TRANSACTIONS IN U.S. DOLLARS**

**34 Bis.-** Institutions shall submit to the Secretariat, through the CNBV, within the first ten business days of January, April, July, and October of each year, a report of every transaction involving the purchase of currency, receipt of deposits, receipt of payment for loans or services, or transfer or remittance of funds conducted in cash with U.S. dollars, in accordance with the following:

- I.** In the case of clients, in an amount equal to or greater than 500 U.S. dollars, and
- II.** In the case of users, in an amount equal to or greater than 200 U.S. dollars.

Institutions shall submit the information referred to in this Provision electronically using the official form issued by the Secretariat for such purposes.

Institutions that have not conducted any of the transactions referred to in this Provision during the quarter in question shall so report using the official form and providing only the identifying information of the institution and the period for which it is reporting.

To facilitate the filing of the reports referred to in this Provision, the CNBV, at the request of the institutions, may determine the order to be followed by the institutions, within the time period set forth in this Provision.

Institutions shall not be required to submit the report described in No. **34** herein for any of transactions referred to in this Provision for an amount equal to or greater than 10,000 U.S. dollars.

**51.-** ...

**I.** ...

- II.** Produce, encode, encrypt, and transmit securely to the Secretariat, through the CNBV, information relating to the reports on relevant transactions, the cash transaction in U.S. dollars contemplated in **34 Bis** of these Provisions, unusual transactions, suspicious domestic transactions, and the international transfers of funds referred to in these Provisions, along with the information that must be reported to the Secretariat or the CNBV, under the terms and in accordance with the time periods set forth herein;

**III. to X.** ...

**59.-** Every institution shall retain, for a period of at least ten years from the transaction date, copies of all of the reports of relevant transactions, the cash transaction in U.S. dollars contemplated in **34 Bis** of these Provisions, unusual transactions,

suspicious domestic transactions, and international transfers of funds referred to herein, as well as the original or copy or accounting or financial record of all of the supporting documentation, which shall be identified as such and retained by the institution for the same period of time. The proof of filing of the reports submitted pursuant to these Provisions, as well as the records of the transactions, shall state the manner and terms under which the transactions were executed, in accordance with the applicable legal provisions.

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### **TRANSITIONAL PROVISIONS**

**One.-** This order shall enter into force four business days after its publication in the Official Gazette of Mexico, except as provided in transitional Article **Two** below.

**Two.-** The obligations referred to in Provisions **18**, paragraph three and **33 Bis**, paragraphs two and three, concerning transactions carried out between institutions and clients that are legal entities or through trusts, as well as the obligations referred to in Provision **34 Bis**, shall enter into force ninety calendar days after the publication of this Order in the Official Gazette of Mexico.

Accordingly, the first report on cash transactions in U.S. dollars referred to in Provision **34 Bis** must be filed in October 2010.

**Three.-** From the date on which this Order enters into force through the end of the period stipulated in transitional Article **Two**, institutions shall comply with the following:

Institutions shall collect and retain the following documents in the case of clients that are legal entities that conduct transactions involving the purchase of currency, receipt of deposits, receipt of payment for loans or services, or transfers or remittances of funds in cash in an amount equal to or greater than 7,000 U.S. dollars:

- I.** Description of the activity whereby the client obtained the bills or coins used in the transactions he intends to conduct at the institution, including the date of its performance, the amount, and the type of counterpart, and
- II.** Copy of the statement the client filed with the Tax Administration Service [*Servicio de Administración Tributaria*] [SAT], in the case that the act resulting in the payment or delivery of the bills or coins referred to in the previous subsection corresponds to any of the provisions of Articles 86 (XIX), 97 (VI), 145 (V), or 154 Ter of the Income Tax Law, if the cash transactions included in such statement have already been reported to the tax authority.

For cash transactions for which the client has not filed the statement with the Tax Administration Service referred to in the paragraph above, because the filing deadline has not yet passed, institutions shall obtain the copy of said statement at a later date so that it may be included in the corresponding file.

**Four.-** This Order shall be published in the Official Gazette of Mexico.

Mexico City, 15 June 2010. –

**SECRETARY**

**ERNESTO JAVIER CORDERO ARROYA**