

# *Republic of Panama*

## *Superintendency of Banks*

**Agreement No. 004-2008**  
(of July 24, 2008)

“Whereby Agreement No. 9-2006 of November 2006 is rescinded and new provisions are prescribed for the observance of the legal liquidity index”

**THE BOARD OF DIRECTORS**  
using its legal authority, and

### **WHEREAS:**

Decree Law 9 of February 26, 1998 was modified by Decree Law 2 of February 22, 2008, and was ordered by way of a Single Text, hereinafter the Banking Law;

Pursuant to Article 73 of the Banking Law, all General License and International License Banks whose home country supervisor is the Superintendency of Banks, must at all times keep a minimum balance of liquid assets equivalent to the total gross percentage of their deposits in Panama or abroad, which the Superintendency of Banks sets periodically;

Pursuant to Numeral 10 of Article 75 of the Banking Law, the Superintendency is authorized to stipulate additional liquid assets authorized to set the liquidity index;

Due to the characteristics of Panama’s banking system, with the absence of a Central Bank and any scheme to protect deposits or last instance lenders, the adequate management of liquidity risk is the main technical defense of the system;

In work sessions of this Board of Directors with the Superintendent of Banks, the need and convenience of stipulating new conditions regarding the legal liquidity index and the sound and coherent management of liquidity risk has been made evident.

The Board of Directors must set, in the administrative realm, the interpretation and scope of the legal provisions in banking matters for the aforementioned purposes.

### **AGREES:**

**ARTICLE 1. LIQUIDITY RISK MANAGEMENT.** All General License and International License Banks whose home country supervisor is the Superintendency of Banks must have policies, procedures and control systems to carry out in an effective way the liquidity risk management.

**ARTICLE 2. RESPONSIBILITIES OF THE BOARD OF DIRECTORS.** The Board of Directors of each Bank subject to this Agreement must:

1. Set policies and strategies for the daily management of liquidity, which must be notified and implemented effectively, from the Board of Directors up to the executive levels with responsibilities of decision-making and management of the different banking risks.
2. Make sure that the General Management Office takes the actions needed to monitor and control liquidity risk, as well as to report regularly to the Board of Directors on the Bank’s liquidity situation, and immediately if there exists a material change in the liquidity position

that derives in a substantial risk for the Bank. The reports submitted to the Board of Directors must be available to the Superintendency of Banks.

3. Stipulate a process for the continuous measurement and monitoring of the net fund requirements.
4. Make sure that the General Management Office periodically reexamines its efforts to stipulate and maintain relations with the creditors, so as to maintain the diversification of liabilities, thus avoiding and limiting the concentration risk in the source of funds, as well as ensuring its capacity to sell resources.
5. Have contingency plans that delineate the strategy to manage potential liquidity requirements that include procedures to face cash flow deficit in emergency situations.

**ARTICLE 3. LIQUIDITY RISK ASSESSMENT MANUAL.** Any Bank subject to this Agreement must have a Manual that details the policies and procedures customized to the structure and intricacy of its operations, approved by its Board of Directors, which must at least contain the following:

1. It will define the administrative structure that effectively executes the liquidity strategy. This structure must include the continuous participation of the members of Management, which must ensure that liquidity is handled effectively and that appropriate policies and procedures to monitor and limit liquidity risk are stipulated. The Banks must set limits for their liquidity positions in particular timelines and revise them regularly.
2. Information system models adequate to measure, follow-up, monitor and report the liquidity risk. When preparing the models the following must be contemplated, among other things:
  - a. the structure of asset and liability maturity
  - b. customer deposit volatility
  - c. variety of scenarios and assumptions for the stress test, frequently reviewing the assumptions used in managing liquidity to determine if they are still valid.

The system must allow performing:

- a. periodic analyses of the fund source diversification
  - b. periodic revisions of concentration limits and the underlying bases of said limits
  - c. analysis on the impact that other risks may have (credit, market and operation risks) in the Bank's liquidity strategy.
3. Having internal control systems adequate for its liquidity risk management process. A fundamental component of the internal control system involves independent periodic reviews and assessments of the effectiveness of the system and, whenever necessary, making sure that the appropriate revisions or enhancements are made to the internal control.
4. Having policies and contingency plans.

The reports issued must be delivered periodically to the Board of Directors, to the General Management Office and to the executive levels with responsibilities of decision-making and management of the different banking risks.

**ARTICLE 4. LEGAL LIQUIDITY INDEX.** For the purposes of Article 73 of the Banking Law, the minimum legal liquidity index that General License and International License Banks must keep at all times is set at THIRTY PERCENT (30%).

Nevertheless, said index will be TWENTY PERCENT (20%) for banking entities that keep an interbank deposit quarterly average greater than EIGHTY PERCENT (80%) of their total deposits.

**ARTICLE 5. ACCEPTABLE BANKS ABROAD.** For the purposes of Numeral 5 of Article 75 of the Banking Law, the banks abroad that have a long-term international rating of at least BBB-/Baa3 will be accepted, as well as those that have a short-term international rating of at least A-3/P-3, issued by a renowned risk rating agency.

**ARTICLE 6. DEBENTURES ISSUED BY FOREIGN GOVERNMENTS.** For the purposes of Numeral 6 of Article 75 of the Banking Law, the debt certificates issued by foreign governments traded actively in international markets in currencies acceptable to the Superintendency will be accepted pursuant to what is stipulated in the following weight table of the issuer's risk rating:

Rating	Weight
From AAA+ to BBB-	100%
BB+	50%
BB	40%
BB-	20%
B+	10%
B	5%
Below these ratings and unrated	0%

All foreign government debentures must be periodically quoted in a public market. For the purposes of this Article, periodicity is defined when the instrument has estimates based on cash transactions and that trades at least 80% of the working days corresponding to the previous year.

**ARTICLE 7. DEBENTURES ISSUED BY INTERNATIONAL FINANCIAL ORGANIZATIONS.** For the purposes of Numeral 6 of Article 75 of the Banking Law, debentures issued by multilateral financial organizations whereof the Republic of Panama is a member are accepted as liquid assets.

**ARTICLE 8. DEBENTURES ISSUED BY PRIVATE AND GOVERNMENT FOREIGN AGENCIES.** For the purposes of Numeral 7 of Article 75 of the Banking Law, securities guaranteed by housing mortgage loans are accepted as liquid assets, when issued by private and government foreign agencies with a long-term international rating of no less than AAA/Aaa, which would enable the investor to receive a pro-rated participation of all cash flows generated by a mortgage package.

The securities must meet the following conditions:

- a. Having a long-term international risk rating of no less than AAA/Aaa or a short-term international risk rating of no less than A-1/P-1, or their equivalents;
- b. They are payable in United States dollars or in any other freely convertible and transferable currency, in the Superintendency's judgment; and
- c. They are the object of periodic estimates in an organized securities market.

**ARTICLE 9. LIMIT FOR DEBENTURE DOWN PAYMENTS PAYABLE WITHIN ONE HUNDRED EIGHTY SIX (186) DAYS.** For the purposes of Numeral 9 of Article 75 of the Banking Law, no more than fifty percent (50%) of the liquid assets used for calculating the liquidity index may consist of debenture payments (meaning loan debentures) payable within one hundred eighty six (186) calendar days after the liquidity report, which must be rated in the Standard category, pursuant to the Agreement on loan rating.

The percentage to which the previous paragraph refers will be reviewed twice a year by the Board of Directors of the Superintendency of Banks during the months of July and January of

each year. Variations to the stipulated percentage will be announced through a General Resolution of the Board of Directors.

**ARTICLE 10. OTHER AUTHORIZED LIQUID ASSETS.** Pursuant to Numeral 10 of Article 75 of the Banking Law, the following will be deemed as liquid assets, as long as they are exempt of any encumbrance or lien and they are freely transferable:

1. Debentures of Panamanian Private Law firms, at their market value, that comply with the following conditions:
  - a. They mature in not more than one hundred eighty six (186) days, counted from the liquidity report;
  - b. They are payable in United States dollars or in any other freely convertible and transferable currency, in the Superintendency's judgment; and
  - c. They are the object of periodic estimates in an organized securities market.
2. Debentures of foreign Private Law firms, at their market value, that comply with the following conditions:
  - a. They have a long-term international risk rating in foreign currency of at least BB+/Ba1 or a short-term rating of at least B/NP, or their equivalents;
  - b. They are payable in United States dollars or in any other freely convertible and transferable currency, in the Superintendency's judgment; and
  - c. They are the object of periodic estimates in an organized securities market.
3. Debentures of Panamanian Private Law firms, payable in Panama when requested or in a term, guaranteed by Banks established abroad with investment grade, as long as the issuing companies and the guarantor bank are not part of the same Economic Group.
4. Debentures issued by the Government of the Republic of Panama, at their market value, that comply with the following conditions:
  - a. They are payable in United States dollars or in any other freely convertible and transferable currency, in the Superintendency's judgment; and
  - b. They must be the object of periodic public estimates in an active buying market.
5. Debentures of Panamanian Public Law entities whose long-term risk rating is no less than the Republic of Panama's risk rating, or its equivalents and expressed in United States dollars or in any other freely convertible and transferable currency, in the Superintendency's judgment. These debentures must be considered at their market value, and they must be the object of periodic public estimates in an active buying market.

**PROVISO: PERCENTAGE OF OTHER LIQUID ASSETS AUTHORIZED IN THE LEGAL LIQUIDITY INDEX.** Up to fifty percent (50%) of the minimum legal liquidity index can consist of the assets described in this Article.

**ARTICLE 11. LIEN-FREE ASSETS ALLOWED.** For the purposes of calculating legal liquidity, the allowed assets detailed in the previous articles must be free of liens.

**ARTICLE 12. BANK DEBENTURES PAYABLE IN PANAMA.** As pertains to Numeral 3 of Article 75 of the Banking Law and Numeral 3 of Article 10 of this Agreement, a bank debenture is deemed to be payable in Panama if it is subject to the Panamanian Law, regardless of the place where the payment is made effective.

**ARTICLE 13. MARKET VALUE.** The posting of the debentures to which Article 75 of the single text of the Banking Law and this Agreement refer, must be done in the weekly liquidity

report stipulated by this Superintendency at market value, using the market value of the last working day of the week being reported.

**ARTICLE 14. PERCENTAGE OF LIQUID ASSETS IN CASH.** In the cases he or she deems it convenient, the Superintendent can specify to a particular bank a percentage of the minimum legal liquidity index which must consist of cash, kept under the bank's control, in United States dollars or in any other freely convertible and transferable currency, in the Superintendency's judgment.

**ARTICLE 15. PLACEMENTS IN BANKS OF THE SAME ECONOMIC GROUP OR THE SAME MARKETPLACE.** In the cases he or she deems it convenient, the Superintendent may set for a particular Bank a maximum percentage of placements that it may maintain in banks of its same Economic Group or of the same banking market.

**ARTICLE 16. COMPUTABLE DEPOSITS.** For the purposes of the minimum legal liquidity index requirement, the following deposits will be calculated:

1. On-sight deposits;
2. Savings deposits;
3. Time deposits that mature in not more than one hundred eighty six (186) days, counted from the liquidity report, except for the portion that guarantees loans in the Bank itself and for the secured balance outstanding as of the date of the report.

The deposits received from their parent bank or from a branch, subsidiary or affiliated company abroad will be excluded from the database. For the purposes of this Article, an "affiliate" is understood as any of the following legal persons related to the Bank:

1. Corporation of which the Bank, individually owns at least FIFTY ONE PERCENT (51%) of the circulating stocks; or
2. Corporation that individually owns at least FIFTY ONE PERCENT (51%) of the bank's stocks; or
3. Corporation of which the Bank, individually has the participation or the votes needed in that corporation to choose, on its own, most of that corporation's directors, or to appoint the Legal Representative or General Attorney-in-Fact or the highest level Executive of that corporation, or to veto contrary decisions in these matters; or
4. Corporation that individually has the participation or the votes needed in the bank to choose, on its own, most of the bank's directors, or to appoint the Legal Representative or General Attorney-in-Fact or its highest level Executive, or to veto contrary decisions in these matters.

**ARTICLE 17. CALCULATION PERIODICITY OF THE LEGAL LIQUIDITY INDEX.** The legal liquidity index will be calculated at the end of each week and the submission of the legal liquidity report will comply with the procedure stipulated by the Superintendency.

Nevertheless, when the risk profile of the Bank advises it, the Superintendent may require from a particular Bank a calculation and submission of the legal liquidity index report with a different periodicity.

**ARTICLE 18. FINES.** The infringements of the provisions on liquidity stipulated in the Banking Law and in this Agreement, as well as the non-compliance due to delay in submitting liquidity reports and the incorrect submission thereof, will be subject to the provisions contained in Article 185 of the Banking Law.

**ARTICLE 19. INTERNATIONAL RISK RATING.** For the purposes of international risk ratings of the foreign currency instruments to which this Article refers, those described in Annex 1 will be used, following as reference the nomenclature of the agencies *Standard & Poors* and *Moody's and Fitch*.

**ARTICLE 20. RELATION BETWEEN ASSETS AND LOCAL DEPOSITS.** For the purposes of Article 78 of the Banking Law, only the General License Banks will be obliged to keep assets in Panama equivalent to eighty five percent (85%) of their local deposits.

**ARTICLE 21. RISK MANAGEMENT AND LIQUIDITY IN INTERNATIONAL LICENSE BANKS.** All International License Banks upon whom the Superintendency of Banks of Panama exercises the host country supervision, must have policies, procedures and control systems that ensure an effective liquidity risk management. Furthermore, they must comply with the regulations stipulated by their home country supervisor for monitoring liquidity risk.

The Banks must comply with the submission of the liquidity report pursuant to the procedures stipulated by the Superintendency of Banks of Panama.

**ARTICLE 22.** The Superintendent may temporally suspend the acceptance of the debentures to which articles 6, 7 and 8 of this Agreement refer when, in his or her criterion, there exist unfavorable market conditions that so advise it.

**ARTICLE 23.** This Agreement fully subrogates Agreement No. 9-2006 of December 2006.

**ARTICLE 24. EFFECT.** This Agreement will be in force starting on January 1, 2009.

Given in the city of Panama, on the twenty fourth (24) day of the month of July, two thousand eight (2008).

**TO BE PUBLISHED AND FULFILLED.**

**THE CHAIRMAN,**

**THE SECRETARY,**

Felix B. Maduro

Jorge Altamirano M.

**ANNEX 1**

**LONG-TERM INVESTMENT GRADE CATEGORIES**

<b>MOODY'S</b>	Aaa	Aa1	Aa2	Aa3	A1	A2	A3	Baa1	Baa2	Baa3
<b>STANDARD &amp; POORS</b>	AA A	AA +	AA	AA-	A+	A	A-	BBB+	BBB	BBB-
<b>FITCH</b>	AA A	AA +	AA	AA-	A+	A	A-	BBB+	BBB	BBB-

**LONG-TERM NON-INVESTMENT GRADE CATEGORIES**

<b>MOODY'S</b>	Ba1	Ba2	Ba3	B1	B2	B3		Caa1	Caa2	Caa3	Ca	C
<b>STANDARD &amp; POORS</b>	BB+	BB	BB-	B+	B	B -	CCC+	CCC	CCC-	CC	C	D
<b>FITCH</b>	BB+	BB	BB-	B+	B	B -	CCC+	CCC	CCC-	CC	C	D

## ANNEX 2

### SHORT-TERM INVESTMENT GRADE CATEGORIES

<b>MOODY'S</b>	P-1	P-2	P-3
<b>STANDARD &amp; POORS</b>	A-1+ A-1	A-2	A-3
<b>FITCH</b>	F-1+ F-1	F-2	F-3

### SHORT-TERM NON-INVESTMENT GRADE CATEGORIES

<b>MOODY'S</b>		NP	
<b>STANDARD &amp; POORS</b>	B B-1, B-2, B-3	C	D
<b>FITCH</b>	B	C	D