

SECRETARIAT OF THE MONETARY BOARD

Guatemala,

December 9, 2005

JM-166-2005

RESOLUTION JM-166-2005

Insert Fifth Point of Act 51-2005, corresponding to session celebrated by the Monetary Board of November 30, 2005.

FIFTH POINT: Request of the Monetary Board for the approval of the Gross Settlement System in Real Time LBTR (for its acronym in Spanish).

RESOLUTION JM-166-2005. Having heard Decision CT-18/2005 dated October 25, 2005, of the Accounting, Computer, Internal Auditing and Juridical Advisory Departments of the *Banco de Guatemala*, through where the Gross Settlement System in Real Time LBTR (for its acronym in Spanish) was presented for consideration to the Board; and, **WHEREAS:** That in article 4, clause c) of Decree Number 16-2002 of the Congress of the Republic, Organic Law of the *Banco de Guatemala*, establishes that the Central Bank has as one of its functions making sure of the good operation of the payment system; also, in article 26, clause m), of the mentioned Law, declares that this Board will have the attribution of approving the decisions, norms or legal instruments that are submitted to consideration by the Superintendence of Banks or, in this case, the *Banco de Guatemala*; **WHEREAS:** That this Board in Resolution JM-140-2004, of November 17, 2004, among other matters, approved the Matrix for the Modernization of the Payment System, where it establishes that for the strengthening of the normative framework of the payment system it is necessary to count on a legal basis and regulation, founded on the basic principles for payment systems of systemic importance, issued by the Bank of International Settlements, that contribute to the efficiency and transparency of the financial operations made in said system and that in the referred matrix the elaboration of a Regulation for the Gross Settlement System in Real Time was foreseen, with the purpose of regulating the operation of the transactions that are made in said system; **WHEREAS:** That with the purpose that the recipients of the regulation as well as the entities that will legally be in charge of the application of the same count on the theoretical elements that offer juridical certainty, without leaving its content to diverse interpretations, in the referred regulation a more ample manner of definitions is contemplated with the articles; **WHEREAS:** That the proposed regulation contemplates that the Gross Settlement System in Real Time will work under the administration of the *Banco de Guatemala*, according to the foreseen in its organic law, in so much as the Central Bank has the function of making sure of the correct operation of the payment system; **WHEREAS:** That as the administrator of the Gross

Settlement System in Real Time the following attributions will be assigned to the Central Bank regarding the elaboration of the manuals of norms and procedures and the publication of the administrative dispositions that the participants must observe, as well as the setting of operation schedules and of the commission of services that would be given to the participants in said system; WHEREAS: That Chapter III PARTICIPATION of the referred regulation establishes that the participants in the LBTR can be, besides the *Banco de Guatemala*, the banking entities and public entities that have deposit accounts in the Central Bank, as well as other entities expressly authorized that constitute a special settlement account in the *Banco de Guatemala*, who can settle operations that are made in the current negotiation and clearing systems; as well as, specifically regulating the obligations of said participants; the responsibility that they will have in the authorization of users and in their operations; the temporary suspension that they would be the object of; the loss of said quality; and, their voluntary retirement from the system; WHEREAS: That in Chapter IV OPERATION specific aspects regarding settlement operations are regulated; from the nature of the operations that could be made in the Gross Settlement System in Real Time; the state in which made operations are found (pending, cancelled, complete, deferred and future), derived of the operative process of it; to the irrevocability and reversal of the operations; as well as, to the non-repudiation of them; WHEREAS: That in the regulation of the aspects regarded as relevant within the Gross Settlement System in Real Time are regulated such as the Queue administration; technological aspects; technology security and contingencies, and, the final decisions; WHEREAS: That the regulation contemplates that the *Banco de Guatemala* will allow participating banking institutions in the Gross Settlement System in Real Time, that request it, to have access to the Intra-day Settlement Facility, with the objective of facilitating the settlement of its operations; WHEREAS: That the Facility of Intra-day Settlement will be administrated by the Central Bank and will be granted by means of a repurchase-agreement contract celebration, through an electronic message generated in the system, acquiring for the effect values titles in national currency as in foreign currency, issued by the government of the Republic of Guatemala or by the *Banco de Guatemala* and that can also be granted on delivery on behalf of the requesting bank, of term deposit certificates in national currency as well as in foreign currency, issued by the Central Bank;

THEREFORE:

Based on the considered, in the decided in articles 132 and 133 of the Political Constitution of the Republic of Guatemala; article 4, clause c), and 26, clause m), of Decree Number 16-2002 of the Congress of the Republic, Organic Law of the *Banco de Guatemala*, as well as taking into account Decision CT-18/2005 of the Accounting, Computer, Internal Auditing and Juridical Advisory Departments of the *Banco de Guatemala* Technical Council of the *Banco de Guatemala*, and in the opinion of its members.

**THE MONETARY BOARD
RESOLVES:**

1. Approval, according to the annex of the present resolution, the Regulation of the Gross Settlement System in Real Time -LBTR-.
2. Authorize the Secretariat of this Board to publish the present resolution, which will be enforced as of the date of publication.

Armando Felipe García Salas Alvarado
Secretary
Monetary Board