Exhibit RWS-008

Statement of Dr. Manuel Monteagudo,
January 30, 2012

UNDER THE RULES OF THE INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Renée Rose Levy de Levi,
(Claimant)

v.

Republic of Peru,
(Respondent)

ICSID Case No. ARB/10/17

Declaration of Manuel Monteagudo Valdez
Central Reserve Bank [*Banco Central de Reserva*]

1. My name is Manuel Monteagudo. I currently serve as Legal Department Manager of the Central Reserve Bank of Peru [Banco Central de Reserva del Perú (BCRP)], a responsibility I assumed in 1994 and which I interrupted between 1998 and 2001 for my doctoral studies. I went to work at the Bank in April 1984. Previously I held positions as Assistant General Counsel and Secretary of the BCRP.

2. I obtained my law degree from the Pontifical Catholic University of Peru [*Pontificia Universidad Católica del Perú*] (1987), my Master of Laws degree from the University of Houston, Texas (1991), and my Doctor of Laws degree from the University of Paris 1, Panthéon, Sorbonne (2004).

3. I am also Professor of International Economic Law at the Pontifical Catholic University of Peru and have published several articles and papers related to international monetary and financial issues. My doctoral thesis, approved with the highest rating, is titled *La Independencia de la Banca Central-aspectos jurídicos* [Central Bank Independence: Legal Aspects], and its Spanish version was published in January 2011 (published by the Central Reserve Bank of Peru, the Institute of Peruvian Studies [*Instituto de Estudios*

Peruanos] and Pacific University [*Universidad del Pacífico*] 2010). Among my publications are *Peru's Experience in Sovereign Debt Management and Litigation: Some Lessons for the Legal Approach to Sovereign Indebtedness,* Law & Contemporary Problems (Vol. 73, 2010), Duke Law; *Neutrality of Money and Central Bank Independence* in International Monetary and Financial Law: The Global Crisis (Oxford University Press, 2010); *Construcción europea y liberalización económica en América Latina: desafíos comunes en la evolución del Derecho internacional económico* [*European Construction and Economic Liberalization in Latin America: Common Challenges in the Evolution of International Economic Law*] Cuadernos europeos de Deusto, No. 43 (Spain, 2010); and *The debt problem – the Baker plan and the Brady Initiative: A Latin American Perspective,* 28 International Lawyer, Spring 1994 (the work also published by the Academy of International Law at the Hague). I have represented the Central Bank at various academic and social forums, including participating in the National Agreement [*Acuerdo Nacional*] working group which drafted the text of the Medium Term Pact for Investment and Decent Work [*Pacto de mediano plazo por la inversión y el empleo digno*] (2004).

4. I am a member of the Bar Association of Lima (1987), the Committee on International Monetary Law of the International Law Association, MOCOMILA (2008), the Society of International Economic Law, SIEL (2010), and the Executive Board of the Latin American Network of SIEL (2011).

5. At the request of Mrs. Reneé Rose Levi's defense team in the international claim before the ICSID—Case No. ARB.11/17—Dr. Albert Forsyth issued a legal opinion on: (i) the legal framework of the banking system in effect in Peru from 2000 to date, and (ii) certain actions taken by the Office of the Superintendent of Banking, Insurance, and Private Pension Funds [*Superintendencia de Banca, Seguros y Administradoras Privadas de Fondo*

de Pensiones SBS] and the Central Reserve Bank of Peru ("BCR"), in relation to the intervention on, dissolution, and liquidation of, Banco Nuevo Mundo. In fact, Claimant's legal expert, Dr. Albert Forsyth, often quoted my publications in his report. Nevertheless, the aforementioned expert came to wrong conclusions on the basis of my academic work.

6. We shall discuss below the most relevant aspects of that legal opinion in relation to decisions and operations of the BCR and in this declaration I shall explain why the analysis of Dr. Forsyth on the BCR and its role in the financial system is inaccurate. First, I shall give my opinion on the general considerations contained within his opinion. After that I shall refer to specific points mentioned by Dr. Forsyth which are incorrect. As lawyer and Legal Department Manager of the BCR for 14 years, it is my opinion that the declaration of Dr. Forsyth does not accurately describe the legal and constitutional powers and responsibilities of the BCR.

I. GENERAL CONSIDERATIONS

1. Dr. Forsyth misinterprets the Constitution and the Law on general economic and financial considerations

7. As a guiding framework for the interpretation of the Peruvian constitutional, legal, and regulatory norms in relation to monetary and financial matters, Dr. Forsyth posits a series of *economic* principles on the action of the Central Bank, which, as we will explain, have no equivalent in any Peruvian laws. Thus, in paragraph 107 he states that "*before moving on to review our legislation the precise meaning of the definition of the lender of last resort should be clarified so that the exact content of the constitutional mandate contained in Article 84 of the Constitution can be determined, and eventually this role can be compared with the one expressly provided for in the Organic Law of the Central Reserve Bank of Peru* [*Ley Orgánica del Banco Central de Reserva del Perú* LOBCR]."

8. As I will explain below, the approach of Forsyth in introducing the concept of "lender of last resort" (based on an economic perspective), which is not recorded or defined under Peruvian law, leads him to incorrectly interpret the role and the responsibilities of the BCR. The Constitution and the LOBCR clearly define the precise role of the BCR as a regulator of the country's monetary policy. In accordance with the law, the responsibilities of the BCR do not include guaranteeing savings or providing crisis management during periods of financial instability. Accordingly, and as I can assure you from my twenty-seven years of experience working at the BCR, the findings of Forsyth on the obligations of the BCR to provide emergency liquidity to banks such as BNM have no foundation whatsoever.

2. Dr. Forsyth confers on the BCR the role of lender of last resort as a guarantor of the people's savings, which is not provided for in the legislation

9. Under this methodology, Dr. Forsyth relies on the opinion of a foreign economist, Luis Alberto Giorgio, who does not analyze Peruvian law but rather refers to general theoretical issues concerning central banking, noting that this institution has a responsibility to assume the role of *lender of last resort* which consists in "*proclaiming that the Central Bank is prepared to proceed in that capacity without limit when circumstances warrant, i.e., the monetary authority unreservedly makes a commitment and at high interest rates in times of panic, "unreservedly" so that banks can meet the demand for cash from their customers and avoid panic among their customers...*" (paragraph 108).

10. Furthermore, Dr. Forsyth associated the alleged role of the BCR as *a lender of last resort when there is a crisis or financial panic*, with Article 87 of the Constitution which provides that the *State promotes and guarantees saving*. According to Dr. Forsyth, the Central Bank has a responsibility, together with the SBS and the government, to guarantee public savings through the function of *lender of last resort*. He notes that "*the Constitution is clear that the guarantee of savings (and hence the solvency of the institutions that manage*

them) is not the responsibility of a single Peruvian State entity, but of the Peruvian State as a whole," based on a constitutional ruling which refers to cooperation between the BCR and the SBS (paragraph 126). Dr. Forsyth fails to specify that the Constitutional Court's ruling refers to a context that is completely different from that which applies in the instant case.[1]

11. Thus, Dr. Forsyth's analysis does not adequately take into account the broad meaning of Peruvian law, which assigns the BCR and the SBS very different roles and responsibilities in the regulation of the Peruvian economy. After concluding incorrectly that the BCR shares with the SBS the responsibility for protecting savings, Forsyth also assumes—without any legal basis—that the tools available to the BCR to regulate monetary policy should be used more broadly and with greater flexibility to protect savings during financial crises. As we will explain, this interpretation is incorrect. The BCR has only one constitutional purpose and the tools at its disposal to regulate monetary policy should always be used pursuant to, and in strict compliance with, the LOBCR and the regulations under the BCR.

3. Dr. Forsyth has come to a wrong conclusion that as a lender of last resort the BCR must be flexible in granting loans in cases of financial panic

12. On the basis of an alleged *constitutional* responsibility to guarantee public savings, Dr. Forsyth concludes that the loans that the BCR grants to financial institutions affected by financial difficulties should be subject to a flexible regime and therefore, according to Dr. Forsyth, "*the BCR in its role as lender of last resort in cases of liquidity crisis should have applied the aforementioned regulations in a more flexible manner (sic)...*" (paragraph 191), "*...In an extraordinary case as was the BNM matter the BCR had the option*

[1] Case 0005-2005-CC/TC concerns the petition alleging conflict of jurisdiction brought in August 2005 by the Central Reserve Bank of Peru (BCR) against the Office of Superintendent of Banking, Insurance and Private Administrators of Pension Funds (SBS), seeking a declaration that it has jurisdiction to issue preparatory opinions in proceedings before the SBS for the purpose of authorizing the conversion of the branch of a company in the financial system abroad into a company incorporated in Peru.

of a legal and regulatory action to save the BNM from intervention, and the constitutional mandate to do so. Unfortunately it did not do this, and gave no reasons for coming to this decision, or at least, did not provide sufficient justification for it" (Paragraph 192).

13. Dr. Forsyth, however, provides no legal basis for his conclusions. There is, and can be, no provision in the Constitution or in the LOBCR that empowers the BCR to ignore the laws and regulations governing its activities when there is a liquidity crisis. Nor is there a legal basis for claiming that the BCR has a constitutional mandate to rescue an individual financial institution. As I will explain in greater detail, the BCR is only responsible for preserving monetary stability. The liquidity that the BCR provides to the financial system through "monetary regulation loans [créditos de regulación monetaria CRM]." CRM is—as its name implies—a mechanism for regulating money supply. Any action by the BCR to provide liquidity to the financial system, even in a context of systemic crisis, is subordinate to its purpose, its role in monetary regulation and the requirements established by law for such operations (specifically the requirement of collateral). The BCR is not the responsible body for regulating individual financial institutions or for protecting the deposits of savers in the country. The BCR cannot contravene the law or its own regulations, and certainly cannot do so in order to rescue an individual financial institution from an intervention.

4. The BCR has only one constitutional purpose which is to *preserve monetary stability* and it is an institution that is independent of other State bodies.

14. As noted, the theoretical framework that Dr. Forsyth seeks to impose in his interpretation has no basis in the Peruvian legal system. According to Article 84 of the Constitution:

> **Article 84**. The Central Bank is a corporation governed by public law. It enjoys autonomy within the framework of its Organic Law.
>
> The purpose of the Central Bank is to preserve monetary stability. Its functions are to regulate the currency and credit of the financial system, administer the international reserves for which it is responsible, and perform other functions specified by its Organic Law.
>
> The Bank shall inform the country periodically and precisely as to the state of the nation's finances, under the responsibility of its Board.
>
> The Bank shall not grant financing to the public treasury except for the purchase, on the secondary market, of securities issued by the Treasury, within the limits set forth by its Organic Law.

15. Thus, the Central Bank's *sole* purpose is to *preserve monetary stability*. The reference to the sole purpose is of paramount importance and distinguishes the monetary system of Peru from other jurisdictions where central banks are given a variety of purposes, as in the United States of America.[2]

16. Moreover, the Constitution itself enshrines the independence of the Central Bank. Article 84 states that the BCR *enjoys autonomy within the framework of its* Organic Law *and shall not grant financing to the public treasury*. Article 86 of the Constitution also states that the BCR is *governed by a Board of Directors having seven members.*

5. Neither the Constitution nor the law assigns to the BCR the role of guaranteeing savings

17. As will be explained below, the Central Bank's monetary role is clearly distinguishable from the responsibilities set forth for other organizations in the Peruvian State and in no constitutional or legal provision is it stated that the BCR *shall guarantee savings*.

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[2] The Federal Reserve has multiple objectives: U.S. Code Title 12 banks and banking. Sec. 225a. Maintenance of long run growth of Monetary and Credit Aggregates: The Board of Governors of the Federal Reserve System and the Federal Open Market Committee shall maintain long run growth of the Monetary and credit aggregates commensurate with the economy's long run Potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates.

6. According to the Constitution the guarantee of people's savings—with which the BCR is not involved—shall be determined by law (it is not unlimited), which is the General Law of the Financial and Insurance Systems [*Ley General del Sistema Financiero y del Sistema de Seguros*] (Law No. 26702)

18. Dr. Forsyth has deliberately omitted to point out that Article 87 of the Constitution, which refers to the fact that *the Government promotes and guarantees saving*, also provides that the law *sets the mode and scope of the guarantee*. In other words, the BCR—because of its independence—does not participate in the savings guarantee. In addition, that guarantee must be defined and limited in a law, as has been done in the General Law of the Financial System (Law No. 26702). Furthermore, the Constitution provides as follows:

> **Article 87**. The Government promotes and guarantees saving. The law sets the obligations of and limitations on enterprises that take in the people's savings, as well as the mode and scope of the guarantee.
>
> The Office of Superintendent of Banking, Insurance, and Private Administration of Pension Funds oversees banking, insurance, pension fund management and other companies that take in deposits from the public as well as any others which, because they engage in related and similar operations, are stipulated by law.

19. Thus, in regard to promotion, Article 130 of Law 26702, in the Declaration of Principles Chapter provides: "In accordance with the provisions of the Political Constitution, the State shall promote saving under a system of free competition," a principle that is reinforced by rules that stipulate the freedom to set interest rates, commissions, and fees, with rigorous standards of transparency and disclosure of financial activity and with comprehensive and consistent consumer protection laws in financial services, among others.

20. With regard to the protection of savings, Law 26702 covers the following areas:

i. Procedures for obtaining permits and operating licenses for financial institutions (Articles 19 to 49).

ii. The regulation, supervision and authority to impose administrative measures that the Constitution and the law entrust to the SBS, which "oversees banking, insurance, and other companies that take in deposits from the public as well as any others which, because they engage in related and similar operations, are stipulated by law" (as noted above in Article 87, paragraph 2 of the Constitution).

iii. *Ways of Lessening Depositors' Risk* contained in Article 132 of Law 26702, expressed as: minimum capital requirements, limits and prohibitions on business operations; diversification criteria and limits to growth based on effective equity; constitution of reserves; constitution of general and specific provisions; mechanisms for swift recovery of assets of the companies; and the right to compensation enjoyed by the companies.

iv. In addition, under the heading *Measures for the Adequate Protection of Depositors*, Article 134 authorizes the Superintendent to: order external audits for specialized companies; supervise and ensure compliance with individual and overall limits; supervise and ensure that companies are properly organized and managed by suitable personnel; and carry out consolidated supervision of financial conglomerates. The rating of the companies taking into account risk measurement as well as quality of their credit portfolio are complemented by the obligation of the Superintendent to disseminate information concerning the situation of the companies (Articles 135 to 137), among other things.

v. The scope of the constitutional guarantee of savings is complemented by the existence of the Deposit Insurance Fund which provides coverage to depositors in financial institutions, in accordance with Articles 144 to 157 of Law 26702.

21. Forsyth, throughout his argument ignores the provisions of Article 87 of the Constitution and the provisions we have quoted from Law 26702, insofar as they clearly state that the BCR is not responsible for protecting and guaranteeing savings of the public. Consequently, none of the conclusions reached by Forsyth on the responsibilities of the BCR to BNM are correct since they are all based on his misinterpretation of the role of the BCR.

7. There is no constitutional or legal support for stating that the BCR guarantees savings of the public and that therefore it must satisfy in an unlimited way the liquidity requirements of the institutions of the Financial System

22. It is not possible to confer on the Bank responsibility for guaranteeing the public's savings and agree that this responsibility implies the use of monetary policy

instruments to assist—in an unlimited and flexible way—the financial institutions that are in a situation of illiquidity. On the contrary, the Organic Law of the Central Reserve Bank of Peru states that any loan from the BCR must be *guaranteed* preferably with first-class negotiable securities (subparagraph (b) of Article 59). There are no exceptions either in law or in the Central Bank Regulations that relieve it from requiring a guarantee for the loans that it grants. There is no distinction as to the requirement of guarantees for loans based on the causes of the illiquidity.

II. SPECIFIC OBSERVATIONS

1. The BCR is not a stabilizing agent of the financial system

23. Dr. Forsyth states that the BCR is a "*stabilizing agent of the financial system as an independent authority in charge of the country's monetary policy*" (paragraph 112) as another consequence of its responsibility to guarantee public savings (an erroneously broad application of Article 87 of the Constitution). He also claims to support this assertion with a quote from my book, *La Independencia del Banco Central* [Central Bank Independence] in which it is stated that "today there is no denying the close relationship between monetary policy and the stability of the financial system" (paragraph 111). He cites my work to support his argument that, because there is a relationship between monetary policy and the stability of the financial system, the BCR, which is responsible for monetary policy, is also responsible for preserving the stability of the financial system, to the extent that it has a duty to support financial institutions in difficulty. This argument not only is an incorrect statement of my academic work, but it is not even a logical conclusion.

24. On the contrary, the link between monetary policy and financial stability exists because financial institutions perform their operations satisfactorily in a context of monetary stability and not because monetary policy is subordinate to a nonexistent goal of

the BCR of *stabilizing* financial institutions. In the Peruvian legal system it cannot be demonstrated that the central bank *is required* to fund financial institutions so the latter can avoid or address their financial problems, exonerating them from the requirements of adequate guarantees. Such an obligation would not only go against the power of the BCR to regulate monetary policy, but would also create a perverse incentive ("moral hazard").

2. In Peru, the SBS and the BCR act independently and serve different purposes

25. As noted above, the guarantee and promotion of saving in Peru is expressed in most cases by the regulatory and bank supervisory role of the SBS, which is an exclusive jurisdiction (save in specific matters) unlike what happens in other jurisdictions. Dr. Forsyth minimizes this legal reality and develops legal consequences that are not based on the Peruvian legal system when he again comments on the book *Independencia del Banco Central* in paragraph 123, as he indicates that the description of the different regimes that separate the monetary function from bank regulation is just a "*long theoretical discussion which is reflected in the various regimes worldwide, avoiding the answer to the question of whether the operational powers (contractual) of the central bank involve an intervention from the central bank as lender of last resort in times of crisis and not only as a provider of liquidity in normal times*." Under the reasoning of Dr. Forsyth, which he repeats in paragraphs 113 and 134, BCR loans fall into two different categories with different objectives, some provide liquidity (monetary objective) and others apply in a crisis situation (financial system stabilizer objective).

26. In this regard we must insist that the BCR has a single objective (to preserve monetary stability) that guides the actions of all its operations. There is no reference in the Peruvian legal system that attributes any other objective to the BCR.

3. Monetary regulation loans [*créditos de regulación monetaria (CRM)*] are part of the contractual instruments of the BCR that allow it to fulfill its role of monetary regulation and in all cases, there is an unavoidable legal requirement to give guarantees or collateral for the loans

27. Article 58 of the BCR Organic Law states that it *grants loans for monetary regulation purposes*. In general, this mechanism is part of the various means by which the BCR fulfills its purpose and functions. Article 2 of the Central Bank Law states that among the functions of the BCR is the *regulation of the money supply*. It should also be noted that at the time of the BNM actions various monetary regulation instruments were in effect such as: the temporary purchase of securities, temporary purchase of foreign exchange, short-term loans with traditional guarantees (BCR certificates of deposit, Treasury bonds, certificates of deposit and bonds issued by private entities, credit cards, etc.) and short-term loans secured by leasing portfolio. As can be seen in all these cases, the provision of liquidity by the BCR had to be of necessity adequately supported by assets or collateral. The term *lender of last resort*, the legal content of which must necessarily be verified in each case according to applicable law, generally corresponds to the ability of monetary authorities to provide short-term liquidity to commercial banks as an alternative to their interbank transactions, but without exempting them from guarantees.

28. According to central banks best practices, central banks should grant loans to address liquidity problems of commercial banks, provided that: (1) the central bank has the assurance that the financial institution is solvent, (2) it has been offered appropriate collateral, and (3) the interest rate has a penalty higher than the market.[3] Thus, we repeat that under the Organic Law of the Central Reserve Bank of Peru there is no possibility of exemption from the requirement of providing guarantees for monetary regulation loans.

[3] White, B, "Bagehot revisited," (2008) Central Banking, 19/1 68

4. References in the Memorial of the Claimant to a report of the Congressional Subcommittee on Economy are wrong

29. Paragraph 344 of the *Memorial on the Merits* states that the Congressional Subcommittee on Economy established that "the Banco Nuevo Mundo had used only six days of rediscounts of the 90 that it was permitted every six months, so it was perfectly entitled to access the monetary regulation loan that it requested from the BCR on December 5, 2000 and which was arbitrarily rejected."

30. In this regard it should be stated that the fact of having used the financial support of the BCR for six days during a six-month period is not at all an "enabling" factor for accessing the CRM, nor is it correct to infer from this that any financial institution has a right to access the CRM up to 90 days during a period of 180 days.

31. The rules governing the granting of monetary regulation loans do not establish that entities are entitled to automatic access to it for 90 days during a 180-days period, let alone declare that so long as the 90 days have not expired, access shall be guaranteed. Access to CRMs will always be subject to the requirements of the law (Article 59 of the BCR Organic Law) and regulations issued by the BCR.

32. The law that establishes the 90 days rule is the one that determines the grounds for subjecting a financial company to supervision, when it has, among other things, the "need to request the financial assistance of the Central Bank for more than ninety (90) days during the last one hundred and eighty (180) days" (Article 95, paragraph 2.c, of Law 26702).

5. Dr. Forsyth claims to support a *flexible* treatment of the requirement for guarantees when making loan applications in circumstances of financial difficulty by the fact that the CRM prohibition is limited to entities subject to supervision. However, the Central Bank Law admits of no exceptions

33. Dr. Forsyth suggests that while CRMs are prohibited for entities subject to supervision, they are not for those "*on the verge of being intervened on for liquidity shortfall, as in the case of BNM* (paragraph 146). He relies on the principle that a rule restricting rights must be interpreted narrowly (paragraph 147) to conclude that there are substantial grounds for prohibiting CRM in cases where the entity is subject to supervision and none for banks that are on the verge of being intervened on for any reason whatsoever (paragraphs 152 and 158).

34. Actually, it is another fallacy (which has no basis in the laws) to argue that the BCR should provide financing to BNM on December 5 even though it had not fulfilled its clearinghouse obligations. The fact is that BNM did not offer sufficient guarantees for its request for financing.

35. He also states that the decision not to grant the loan must set out the reasons for said decision (paragraph 180) although the Central Bank Organic Law, Article 83, requires no reason to be given in these cases. In any case this argument is irrelevant because in the communications of the BCR to the SBS it is clearly stated that the guarantees provided by BNM did not cover the amount required.

36. Finally, Dr. Forsyth said that Central Bank regulations referred to direct loans and not to rediscounts, which is another contractual arrangement under the Central Bank regulations to which one could have resorted in order to provide assistance with greater flexibility to BNM (paragraph 185). What is deliberately not said is that in accordance with the regulations themselves, rediscounts are another form of providing liquidity covered under Article 59 of the Central Bank Organic Law, which, as in the case of the CRMs, require the provision of collateral or guarantees.

III. DISCRETIONARY DECISIONS OF THE BCR SHOULD NOT BE QUESTIONED *A POSTERIORI*

37. It is not for possible for a commercial bank to allege violation of international obligations on the part of the State because the central bank did not grant it a loan. The central bank may have different reasons, well grounded in law, not to grant a loan. In the specific case of BNM, this institution did not have sufficient collateral as required by the *conditions for contracting* set out in Bank regulations. But it could even happen that the monetary authority for reasons of monetary policy decides to suspend the use of this instrument. The regulations then in force and the guidelines of the BCR also provide that the BCR is not obliged to give reasons for a refusal of the request for a loan.[4] The exercise of reasonable discretion, provided for in the law, on the part of the authorities in order to administer monetary policy cannot and should not be questioned in retrospect. Allowing such questions a posteriori would not only violate inherent powers of the States (power of monetary regulation) but would generate uncertainty when faced with the risk that this function could be paralyzed.

IV. CONCLUSION

38. In conclusion, the analysis of Dr. Forsyth improperly relies on a seriously questionable understanding of the role of the BCR as "lender of last resort" in the sense of conferring upon it a supposed role of "guarantor of savings" and stabilizing agent during financial crises. His conclusion that the BCR is required to provide emergency liquidity to a bank that is suffering a financial crisis, even when *the bank is not able* to meet the requirements established by the LOBCR or the regulations of the BCR, is an interpretation

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[4] For example, in the regulations then in force, Article 83 stated that "[t]he Bank is not obliged to give reasons for decisions taken to resolve loan applications submitted to it." Central Reserve Bank of Peru Organic Law, Law No. 26,123, Article 83 (valid up to February 15, 2000). Current law gives the right but not the obligation to grant loans, and imposes certain mandatory conditions such as the need for adequate guarantees. Central Reserve Bank Organic Law, Law No. 26,123, Articles 58-59

that completely distorts the functions of the BCR. There is no legal basis whatsoever for claiming that the BCR is obliged to provide CRM to a bank that is not able to provide the required guarantees.

39. The BCR has a constitutional mandate to preserve monetary stability. Although the BCR is empowered to grant CRMs as a tool for regulating monetary policy, the LOBCR requires for this purpose that banks provide a guarantee of sufficient quality to support the CRM and there is no legal exception to this requirement. This requirement applies in situations of financial crisis as well as in conditions of economic stability. Consequently, the BCR was neither authorized by law nor was it under an obligation to provide a CRM to BNM, because the bank did not have sufficient guarantees.

The statements contained in this declaration are true to the best of my knowledge and belief.

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Manuel Monteagudo Valdez

January 30, 2012