

# Honduras

## Chamber of commerce:

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## A new legal framework for the Honduran securities market

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Arias & Muñoz  
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Honduras has entered a new era in corporate financing with the creation of a modern Securities Market Law. Under the old system, the securities market was uncontrolled and many companies without financial backing obtained millions of US dollars from investors who were attracted by higher interest rates but who suffered losses after those companies were unable to honour repayment requirements at maturity. Some participating companies managed to offer promissory notes at interest rates higher than those paid by banks for deposits, even though those companies, left unsupervised, were not meeting the legal requirements enabling them to do so. For example, while a company could qualify at the stock exchange market with a debt-capital ratio of five to one, some companies were still collecting funds through this mechanism with a debt-capital ratio of 60 to one. New loans obtained served only to make interest payments in respect of the first batch of loans, and so on. It naturally reached a point where hundreds of investors lost all their funds.

In an effort to restore public faith in these kinds of transactions, a new law was promoted and has been brought into effect – the Securities Market Law – whereby the public offering of securities is now adequately supervised and controlled by the same entity that regulates the entire Honduran banking and insurance system: the National Banks and Insurance Companies Commission. The law was enacted in 2001 and has been complemented by special regulations prepared by the commission. These regulations refer to specific provisions in the law, clarifying it and defin-

ing in detail the set of applicable rules. For example, the law determines that participating companies, such as issuers of securities, must prepare reports that have to be rendered to the commission. This means that there is regulation of information, as well as a procedure for the supply of information of the participants of the securities market, which complete the applicable terms of the law under which these reports have to be prepared, and which set out the specifics of their contents as well as the period in which they have to be turned in. The commission has also issued regulations regarding: (i) the organization and activities of the corporations that are issuers of securities and of securitizations, and (ii) public offerings.

The law states that a company can voluntarily seek registration at the commission to be able to offer securities to the public through the Honduran securities market (private offerings are treated separately). Even though the law refers to voluntary registration, in reality only some issuers have obtained their registration and no registrations of public offerings of securities have been applied for. It is conceivable that the financial entities in Honduras will be among the first issuers through securitization of loan portfolios, a mix we believe will be appreciated by investors: a new supervised form of investment, with the security of a batch of credits that have full guarantees. We believe this might be the true groundbreaking form of securitization in Honduras.

Under Article 4 of the law, a public offering is defined as when any kind of securities are issued, allocated, negotiated or traded and this offering is transmitted to the public or to specific groups through the media. Article 5 states that when a public offering is intended, the securities and the issuer must be registered in the public registry of the securities market, established by the law and overseen by the commission. As indicated, to date only issuers

have requested and obtained their registration, but no financial instrument or derivative has yet been approved. The law determines that the registration process should be completed within a 30-day period, but we are unable to verify if this deadline has been met. A company that wants to make a public offering of securities must file a petition at the commission. The issuer must also supply all relevant information pertaining to it, including details of administrative, employment, legal, economic, financial and contingent liabilities according to generally accepted accounting principles, all in the detail incorporated in the regulations. The amount and precise nature of the information depends on the characteristics of the issuer and of the securities being offered.

Once the issuer and the securities are registered, the issuer must prepare a prospectus relating to the offer. The prospectus must contain all information relating to the offer and the securities, as well as all relevant information regarding the issuer. This information includes the name and identification of the company and its line of business, the name of its administrators, if it has any business group interests, financial statements, external auditors' opinion and the risk classification of the securities to be offered. If the securities in question are company stock, the public offering is subject to the approval of the commission. After revising the legal aspects surrounding the securities market, and the scope of issues now subject to new regulations, the confidence of the public should soon be obtained, and hopefully there will be an increasing number of filings for the registration of issuers as well as securities. Investments in Honduras are still on the rise, particularly in the electrical and communications sectors, where long-term financing is required. The country will once again be able to promote investment through these types of corporate financing transactions. The reaction

of the market will be positive, because the supervision to which these investments are now subject should go a long way towards preventing the abuses of the past.

## Financial and corporate

### Recommended firms

#### Tier 1

Arias & Muñoz  
 Consortium – J R Paz & Asociados  
 López Rodezno & Asociados

#### Tier 2

Aguilar Castillo Love  
 CF Danzilo & Asociados  
 García & Bodán

#### Tier 3

Batres y Asociados  
 Gutiérrez Falla & Asociados  
 López Castro  
 Medina Rosenthal & Fernández Central Law  
 Gutiérrez Falla & Asociados  
 Ortez Sequeira & Associates

The ratification of the Central America free-trade agreement (Cafta) has led to improvements in Honduras. High-profile bank acquisitions by HSBC, Citibank and GE Financial – spending several billion dollars in new acquisitions in total – have made headlines all over the region. In Honduras, they are among many highlights of the past two years. These deals bode well for the country. Honduran financial law firms should be kept busy working on M&A deals and due diligence work expected to be provided by these banks.

The bank deals are also an indicator of the potential in the Honduran markets. Experts are predicting a rising tide of M&A in other industries, as liquidity continues to improve in the Honduran financial markets. Local companies are looking to expand beyond Honduras while foreign companies are looking to enter. Companies on both sides of the border are driven by both the assurances provided by Cafta and the general economic growth throughout the region.

Tourism is increasing in Honduras, and continued stability in the country should sustain the growth in this area. Several years ago the opening of a Four Seasons hotel in Tegucigalpa would have been unthinkable but it's happening, along with development of resort facilities along the Atlantic coast. The laws for port developments have been amended in an effort to help bring tourist business through the ports. Of course, other industries

can benefit but it was tourism that inspired the changes.

The telecoms industry has seen a lot of activity. Many private firms have been bidding for contracts with the Honduran government, making conditions in the industry a little hectic. This is an industry where Honduras traditionally has lagged compared to its regional neighbours. Legislators have not kept pace with the interest from these investors, holding back any needed changes for a while longer. New telecoms laws, however, are scheduled to be approved in 2007 and are expected to accommodate the surge of investments.

The energy industry has more demand than is available. With the industry's need for both improvement and growth, there will be a need for increased financings. New projects for biodiesel fuels using palm oil, for instance, have been initiated providing the legal community with yet another avenue for work.

Honduras has also enjoyed several years of monetary stability – it's been three or four years since its currency has devalued against the dollar. Remittances from Hondurans living in the US are a big reason for this, providing a steady flow of foreign capital.

Lastly, there have been positive changes in legislation that have made Honduras more attractive to foreign investors. Incorporations take about two weeks now that registration is with the Chambers of Commerce; it used to take as long as eight weeks. This is an enormous improvement in the eyes of international businesses. The Honduran legal system is expected to modernize further, because Cafta requires the ability to bring arbitration. Public filings of corporate documentation and making procedures more open are forcing companies into more accountability. This new era of openness will provide ever more work for Honduras's lawyers.

### Arias & Muñoz

Being one of the more active regional firms has helped Arias & Muñoz take a lead in the growing Honduran market. The firm's ties with its offices in other Central American countries means that it is able to participate in cross-border deals which are beginning to occur with greater frequency. Clients have taken advantage of this capability; one said:

"We have a presence in the five CA [Central American] countries, and that's why we retained Arias & Muñoz. We are pleased with their services for the whole region."

The largest deal was the acquisition of Arias client Grupo Financiero Uno (whose banking operations operate under the Banco Uno banner) – one of the leading credit card issuers in Central America – by multinational

bank Citigroup. The firm handled the Honduran segment of the acquisition, which took place in all five countries of the region. This was one of the premier deals of the year.

In August 2006, Arias client Central American Capital Group acquired a 49.9% interest in telecoms firm Amnet's holdings. This deal helped showcase Arias & Muñoz's growing prowess as a regional firm, as the firm's offices in each of the five Central American markets were called into action. The transactional nature of the acquisition was obvious but arranging the financing (the total amount of the deal was undisclosed) became complicated, requiring input from the firm to make it work.

Unión de Bancos Cuscatlán Internacional (UBCI), one of the largest financial groups in Central America, sought to establish an insurance subsidiary in Honduras. Arias & Muñoz assisted Seguros Cuscatlán with the start-up process, handling regulatory issues and other legal matters related to the September 2006 opening. This was part of a regional expansion for UBCI, while also highlighting the firm's ability to regularly handle cross-border expansions.

The firm is fairly new but has already won the admiration of colleagues around the country. One rival partner said: "Denny Matamoros has young attorneys that are go-getters looking to make a name for themselves. It's a very admirable firm."

### Leading lawyers

Jorge Arenales  
 Dennis Matamoros Bastón  
 Evangelina Lardizábal

### Consortium – J R Paz & Asociados

"JR Paz is an excellent firm – José Ramón Paz is very capable and leads a good team of lawyers. I have no doubts about the capacity and performance of Consortium as a Honduran law firm," said a partner at another law firm.

Banking is the hottest industry across Central America, and Consortium participated in one of the most significant deals in Honduras – the acquisition of Bamer Bank. Consortium represented GE's consumer lending unit GE Money in the deal, which also included GE's joint-venture partner, BAC-Credomatic. This deal, which closed June 2007, enabled the American technology and services group to gain a foothold in Honduras. As a high-profile local deal, the acquisition also boosted Consortium's presence as a banking firm.

Consortium was one of the firms representing Citibank for the Honduran acquisi-

tion of the Central American bank Banco Cuscatlán. The \$1.5 billion deal was the largest one in Honduras (and the region); one rival said: “Everyone wants to get involved in the big banking transactions, and Consortium was one of the lucky ones.”

On the real-estate and tourism side, the firm represented American investment trust Sagecrest in its acquisition of property in Honduras. Sagecrest bought \$30 million of land in the resort areas of Roatán, Bay Island and in the northern part of the country. With the boom in tourism in Honduras, J R Paz opened an office in the main tourist area of Bay Islands. That makes three offices in Honduras for the firm; with 30 attorneys, Consortium is the largest firm in the country.

#### Leading lawyers

José Rafael Rivera Ferrari

José Ramón Paz

### López Rodezno & Asociados

The three-partner firm of López Rodezno & Asociados consolidated its position in the top tier with an excellent year, representing big clients in some of the biggest deals in Honduras. Corporate law matters are handled by partner René López Rodezno, who received several noteworthy comments from colleagues at other firms. One leading rival said: “René likes very much to stay on top of things, implementing ideas and technology in his firm that are happening around the world. He is pretty much Honduras’s best lawyer.”

The firm was one of two used by Citibank in Honduras for its acquisition of Banco Cuscatlán. This was the largest bank acquisition in all of Central America, at \$1.5 billion. Earlier in the year, López Rodezno also represented Citibank for the Honduran leg of the bank’s acquisition of Banco Uno. This deal was important for the firm’s client because it offered Citi the opportunity to expand into the region’s growing credit card market. It showcased the law firm’s abilities in the banking industry, with regulatory issues to resolve and aggressive deadlines to keep.

The firm also helped Banco Industrial and offshore bank Westrust Bank offer a syndicated loan facility of \$25 million to Inmobiliaria Americana. The proceeds from this December 2006 offering were used to finance commercial real-estate developments. López Rodezno tapped into the banking community as well as the increasingly important real-estate industry in one deal.

Another real-estate development project came up at the beginning of 2007. The Honduran government created Tela Bay Tourism Development, a joint venture with some of the country’s leading businessmen, to

invest in the country’s largest tourism project. López Rodezno advised the project since its establishment, including the \$43 million first phase of investment.

#### Leading lawyers

Jorgé López Loewenberg

René López Rodezno

### Aguilar Castillo Love

After its debut in last year’s rankings, Aguilar Castillo Love returns with a couple of interesting transactions. The firm had advised Canadian mining company RNC Gold in several acquisitions in 2005, but in 2006 it was RNC being acquired. In a deal totaling some \$20 million, Yamana Gold acquired the shares of RNC Gold in a deal that closed in February 2006. Enrique Rodríguez led this and a couple of other mining deals, confirming his reputation as a leader in that industry.

In an important strategic acquisition in the retail industry, the country’s biggest electronics retailer Diunsa acquired Supermercado La Colonia in December 2006. This was an effort by Diunsa to fight against Wal-Mart’s subsidiary in Honduras, Paiz, which has been moving aggressively into the market.

Part of the eponymous regional law firm, Aguilar Castillo Love still has a relatively small presence in Honduras. The market is aware of the firm, and some rivals believe it may be able to make an impact soon.

#### Leading lawyers

Enrique Rodríguez Burchard

### García & Bodán

Following its client Telmex into Honduras, García & Bodán has been expanding outside of Nicaragua to become yet another regional financial law firm. The firm has made an effort to find its niche in Honduras, which has been noted by its competitors. One rival partner said: “Their Honduras branch is very young, but they have good international clients. They have been smart and not rushed into the market.”

The Honduras office is led by Vanessa Oqueli, who has been noticed by several top-tier firms. One leading lawyer said: “Vanessa Oqueli is an excellent young lawyer. She is steering the firm the right way. They are a quiet firm, servicing regional clients and doing okay.”

García & Bodán had one significant deal that closed last year. This was advising McDonald’s Guatemala in its acquisition of the fast-food chain’s operations in Nicaragua and Honduras. This April 2006 deal was important not only for its size (undisclosed),

but also because of the complexity, involving different areas of law across several jurisdictions. The firm believes that this deal can help establish its credentials as a regional participant.

#### Leading lawyers

Vanessa Oqueli

### Other notable firms

The passing of Laureano F Gutiérrez Falla was a tremendous loss for **Gutiérrez Falla & Asociados**, the firm he co-founded 33 three years ago. There have been concerns voiced within the Honduran legal community whether the firm can continue as before, since Laureano Gutiérrez Falla was considered by many to be the key driver of its business. It has been rumoured that the firm has been approached for merger possibilities. The firm’s reputation and its stellar client list – including Deutsche Bank, AIG, American Express, Microsoft, ABN Amro, and GE – makes it a desirable target. It will be interesting to see if the firm can recover its status as one of the country’s leading financial law firms.