# The Corporate Governance Review

Fourth Edition

Editor
Willem J L Calkoen

Law Business Research

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# EDITOR'S PREFACE

I am proud to present this new edition of *The Corporate Governance Review* to you.

In this fourth edition, we can see that corporate governance is becoming a more vital and all-encompassing topic with each year. We all realise that the modern corporation is one of the most ingenious concepts ever devised. Our lives are dominated by corporations. We eat and breathe through them, we travel with them, we are entertained by them, most of us work there. Most corporations aim to add value to society and they very often do. Some, however, are exploiting, polluting, poisoning and impoverishing us. A lot depends on the commitment, direction and aims of a corporation's founders, shareholders, boards and vital staff members. Do they show commitment to all stakeholders or to long-term shareholders only, or mainly to short-term shareholders? There are many variations of structure of corporations and boards within each country and between countries. All will agree that much depends on the personalities and commitment of the persons of influence in the corporation.

We see that everyone wants to be involved in 'better corporate governance': parliaments, governments, the European Commission, the SEC, the OECD, the UN's Ruggie reports, the media, supervising national banks, shareholder activists and other stakeholders. The business world is getting more complex and overregulated, and there are more black swans, while good strategies can quite quickly become outdated. Most directors are working diligently, many with even more diligence. Nevertheless, there have been failures in some sectors, so trust has to be regained. How can directors do all their increasingly complex work and communicate with all the parties mentioned above?

What should executive directors know? What should outside directors know? What systems should they set up for better enterprise risk management? How can chairs create a balance against imperial CEOs? Can lead or senior directors create sufficient balance? Should most outside directors understand the business? How much time should they spend on the function? How independent must they be? What about diversity? Should their pay be lower? What are the stewardship responsibilities of shareholders?

Governments, the European Commission and the SEC are all pressing for more formal inflexible legislative acts, especially in the area of remuneration. Acts set minimum standards, while codes of best practice set aspirational standards.

More international investors, voting advisory associations and shareholder activists want to be involved in dialogue with boards about strategy, succession and income. Indeed, wise boards have 'selected engagements' with stewardship shareholders to create trust. What more can they do to show all stakeholders that they are improving their enterprises other than through setting a better 'tone from the top'? Should they put big signs on the buildings emphasising integrity, stewardship and respect?

Interest in corporate governance has been increasing since 1992, when shareholder activists forced out the CEO at General Motors and the first corporate governance code – the Cadbury Code – was written. The OECD produced a model code and many countries produced national versions along the lines of the Cadbury 'comply or explain' model. This has generally led to more transparency, accountability, fairness and responsibility. However, there have been instances where CEOs gradually amassed too much power or companies have not developed new strategies and have fallen into bad results – and sometimes even failure. More are failing in the financial crisis than in other times, hence the increased outside interest in legislation, further supervision and new corporate governance codes for boards, and stewardship codes for shareholders and shareholder activists.

This all implies that executive and non-executive directors should work harder and more as a team on policy, strategy and entrepreneurship. It remains a fact that more money is lost through lax directorship than through mistakes. On the other hand, corporate risk management is an essential part of directors' responsibilities, and sets the tone from the top.

Each country has its own measures; however, the chapters of this book show a convergence. The concept underlying the book is of a one-volume text containing a series of reasonably short, but sufficiently detailed, jurisdictional overviews that permit convenient comparisons, where a quick 'first look' at key issues would be helpful to general counsel and their clients.

My aim as editor has been to achieve a high quality of content so that *The Corporate Governance Review* will be seen, in time, as an essential reference work in our field.

To meet the all-important content quality objective, it was a condition *sine qua non* to attract as contributors colleagues who are among the recognised leaders in the field of corporate governance law from each jurisdiction.

I thank all the contributors who helped with this project. I hope that this book will give the reader food for thought; you always learn about your own law by reading about the laws of others.

Further editions of this work will obviously benefit from the thoughts and suggestions of our readers. We will be extremely grateful to receive comments and proposals on how we might improve the next edition.

**Willem J L Calkoen**
NautaDutilh
Rotterdam
March 2014

# Chapter 10

# GUATEMALA

*Rodolfo Alegría and Christian Michelangeli*[1]

## I OVERVIEW OF GOVERNANCE REGIME

The sources of law concerning corporate governance of listed companies in Guatemala are the Constitution, company articles of incorporation, trade, financial and civil statutes, the principles of disclosed truth and good faith. Best practices guidelines for corporate government are non-existent in Guatemala; however, statutes provide basic guidelines concerning conflicts of interest and the responsibilities and duties of directors.

The listed companies regime is enforced by the Commercial Registrar, which mainly oversees company compliance in legal and regulatory matters concerning business structure, incorporation, corporate bodies' designation, directors' and officers' appointments, supervisory board appointments, mergers and voluntary wind-ups.

In the case of financial services companies, the Superintendency of Banks and the Securities and Commodities Market Registrar also function as enforcement bodies overseeing compliance of legal and regulatory standards concerning licensing, financial operations and activities, capital adequacy and solvency.

The National Stock Exchange operates as a *de facto* enforcement body with regard to the information disclosure of listed companies.

In Guatemala, by statutory disposition, corporate government is in charge of the direction of the business and the appropriate management of the company. The bodies that comprise corporate government are direction, management and auditing. In force since 1970, the applicable statute has seen no amendment with regard to the nature of the corporate governance regime.

A particularity of the Guatemalan corporate governance regime, in terms of international regulatory standards, is that the law omits regulation concerning fiduciary

1 Rodolfo Alegría is a partner and Christian Michelangeli is an associate at Carrillo y Asociados.

duties of directors, officers and auditors owed to the shareholders and, for example, to creditors if the company were to approach insolvency.

Since August 2013, following the mandatory share conversion from bearer to nominative shares instated by the Forfeiture Law, corporate governance has been dealing with the suspension of shareholders' rights in companies that were not compliant with the mandatory conversion.

## II CORPORATE LEADERSHIP

### i Board structure and practices

Articles 162 and 184 of the Commercial Code contemplate the possibility of designation of a two-tier corporate governance regime comprising the board of directors or a sole administrator, and the supervisory board, if so decided by the shareholders.

Even though the law contemplates a two-tier corporate governance regime, in practice the convention in listed companies is for single-tier corporate governance through either a board of directors or a sole administrator.

Legally contemplated in Articles 44 and 47 of the Commercial Code, a common practice in large listed companies is the utilisation of a third tier in the corporate governance regime, comprising one or more executive officers legally defined as managers.

Pursuant to Article 162 of the Commercial Code, when the board of directors system of direction is chosen over the sole administrator, the shareholders decide the number of directors to be appointed, as well as their respective positions on the board. Moreover Article 169 of the Commercial Code establishes that a company's articles of incorporation may contemplate the appointment of substitute directors. With the exception that the shareholders appoint directors for a shorter term, Article 162 of the Commercial Code further establishes that directors' appointments have a three-year term, at the end of which the directors will remain in position as long as the replacement directors have not been appointed or have not effectively occupied their position as such.

According to Article 164 of the Commercial Code the board of directors will have the legal representation of the company, which implies that all directors will represent the company unless otherwise stated in the articles of incorporation, in which case the articles of incorporation should provide the framework concerning the authorisation of directors to perform acts on the company's behalf.

As established in Article 163 of the Commercial Code, the articles of incorporation shall establish the responsibilities of the directors. However the Commercial Code provides a range of responsibilities concerning directors as follows:

*a* Article 47 establishes that among the Board's responsibilities are:
- the representation of the company before the judiciary; and
- the execution of acts and contracts related to the company's commercial purposes;

*b* Article 55 establishes that the board has the responsibility to brief the shareholders, at least yearly, of the activities of the board and the financial situation of the company; and

*c* Article 162 establishes that the board will be responsible for the direction of the company's business.

The chairman's control over the board is established through the stipulation in Article 167 of the Commercial Code that the chairman will have the decisive vote in board meetings, unless the articles of incorporation state otherwise.

The chairman's control over the company is exercised in two ways:

*a* through the chairman's representation of the company's executive body in all matters and business, as stated by Article 166 of the Commercial Code; and

*b* through the chairman's legal mandate to preside over the shareholders' meetings, according to Article 47 of the Commercial Code.

Unless otherwise stipulated by the articles of incorporation, pursuant to Article 48 of the Commercial Code, or by unanimous consent of the shareholders pursuant to Article 166, Article 48 forbids the delegation of a director's responsibilities to a fellow director or to a substitute; nevertheless, the regulation indicates that if a director has enough powers, the director may grant and revoke special powers of attorney.

Article 166 states that the board of directors may appoint one of its members as a delegate to execute specific acts, as a special executor.

From a legal standpoint, as stated by Article 166 of the Commercial Code, the chairman is considered as the representative of the executive body in all matters and business of the corporation, and thus there is no separation of the board member and executive officer roles and responsibilities.

However, even though CEO and chairman's roles and responsibilities are not separated by law, if contemplated in the articles of incorporation or so resolved by the shareholders, and pursuant to Articles 181 and 182 of the Commercial Code, a general manager with the most ample powers of representation and execution may be appointed by either the shareholders or the board. The general manager will have additional responsibilities as stated by the articles of incorporation or the shareholders.

The chairman of the board will preside over the shareholders' meetings as well as report to shareholders on the board's activities at least yearly. Moreover, as part of the company's general administration the general manager's report is also required by law to be included in the report to the shareholders presented by the chairman of the board.

Communications between shareholders and directors or officers are not expressly or specifically addressed by law thus, pursuant to Article 5 of the Constitution, which contemplates freedom of action, shareholders may communicate with directors or officers as they deem necessary.

Remuneration of directors and senior management is not regulated nor limited in terms of the amount of wages or expenses payable to either a director or a senior management member.

The establishment and functioning of specific committees or other organisational means of direction is subject to the stipulations in the articles of incorporation or of the shareholders.

### ii Directors

Outside directors are neither contemplated nor regulated by Guatemalan law; however, the contemplation of the appointment of such directors is not forbidden by law.

Considering that Article 5 of the Guatemalan Constitution states that all that is not expressly forbidden by law shall be legal and that Article 15 of the Commercial Code prescribes that companies shall be regulated, first and foremost, according to their articles of incorporation, the role and involvement of outside directors, as well as information disclosure, on-site visits of subsidiaries and communications with lower management will be specifically regulated by the company articles of incorporation.

Pursuant to Articles 15 and 163 of the Commercial Code, directors will have the duties that the articles of incorporation state; nonetheless, as stated by Article 162 of the same legal body, directors have under their care the management and direction of the company's business.

If contemplated by the articles of incorporation or designated and appointed by the shareholders, outside directors will have the same duties as inside directors unless otherwise stated by the company's articles of incorporation.

The Commercial Code contemplates two types of liability of directors, general liability and specific liability, provided that the direct result of the actions of the directors was to the financial detriment of the company, the shareholders or creditors.

With regard to the general liability of directors, Article 171 of the above-mentioned law states that directors shall be liable for any actions attributed to them that result in damage caused to the company, shareholders or creditors. The regulation also contemplates that all directors shall be jointly liable for those actions.

Pursuant to Article 172 of the Commercial Code directors shall be jointly liable:

*a* for the payment and amount of the capital contribution of the shareholders;

*b* for the existence of net profits by the company and their distribution among shareholders as dividends;

*c* for the accounting of the company, including when it is not carried out according to law and the accounts are not true; and

*d* for the precise fulfilment of the agreements reached by the shareholders.

Article 50 of the Commercial Code provides for the possibility of one director, part of a board, acting solely under his own liability when omission concerning a specific matter may result in damage to the company.

As established by Article 52 of the same legal body, the board of directors will have joint and unlimited liability for the damage that may be caused by the directors to the company. The directors that vote against the actions that constitute damage against the company shall be exempt from their liability to the company.

Pursuant to Article 45 of the Commercial Code, and unless the articles of incorporation of the company state otherwise, directors will be appointed by means of a shareholder resolution.

The appointment of directors is made through a shareholder election in a cumulative voting system (CVS), as established by Article 115 of the Commercial Code. Under the CVS, each shareholder with voting rights will have as many votes as shares owned times the number of directors to be elected for appointment.

Under the above-mentioned provision, during the process of election, the shareholder can cast all the votes in favour of one specific director, or distribute the shareholder's total amount of votes among the number of directors being elected for appointment.

Under Article 169 of the Commercial Code, any director who has a direct or indirect interest in any operational aspect of the business of the company must disclose it to the other directors, refrain from participation in the deliberation and resolution of the matter and leave the meeting's premises.

Moreover, pursuant to Article 170 of the same legal body any director standing to gain personal benefit derived from matters not pertaining to the company's business will have the obligation of disclosing it to the board for the pertinent determinations; in the case that the director fails to comply with the disclosure he or she will be held liable to compensate the company in the amount of the personal benefit received and the director will be removed from the board.

The involvement of outside directors with executives will be addressed by the articles of incorporation, in the event that the designation and appointment of outside directors is considered and their interaction with executives allowed.

## III DISCLOSURE

Pursuant to Article 368.4 of the Commercial Code every company shall have an orderly record of the financial statements of the company that shall comply with the generally accepted accounting principles. As stated by Article 377 of the same legal body the financial statements shall comprise the balance sheet, statement of income and any auxiliary statements concerning the true financial situation of the company.

As established by Article 374 of the Commercial Code, the balance sheet and the statement of income shall be produced from the beginning of the operations of the company and at least yearly. Pursuant to Article 379 of the same legal body the balance sheet will truthfully and reasonably reflect the financial situation of the company. As required by Article 380 of the Commercial Code, all companies shall publish their balance sheets in the official gazette as of the closing of their yearly operations.

Under Article 55 of the Commercial Code, directors shall be held accountable for their activities as members of the board of directors, as well as for the financial information of the company.

Pursuant to Article 188 of the Commercial Code, and additionally to attributions set by the articles of incorporation and other legislation, the supervisory board, if appointed, shall:

*a* inspect the management of the company and examine its balance sheet to confirm its precision and veracity;

*b* verify that the company's accounting is being carried out according to the generally accepted accounting principles;

*c* perform audits on cash and securities held by the company;

*d* require directors to render reports on the development of the company's business operations;

*e* convene shareholder meetings when the causes for wind-up arise or when, according to their opinion a certain matter requires the attention of the shareholders;

*f* submit to both the board's and the shareholders' consideration any matter they consider necessary;

*g* attend the board of directors' meetings, without voting rights, whenever they deem it necessary;
*h* attend the shareholders' meetings, without voting rights, to render their report and opinion on the financial statements and on initiatives that to their judgement are suitable; and
*i* in general, supervise, look after and inspect, at any given time, the company's operations.

Even though the Commercial Code does not provide for specific regulation concerning a member of the supervisory board's independence, the code does address conflicts of interest for supervisors in Article 193, which states that they shall refrain from action in any case that represents direct or indirect personal gain, having the duty of disclosing the matter to the shareholders.

Given the absence of a corporate governance code of best practice, the 'comply or explain' model is not applicable in Guatemala.

Mandatory disclosure matters will generally be subject to any and all legal provisions that state the obligatory nature of the disclosure; some of those mandatory disclosures are presented in the form of information available to the shareholders prior to a shareholders' meeting. As established by Article 38.1 of the Commercial Code concerning the disclosure for examination of the company's accounts and documents, as well as the financial and economic policies of the company, the information shall be made available to the shareholders at least 15 days prior to the scheduled date of the shareholders' meeting. Moreover under Article 24 of the Securities and Commodities Market Law, and as required by Articles 1 through 4 of the National Securities Exchange's Information Disclosure and Update Rule for Issuing Entities, disclosure is also mandatory for the company's shares to maintain trading status. The information will be available to current and potential shareholders, and, *inter alia*, it includes:

*a* yearly audited financial statements;
*b* quarterly statements of conditions of the first three quarters for each year of operations since the point at which the company's shares were issued for public offering;
*c* financial indexes of the projections stated in the issuance prospectus;
*d* amendments or modifications to the company's articles of incorporation or company information;
*e* changes in the structure of the corporate group or control structure in the issuing company concerning major shareholders, directors, executives and outside advisers;
*f* changes in the appointment of external auditors;
*g* the creation, development, change or cancellation of business ventures, products or services offered by the issuing company;
*h* the current rating of the securities subject to public offering; and
*i* yearly reports of the board of directors and the supervisory board.

Shareholders tend to be elected and appointed to the board of directors and thus one-on-one meetings are uncommon. Moreover, in large companies with numerous shareholders, in which the directors are not shareholders, one-on-one meetings are more likely; however, this practice is uncommon.

## IV CORPORATE RESPONSIBILITY

Guatemalan companies are not required by law to appoint either a special risk officer or committee, unless mandatory under the Regulation of the Law against Money or Other Assets Laundering or the Anti-Money and Other Asset Laundering Law, in which case the participation of the compliance officer will be mandatory and limited to anti-money laundering compliance matters.

In terms of financial, currency and liquidity risk management, pursuant to the exercise of their rights, each shareholder can appoint either an auditor or an inspector, who can propose initiatives to the shareholders in terms of risk management.

Pursuant to Article 3 of the National Securities Exchange's Information Disclosure and Update Rules for Issuing Entities, the information provided will be public and under no circumstances will be considered to be provided under a non-disclosure provision. Under those terms and with regard to information that might post a reputational risk to a company, the board of the company shall disclose the administration's plans to address those issues.

As the chairman of the board is considered as the executive body of a company and has the decisive vote in matters subject to the board's consideration, the chairman's influence over the board and the board's influence over executives and officers is considerable, and as such it could be stated that tone from the top is normally emphasised in Guatemalan companies.

Whistle-blowing activities are not regulated in Guatemala; however, they are neither disallowed nor discouraged. Legislation has not been developed to champion the practice; the only legal incentives for whistle-blowing concern criminal activities from or within a company in that, if known by an officer, executive or employee and not reported, the officer, executive or employee may be subject to criminal prosecution for concealment or failing to notify the authorities.

Corporate social responsibility (CSR) practices have increased in Guatemala in the past 10 years; CentraRSE,[2] a non-profit initiative by the organised private sector, seeks to promote awareness and promote the adoption of CSR practices in the private sector. Following Guatemala's participation in the Dominican Republic–Central America Free Trade Agreement (CAFTA-DR), CSR in respect of employees and the environment has grown. However, Guatemala has been subject to allegations and legal actions for non-compliance with CSR practices regarding employees pursuant to CAFTA-DR provisions.

2 http://centrarse.org/.

## V SHAREHOLDERS

### i Shareholder rights and powers

Pursuant to Article 101 of the Commercial Code, each issued share of the company will represent one vote. The provision contemplates the existence and issuance of preferential shares with priority rights over dividends and post-wind-up capital returns, stating that such preferential shares may have voting rights limited to the matters concerning changes to the capital structure or changes in the by-laws.

As stated by Article 105.2 of the same legal body each share gives the owner the right to vote at the shareholders' meeting.

Article 116 of the Commercial Code contemplates the possibility of voting agreements between shareholders for a maximum term of 10 years.

Shareholder influence can be exercised first and foremost by the election and appointment of shareholders as directors, a common case in Guatemala. However, shareholders may also influence the board personally, through an appointed inspector or auditor, directly or indirectly through supervision and inspection as stated by Articles 184 and 188 of the Commerce Code.

Moreover, if subject to a shareholder resolution, the board could be instructed to execute a decision.

Shareholders will have decisive power over the board, *inter alia*, in the following matters:

*a* financial statement approval;
*b* distribution of dividends;
*c* amendments or modifications to the articles of incorporation;
*d* increase or decrease in company capital;
*e* voluntary wind-up; and
*f* mergers.

Pursuant to Article 154 of the Commercial Code, resolutions adopted by the majority of shareholders also bind dissenting ones; however, dissenting shareholders will have contesting, annulment and withdrawal rights over the majority's resolution.

Shareholder resolutions shall be contested or annulled if adopted under infraction of the law or the company's articles of incorporation, as stated by Article 157 of the Commercial Code.

Under Article 95 of the Commercial Code founding shareholders will have a maximum participation of 10 per cent of the net profits of the company for a period of no longer than 10 years. In that regard the participation to which founding shareholders are entitled, will be paid only after other shareholders are paid dividends for at least 5 per cent of the nominal value of their stock. The enforceability of this provision is subject to the possession of founder share certificates as stated by Article 96 of the same law.

Board decisions may also concern shareholder decisions. Shareholder approval of specific board decisions will be established by the articles of incorporation; such decisions may include the appointment of executive officers such as the general manager, and the approval of the yearly financial statements.

### ii Shareholders' duties and responsibilities

As established in Articles 27 through 29 of the Commercial Code shareholders owe the company the duty of fulfilling their monetary and non-monetary capital commitments.

Pursuant to Article 134 of the Commercial Code, in general terms the shareholders will have the duty to meet at least yearly, within the four months following the closing of the company's previous meeting to:

*a* discuss, approve or deny approval of the company's financial statements, the board of director's administration report, and the supervisory board inspection report;

*b* elect and appoint or revoke appointments of directors and supervisory board members, as well as to set the duties and responsibilities of those appointed;

*c* hear and pass a resolution on the company's project for dividend distribution; and

*d* hear and resolve any other matters set by the articles of incorporation.

As provided by Article 130 of the Commercial Code, shareholders will have no voting rights in matters where they have personal or third-party interests contrary to those of the company; if non-compliant, the shareholder will be liable for the damage caused.

Under law institutional investors' duties are equal to those of any other shareholder. Best practices in their participation as shareholders of a company include the appointment of either a proxy or a power of attorney familiar with the corporate purpose of the company as well as the nature of its operations to provide useful insight in the shareholders meetings; moreover, given their financial nature, institutional investors should be compelled to provide financial input on the company's operations.

Guatemalan enforcement agencies lack best practice guidelines or codes for shareholders; however, each shareholder should participate in the best interests of the company provided that the company's performance shall impact directly on their returns.

### iii Shareholder activism

Shareholders' say on pay of directors, officers and executives of a company will be stipulated by the articles of incorporation, or in a resolution of the shareholders' meeting.

Pursuant to Article 174 of the Commercial Code a derivative action may be brought against directors on the company's behalf following the previous agreement of the shareholders appointing a designee to bring the suit against the administration of the company; if the designee does not file suit within two months of the agreement, any shareholder may do so on the company's behalf.

Regardless of the previous provision and as stated by Article 175 of the Commercial Code, a derivative action may be brought against one or more directors by shareholders who represent 10 per cent of the company's stock, provided that they are acting in the interests of the company and not their own interests, and that the claimants did not vote to waive the director's liability.

Current regulation does not address either proxy battles or shareholder campaigns; however, given that shareholders may perform any acts not expressly banned by law and that shareholders votes may be delegated through proxies, it is likely that if a change in corporate policy or governance is sought by a minority shareholder, he or she will use a proxy battle as the most efficient way of achieving this objective considering that the only other way to obtain the votes would be to pay in additional capital.

### iv Contact with shareholders

As mentioned above, and pursuant to Article 38.1 of the Commercial Code, the mandatory standard of reporting to the shareholders is for the board to provide availability of all documents, statements and reports to the shareholders within the 15 days prior to the shareholders' meeting. The documents shall be made available in the company's registered offices.

As the law omits to address selective meetings and communication, and provided that the mandatory reporting right to the shareholders is standard to all contact with shareholders, the provisions for selective meetings and communication would have to be regulated by the articles of incorporation.

Under the law, all registered shareholders of the company have the right to review the same information prior to the shareholders' meeting as mentioned above.

Pursuant to the shareholders' voting agreement rights established in Article 116 of the Commercial Code, shareholders could agree on a no vote on the issuance of stock by the company, or agree upon a vote against the increase in capital that would represent the issuance of new shares; this would generate the effect of a standstill agreement.

Shareholders will be able to receive and verify company information within the 15 days prior to the shareholder meeting. Neither proxy solicitation nor seeking shareholders' opinions in advance is common practice in Guatemala. The most common issues concerning large blocks of shareholders are fights over company control, over the appointment of directors to the board and the subscription of new shares to dilute the share percentages of opposing groups.

## VI OUTLOOK

The Guatemalan Ministry of Economy in a joint effort with the Foundation for the Development of Guatemala is pushing forward reforms to the Commercial Code that will, *inter alia*, introduce fiduciary duties for directors and officers, and minority shareholder protection provisions. Moreover, in a joint effort the Superintendency of Banks and the Guatemalan Central Bank are pushing forward a new Securities Market Law, which is seeking to introduce considerable reforms to allow companies to access alternatives means of financing and to promote alternative investment structures for investors. These reforms could reach Congress during 2014 and, if passed, could provide for an abrupt change to the corporate governance regime and to power struggles among shareholders, as well as to compliance matters for companies.

## Appendix 1

# ABOUT THE AUTHORS

**RODOLFO ALEGRÍA**

*Carrillo y Asociados*

Partner since 1997, and head of the corporate and finance law practice group, Mr Alegría's expertise and versatility involves a wide range of specialised practice areas, from complex dispute resolution to high-end project finance matters. He has advised important multinational corporations, and multilateral entities in corporate and finance matters. He has also participated in complex M&A activity in the Central American region, and large transactions as well. In the area of project finance, he has assessed many international financial institutions in the negotiation of loans and implementation of financial instruments. He has been recognised as an expert in energy and natural resources matters in Guatemala, and has represented important groups related to the energy sector, as director, across the Central American region. Additionally, having experience in international arbitrations he contributes to the litigation practice group and has participated as an expert witness at international level.

**CHRISTIAN MICHELANGELI**

*Carrillo y Asociados*

Mr Michelangeli is currently an associate focusing on the firm's fraud and white-collar crime practice, as well as contributing to the bankruptcy and insolvency group. Before joining the firm Mr Michelangeli's practice focused on corporate law and civil and commercial litigation. His corporate law background and knowledge of insolvency matters contribute to the firm's high profile in cross-border litigation matters. In his practice he has been involved in cases concerning enforcement of credit rights of foreign creditors through trust structures in Guatemala, and he has participated in advising insolvency administrators in joint prosecution cases against company directors and officers for fraud and money laundering. Mr Michelangeli contributes to advising foreign

clients in financial transactions with Guatemalan counterparts, as well as advising in regulatory compliance matters with Guatemalan financial regulators.

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