

REPUBLIC OF CUBA

COUNCIL OF STATE

PRESIDENCY

I, FIDEL CASTRO RUZ, President of the Council of State of the Republic of Cuba,

HEREBY LET IT BE KNOWN that the Council of State has resolved the following:

WHEREAS: it is necessary to establish the proper legal framework for promoting the efficient development of banks and nonbanking financial institutions, as required by the present and future development of the Cuban economy, for which it is absolutely necessary to modify Decree-Law 84, on the National Banking System and Banco Nacional de Cuba, of October 13, 1984, as regards the regulations governing the national banking system,

THEREFORE: the Council of State, availing itself of the powers invested in it by Article 90, paragraph c, of the Constitution of the Republic, resolves to issue the following

DECREE-LAW 173

ON BANKS AND NONBANKING FINANCIAL INSTITUTIONS

CHAPTER I

DEFINITIONS

Article 1: For the purposes of this Decree-Law, the terms listed below have the following meanings:

1. *Bank:* Any body corporate constituted in accordance with the laws of Cuba or of a foreign country that is authorized to receive deposits, including demand deposits; to place the resources received; to mediate in collections and payments; and to offer services related to those activities.
2. *Capital:* The contribution of monetary or nonmonetary resources, free of all taxes, made by those who set up financial institutions.
3. *Demand deposits:* Those funds deposited in national currency or foreign exchange which are payable to the depositor on demand.
4. *Time deposits:* Those funds deposited in national currency or foreign exchange whose maturity date is agreed upon by the parties.
5. *Foreign exchange:* Any freely convertible foreign currency.
6. *Legal reserve:* The minimum obligatory reserve coefficient of liabilities, in national or foreign exchange, to be held by the banks, in the form and amount that Banco Central de Cuba regulates periodically.
7. *Financial institution:* Any legal entity constituted in accordance with Cuban or foreign laws, whose corporate purpose is to engage in business of financial mediation. This definition comprises both banks and nonbanking financial institutions.
8. *Nonbanking financial institution:* Any legal entity constituted in accordance with Cuban or foreign laws which has brokers or agents handling monetary transactions and which engages

in business of financial mediation (except for receiving deposits), such as entities leasing assets, movable property and real estate; factoring entities; companies or financial houses engaging in trust operations; companies or financial houses handling mutual investment funds; and other similar ones.

9. *Interest*: Remuneration in national currency or foreign exchange which the creditor receives from the debtor, in addition to the main amount owed for the use of the money granted or received as a loan.

10. *National currency*: That declared by law as legal tender.

11. *Business of financial mediation*: Any activity aimed at receiving resources in national currency or foreign exchange for the purpose of granting credit or financing and at carrying out other operations authorized by this Decree-Law, specifically through the licenses granted under its authority.

12. *Representative offices*: Those offices which are authorized to act in the national territory as representatives of foreign financial institutions, on behalf of their main offices, and which do not carry out operations dealing with assets and liabilities of banks or nonbanking financial institutions.

13. *Offshore operations*: Banking and nonbanking financial transactions that are carried out in foreign exchange by financial institutions and their branches which are licensed to operate in the offshore banking center, duty free zones or industrial parks.

14. *Branch*: The office of a financial institution which carries out business of financial mediation as a dependency of its home office.

15. *Interest rate*: The percentage applied for the collection or payment of interest.

CHAPTER II

FINANCIAL INSTITUTIONS

FIRST SECTION

GENERAL PROVISIONS

Article 2: The provisions of this Decree-Law apply to Banco Central de Cuba, the other financial institutions and the representative offices established in the country.

The entities mentioned in the preceding paragraph should be registered in the General Registry of Banks and Nonbanking Financial Institutions, in Banco Central de Cuba.

Article 3: Banco Central de Cuba is the authority governing the financial institutions, their branches and the representative offices established in the country. It is the State Central Bank, and the provisions enacted by it in the banking and financial sphere shall be of binding fulfillment for those entities licensed to operate in Cuba and also for the State agencies, bodies, enterprises and economic entities; organizations and associations or of another nature; cooperatives; the private sector; and the population.

Banco Central de Cuba is fully empowered to supervise all financial institutions and representative offices established in the country.

Article 4: Banco Central de Cuba is empowered to propose to the Council of Ministers regulations concerning the fining of individuals or bodies corporate that violate the provisions it issues in the banking and financial sphere and also to apply those fines administratively to the infractors of those provisions.

Article 5: The financial institutions, their branches and the representative offices authorized to be established in the country are governed by the Constitution of the Republic, by the provisions of this Decree-Law and by all other legal provisions which are applicable.

SECOND SECTION

THE CREATION OF FINANCIAL INSTITUTIONS

Article 6: To establish financial institution or representative offices in the country, it is required that Banco Central de Cuba issues previously the pertinent license.

Article 7: To obtain a license of the kind mentioned in the preceding article, the interested entity should address a written request to Banco Central de Cuba, attaching the following documents, when pertinent:

- a) a duly legalized document accrediting the constitution of the entity requesting the license;
- b) duly legalized certificate of the by-laws of the entity requesting the license;
- c) copies of the past three fiscal years' financial statements for the entity requesting the license, certified by a recognized firm of auditors which is acceptable to Banco Central de Cuba;
- d) the feasibility study and business plan for the new entity for whose operation the license is being requested;
- e) the name that designates the entity for which the license is being requested from Banco Central de Cuba. The said name cannot be identical with that of any other existing institution in the area in which it operates.

Representative offices will add to their name that of their main offices and operating areas; and

- f) any other document which Cuban laws and Banco Central de Cuba may establish.

Documents issued in any language other than Spanish should be accompanied by translations made by individuals or entities duly and legally authorized for that purpose.

Article 8: It is prohibited to include in the firm name of any entity the terms *banking association, bank, bankers, savings bank, finance house, finance company, financial, financial institution, nonbanking financial institution, investment association, credit association, trust company* or any other equivalent or similar term in Spanish or any other language which may imply dedication to the business governed by this Decree-Law, except in the case of individuals or bodies corporate expressly authorized to employ such terms by Banco Central de Cuba.

Likewise, it is prohibited to include in the firm name any term which gives the impression that the financial institution acts on behalf of or in connection with the Cuban State or its provincial or municipal governments.

Article 9: Once an entity requesting a license to establish a State financial institution has obtained that license from Banco Central de Cuba, it should ask the Executive Committee of the Council of Ministers to approve its creation.

The Executive Committee of the Council of Ministers decides on its creation by resolution.

Each State financial institution is autonomous; has independent legal status and its own capital; covers its expenses from its income; and is not responsible for the liabilities of the State, its

agencies, its bodies and enterprises, and other economic entities, unless it expressly assumes them.

Article 10: For the establishment of non-State Banks of Cuban nationality in the national territory, it will be necessary that Banco Central de Cuba previously issues the corresponding license referred to in Articles 6 and 7, and that their operations be linked mainly with international monetary and credit relations.

Non-State financial institutions seeking to found corporations must do so in accordance with the legislation in effect in Cuba within thirty (30) calendar days of the granting of the license.

Article 11: A General Registry of Banks and Nonbanking Financial Institutions is created, attached to Banco Central de Cuba.

Registration of financial institutions in the General Registry of Banks and Nonbanking Financial Institutions should be requested of Banco Central de Cuba within the time stipulated in the license, accompanying the request with the following documents, when pertinent:

- a) certificate of the license granted by Banco Central de Cuba or a copy of the *Official Gazette of the Republic of Cuba* in which it has been published;
- b) a certified copy of the incorporation deed of the corporation in Cuba, duly recorded, or resolution of the Executive Committee of the Council of Ministers creating the State entity;
- c) certificate of the by-laws; or
- d) any other documents or information whose presentation is stipulated in the license.

Article 12: For a representative office to be registered, its request must be accompanied by the following documents:

- a) certificate of the license granted by Banco Central de Cuba or a copy of the *Official Gazette of the Republic of Cuba* in which it has been published; and
- b) any other documents or information whose presentation is stipulated in the license.

THIRD SECTION

LICENSES

Article 13: In each license, Banco Central de Cuba sets forth the scope and kind of operations which the financial institution may engage in and any other provisions which it should obey in the exercise of its business of financial mediation. Likewise, each license granted to a representative office specifies the activities which it may carry out.

Licenses may be of the following kinds:

— general license: granted exclusively to national banks, it allows them to carry out all kinds of business of financial mediation in national currency and foreign exchange in the national territory, in the offshore banking center, duty free zones and industrial parks, and abroad;

— type A special license: granted exclusively to national banks for carrying out operations of financial mediation in foreign exchange in the national territory, in the offshore banking center, duty free zones and industrial parks, and abroad;

— type B special license: granted to banks for carrying out operations of financial mediation in foreign exchange in the offshore banking center, duty free zones and industrial parks and abroad;

— specific license: granted to nonbanking financial institutions, specifying the operations which each may carry out and the territory in which it may operate; and

— representative license: allows foreign banks and nonbanking financial institutions to be represented in the national territory and to act on behalf of their main offices but not to carry out operations dealing with assets and liabilities of banks or financial institutions.

Within the time stipulated in the license, registration of the financial institution or representative office in the General Registry of Banks and Nonbanking Financial Institutions will be requested, the request accompanied by the documents required for that purpose.

No financial institution may engage in business of financial mediation different from that set forth in its license, nor may its advertising ignore the provisions of the license, the regulations of this Decree-Law and the regulations issued by Banco Central de Cuba.

Article 14: Banco Central de Cuba may modify, suspend or cancel the license granted to any financial institution or representative office for any of the following reasons:

- a) its failure to begin operations within one hundred and eighty (180) calendar days of Banco Central de Cuba's granting the license;
- b) its ceasing to engage in the business for which the license was granted;
- c) its infringement of the provisions of the license, the regulations of Banco Central de Cuba and any other provisions of the legislation in effect in Cuba;
- d) its having been the object of measures which limit the financial institution or any of its shareholders in exercising the activity of financial mediation, because any of them has violated the legal provisions in effect in other countries, whenever the violation is incompatible with the financial institution carrying out of financial mediation in Cuba; or
- e) any of the shareholders or executives of the financial institution having been the object of legal measures for having violated the laws in effect in the country, whenever the violation damages the prestige of and confidence in that financial institution and is considered incompatible with the financial institution's carrying out its activity of mediation in Cuba.

Article 15: Before suspending or cancelling the license, Banco Central de Cuba will notify the financial institution or representative office of its intention to do so, specifying the reasons for its decision. The entity notified will have thirty (30) business days after its notification to contest the decision of Banco Central de Cuba and present the documentary evidence which it deems pertinent. After that time, within the next thirty (30) business days, whether a protest has been presented or not, Banco Central de Cuba will rule on what action should be taken, through a resolution not subject to appeal.

Article 16: If Banco Central de Cuba ratifies the cancellation of a financial institution's license, that financial institution should immediately desist from engaging in any new operations. It will have a maximum of one hundred and eighty (180) calendar days in which to close out all of its operations. Banco Central de Cuba is not responsible for any loss, cost and inconvenience that the suspension or cancellation of the license may cause the financial institution.

Notification of the cancellation of the license of a representative office implies the cessation of its activities within the time stipulated in the notification of cancellation.

FOURTH SECTION

THE ORGANIZATION AND FUNCTIONING OF FINANCIAL INSTITUTIONS

Article 17: Financial institutions which operate under a general license, a type A special license or a specific license may create as many branches and agencies as they deem necessary for the purpose of carrying out their activities, once authorized to do so and in correspondence with the regulations issued to this effect by Banco Central de Cuba.

Article 18: The financial institutions may name the posts in their respective organizations, adapting them to international financial and banking practice.

Article 19: State Banks will function under the management of a President and Vice-Presidents, assisted by a Board of Directors.

Article 20: To be appointed for management posts of financial institutions, the persons considered should have solid, recognized moral standing and full legal capacity for the habitual exercise of trade, banking and finance; be engaging in or have engaged in important activities in the field of the economy, banking or finance; and have proved ability in those activities.

Article 21: The financial institutions will request authorization from Banco Central de Cuba to make the investments they wish to make in the capital of national or foreign entities, whether banks or otherwise.

Article 22: Banco Central de Cuba will regulate everything related to the activity of an offshore banking center and the functioning of the financial institutions in the duty free zones and industrial parks.

Article 23: In accordance with the legislation in effect, Banco Central de Cuba approves the accounting and auditing systems of the financial institutions and controls their authorized functions in the way which it determines.

CHAPTER III

PARTICULARS OF THE FINANCIAL INTERMEDIARIES

FIRST SECTION

CAPITAL

Article 24: Each body corporate which acts as a financial intermediary in Cuba should have a minimum paid-up capital amounting to the level determined by Banco Central de Cuba for this purpose.

Once a year, Banco Central de Cuba should update the level of minimum capital referred to in this article. Any financial institution whose capital amounts to less than the required minimum stipulated by such updating should increase its capital to that amount within a year.

If foreign capital is contributed, the regulations set forth in the laws in effect on foreign investments in Cuba and those stipulated by Banco Central de Cuba concerning the proportion of participation by foreign capital in relation to total capital will be taken into account.

The capital of non-State financial institutions should be represented by totally subscribed and paid nominative shares.

Article 25: The capital should be represented by totally unencumbered assets, in accordance with what is set forth in the legislation in effect and in the regulations of Banco Central de Cuba.

Article 26: Every year, each financial institution should set aside at least the minimum percentage of its net profits that is stipulated by Banco Central de Cuba for creating and increasing a legal reserve for covering risks and possible future losses until it reaches an amount at least equal to its capital.

Once it reaches that size, Banco Central de Cuba is empowered to direct that the reserves be capitalized and that the process be begun again.

Article 27: No financial institution may declare or pay any dividends or distribute its profits, either in part or in full, until it has paid its liabilities or created sufficient provision for meeting possible capital losses.

Nor may it declare or pay dividends if reasons exist for believing that it is unable to meet its liabilities as they fall due or will be unable to do so after the payment of dividends.

Article 28: In acquiring their capital, all financial institutions will be governed by the coefficients of solvency and their own resources, which Banco Central de Cuba will set either in general or for specific cases. In doing this, among other things, Banco Central de Cuba will take into account the Basel Agreement on Banking Supervision as regards the International Convergence of Capital Rules and Measures.

Article 29: In accordance with what is stipulated in the preceding article, Banco Central de Cuba may order an increase in capital or reserves in order to keep any financial institution solvent when it deems this correct and, in the corresponding communication, set a time limit for compliance.

Any financial institution which decides to modify its capital should notify Banco Central de Cuba of this decision in writing, at least thirty (30) days before doing so.

SECOND SECTION

OPERATIONS

Article 30: In correspondence with the licenses approved for them, banks are the only bodies that are authorized to open and operate deposit accounts in current accounts, savings accounts and term accounts and to pay interest.

Article 31: Banks may not retain the movable property and real estate which they acquire in settlement of loans after the promulgation of this Decree-Law, either by themselves or by means of intermediaries, for more than one year, unless they are expressly authorized to do so by Banco Central de Cuba, for reasons of public convenience.

Article 32: In carrying out their business, financial institutions should obey the regulations issued by Banco Central de Cuba relating to implementation of its monetary, credit, foreign exchange and payments policy and those related to the supervision which Banco Central de Cuba exercises over those entities.

Article 33: All banks should open current accounts in Banco Central de Cuba and maintain minimum cash balances to comply with the regulations issued by Banco Central de Cuba.

Banco Central de Cuba may establish requirements for nonbanking financial institutions concerning their obligation to keep accounts and reserve funds in the former.

Article 34: Banks may open other accounts in Banco Central de Cuba, under the conditions which it establishes.

Article 35: In accordance with their due dates, credit operations which fall due in a year (360 days) or less will be considered short-term; those which fall due between one and five years, medium-term; and those which fall due in more than five years, long-term.

Article 36: Financial institutions may cancel or reduce the amount of the loans they have granted if it is found that the information provided by the debtor is inadequate, in which case he will be expressly notified.

Financial institutions may revoke any loan without prior notice in cases in which the debtor has violated the conditions specified in the loan agreement or in cases in which it is known that the debtor's economic and financial situation is such that it gives rise to doubts about his ability to repay the loan.

Article 37: All of the financial institutions' credit and guarantee operations should be reflected in written contracts which clearly set forth the terms and conditions of the transactions.

The originals of those contracts should remain in the hands of the financial institutions granting the loans and be available to Banco Central de Cuba on demand.

Article 38: In correspondence with their licenses and with the regulations which Banco Central de Cuba may issue in this regard, financial institutions may sell, buy, have custody of and administer monetary assets and other securities and may engage in transfers, compensatory transactions and other business transactions on their own behalf or on behalf of third parties.

Article 39: Within the limits of the legislation in effect and of their licenses, financial institutions may carry out operations concerning foreign exchange; metals; precious stones and any other easily salable assets; investments; subscriptions; sales and purchases; the management, custody and trade of securities; banking advice; services; guarantees; trusts; and any other activities carried out on their own behalf, on behalf of other financial institutions or on behalf of their clients.

Article 40: Every financial institution that is licensed to carry out operations in the offshore banking center, duty free zones and industrial parks should create a separate, independent unit which is dedicated exclusively to those operations, with accounting and statistical records of its own.

Article 41: Except when expressly authorized to do so by Banco Central de Cuba, nonbanking financial institutions may not

- a) accept deposits in current, savings and term accounts or, in general, carry out those operations which the law reserves exclusively for banks;
- b) send abroad, by means of credit, financial or investment operations, the resources they obtain in the country;
- c) purchase products, merchandise and goods which are not indispensable for their normal functioning;
- d) receive resources on behalf of third parties;
- e) deliver the amount of financing which they grant in short-, medium- and long-term loans in the form of cash; and
- f) engage directly in buying and selling operations in foreign exchange in Cuba and abroad.

THIRD SECTION

FINANCIAL STATEMENTS

Article 42: The financial statements of Banco Central de Cuba should be certified by its Auditor.

Article 43: Banco Central de Cuba will establish the pertinent regulations governing the drawing up of the financial institutions' financial statements, which should be certified by external entities of auditors who are acceptable to Banco Central de Cuba.

Banco Central de Cuba is empowered to select, from among the external auditors authorized by the Ministry of Finances and Prices, the entities which, in its opinion, are qualified to certify the financial statements of the financial institutions.

The Superintendent from Banco Central de Cuba will see to it that the external auditors meet the minimum requirements established for the contents of financial statements certificates.

Article 44: Financial institutions will publish their financial statements at the close of December 31 each year and with any other periodicity and subject to the rules which Banco Central de Cuba may determine in this regard.

CHAPTER IV

SYSTEM OF COMPENSATION

Article 45: Banco Central de Cuba looks after the normal functioning of the payment system in the country, issues rules and regulations and establishes the supervision necessary for the efficient compensation of check payments and other securities between banks.

CHAPTER V

REGULATIONS AND OBLIGATORY RESERVE REQUIREMENTS

FIRST SECTION

REGULATIONS

Article 46: In fulfillment of its purposes and functions, Banco Central de Cuba is empowered to issue whatever regulations it deems necessary for the smooth functioning of the financial institutions and representative offices.

Article 47: The loans that any financial institution grants to a single debtor may not exceed the risk concentration limits set by Banco Central de Cuba in relation to the financial institutions' capital and reserves.

For the purposes of this article, debtors who maintain links of property, management or loan objectives that lead one to believe they are involved in a single loan operation should be considered to be a single debtor.

When financial institutions grant loans to individuals or bodies corporate directly or indirectly linked to their ownership or management, they may not do so under more favorable terms as regards due dates, interest rates or guarantees than those of the loans they grant to third parties in similar transactions.

The total amount of loans granted to a single group of individuals who are linked to the ownership or management of a financial institution should be within the limits set by Banco Central de Cuba.

The Superintendent shall determine, by means of general rules, which individuals or bodies corporate, shall be considered related to the property or management of the financial institution.

The Superintendent will punish violations of this article with the imposition of a fine, in accordance with the regulations in effect. Second offenses will be fined double the amount of the established fine and may bring about total or partial suspension of authorization to engage in banking and financial activities.

Article 48: In applying the monetary and financial policy, Banco Central de Cuba is empowered to regulate the operating limits of the credit facilities, loans, discounts, rediscounts and other related transactions designated in national and foreign currency.

SECOND SECTION

OBLIGATORY RESERVE REQUIREMENTS

Article 49: In accordance with this law, banks are required to keep an obligatory reserve against deposits and liabilities, amounting to the figure established by Banco Central de Cuba by means of the regulations it issues systematically to uphold its monetary and financial policy.

Article 50: The obligatory reserve should be established in legal tender, except for the obligatory reserve for foreign currency deposits and liabilities, which should be in the kind of currency determined by Banco Central de Cuba.

Banco Central de Cuba may determine that a part of the obligatory reserve be established in other liquid assets.

Article 51: Banks should keep on deposit in Banco Central de Cuba that proportion of their obligatory reserve which Banco Central de Cuba determines; obligatory reserve that may be partially compensated, for reasons of monetary and financial policy, in the terms and conditions set forth for that purpose.

The amounts corresponding to the obligatory reserve requirements which the banks keep on deposit in Banco Central de Cuba will not be attachable.

Article 52: Banco Central de Cuba establishes the method of calculation to determine the amount of the banks' obligatory reserve requirements and the interest rates they should pay in cases of insufficiency.

Article 53: Any bank which incurs in reiterated deficits in its obligatory reserve requirements may be punished additionally with progressively larger fines under the regulations in effect, as determined by Banco Central de Cuba, which may decide to suspend its license, either temporarily or permanently, if its failure to comply is extreme.

CHAPTER VI

BANKING SUPERVISION

Article 54: Banco Central de Cuba is empowered to issue the rules, procedures and regulations it deems necessary for carrying out banking supervision, auditing and the inspection of the financial institutions, representative offices and the central bank itself.

Banco Central de Cuba's Superintendent will be in charge of supervising, inspecting, surveying and regulating the financial institutions and representative offices.

All of the activities of financial mediation which insurance companies—both those already in existence and those which are created in the future—carry out in the country will be considered to be included in the activities supervised by Banco Central de Cuba, and the regulations which Banco Central de Cuba issues for those activities will be applicable to them.

Banco Central de Cuba's Auditor will be in charge of the internal auditing of all the dependencies of that bank, including the one subordinated to the Superintendent.

Article 55: The financial institutions and representative offices must give Banco Central de Cuba's Superintendent whatever information he needs to comply with the powers conferred on him by its by-laws and this Decree-Law. In fulfillment of this requirement, Banco Central de Cuba will establish the forms and time limits for receiving the required information.

Article 56: Banco Central de Cuba's Superintendent has the required authority to examine the balance sheets and the rest of the financial statements, accounts and transactions of the financial institutions which are established in the country and to demand of them and of the representative offices whatever additional information and reports he deems necessary for the best fulfillment of his supervisory functions.

For this same purpose, he may order inspections of the financial institutions and representative offices established in the country whenever he deems this advisable and without prior notice.

Article 57: Banco Central de Cuba determines the amounts and form in which the financial institutions contribute to finance the costs of supervision.

Banco Central de Cuba issues the rules and procedures necessary for formalizing the above-mentioned system of financing the costs of supervision.

Article 58: In order to safeguard the stability and integrity of the financial institutions, Banco Central de Cuba orders the reorganization, assumes the management, decrees the intervention and—in accord with a court decision to this effect—takes possession of assets or proceed to its forced liquidation.

Article 59: The officials and all other employees of each financial institution and representative office should guarantee that the business they engage in is carried out in line with the ethical and professional norms of the banking and financial sector; that the laws and regulations of the country are obeyed; that no business is carried out, services offered or confidential information handled for fraudulent purposes; and that no assistance or advice is given for transactions concerning which they have evidence or suspect that they are related to money-laundering or other criminal activities of any kind. Any violation of what is set forth here is subject to the punishments established by the laws of the country, by this Decree-Law and by the regulations which are issued for this purpose.

CHAPTER VII

VOLUNTARY LIQUIDATION, INTERVENTION AND FORCED LIQUIDATION

Article 60: A financial institution that is faced with a situation which impedes its normal functioning may be submitted to one of the following procedures:

- a) voluntary liquidation;
- b) intervention; or
- c) forced liquidation.

FIRST SECTION

VOLUNTARY LIQUIDATION

Article 61: Any financial institution with sufficient liquid assets to settle its obligations to its creditors may proceed to the liquidation or dissolution of its entity after Banco Central de Cuba authorizes it to do so.

Article 62: Once that authorization is given, the financial institution will immediately cease its operations, and its powers will be limited to those required for carrying out the liquidation.

Article 63: Within thirty (30) calendar after the authorization of the liquidation, the financial institution should mail an announcement of the liquidation to each of its depositors, creditors, owners of record of the assets it holds as trustee and in custody, to the lessees of security boxes and to everyone else necessary. The announcement should also be posted in a visible place in each of the offices of the financial institution and be published in the way determined by Banco Central de Cuba.

Article 64: Authorization of liquidation does not prejudice the right of each and every one of the depositors and creditors to be paid in full the amount corresponding to him, nor does it prejudice the right of the owners of record of funds or other assets to have it returned to them. The payments and returns should be made within the time limit and in accord with the priorities which Banco Central de Cuba sets when authorizing the liquidation.

Article 65: No profits may be distributed among the shareholders or partners until all of their obligations to their depositors and creditors have been paid in full.

When any transaction is in litigation, the financial institution will transfer an amount large enough to satisfy it to the depositary that Banco Central de Cuba determines, who will keep it in custody until a court decision has been handed down on the matter.

Article 66: If there are any funds or credits against which no claims are outstanding at the conclusion of the liquidation, the financial institution will transfer to the depositary determined by Banco Central de Cuba the necessary amounts to cover them. The securities and other assets against which no claims are outstanding will also be turned over to the depositary, accompanied by the corresponding legally certified inventory. The depositary will issue a legally certified written acknowledgment of receipt of the deliveries and will send new announcement to the interested parties, repeating them in due time to those who have not yet presented themselves. The announcement will be issued in the form determined by Banco Central de Cuba's Superintendent.

Article 67: During the course of the voluntary liquidation, the financial institution in liquidation must

- a) supply Banco Central de Cuba's Superintendent, as frequently as he determines, with the reports he requests on how the action that has been undertaken is progressing and
- b) report to Banco Central de Cuba's Superintendent if and when it becomes obvious that its liquid assets are insufficient for reimbursing all of its depositors and creditors.

SECOND SECTION

INTERVENTION

Article 68: Banco Central de Cuba may intervene, take possession of the assets of and assume the management of a financial institution if

- a) its capital has suffered a significant loss or lacks solidity;
- b) it is carrying out its operations in an illegal, negligent or fraudulent way;
- c) it cannot continue its operations safely;

- d) it refuses to produce the accounts of its operations after having been duly required to do so and in any way hinders the inspection made by Banco Central de Cuba;
- e) Banco Central de Cuba deems this convenient because the financial institution has delayed longer than necessary in winding up its process of voluntary liquidation;
- f) its assets are insufficient for meeting its liabilities in full;
- g) Banco Central de Cuba deems this convenient because a liquidation or judicial proceeding is being carried out inside the country or abroad which involves the financial institution, its shareholders or its home office; or
- h) it has done anything which may cause cancellation of its license.

Article 69: When implementing the intervention, Banco Central de Cuba's Superintendent will order that an announcement be posted in each of the offices of the financial institution, stating the date and time when the intervention will go into effect.

Banco Central de Cuba may order that the announcement of the intervention, reorganization or liquidation of the financial institution be published in the mass media it considers adequate.

Article 70: In case of intervention, Banco Central de Cuba will designate the number of interveners it deems necessary and grant them powers to be exclusively in charge of the management and inspection of the financial institution. Among other things, they will be empowered to

- a) suspend or limit the payment of liabilities;
- b) hire auxiliary personnel as needed;
- c) issue any document which may be necessary, in the name of the financial institution; and
- d) represent the financial institution in any action or judicial proceeding or of any other nature in which it may be party.

Article 71: Banco Central de Cuba is empowered to decide to reorganize the intervened entity, to request its forced liquidation and cancel the license which was granted to it, or to set aside its intervention. It will have ninety (90) business days in which to determine what it considers most appropriate in each case, counted from the date the announcement of the intervention was posted.

Article 72: If, during the period established in the preceding article, Banco Central de Cuba should decide that the financial institution should be reorganized, it will hear the opinions of the affected party and then draw up a reorganization plan, which it may make public in the mass media it deems adequate.

Article 73: The reorganization plan should, among other things,

- a) be feasible and also fair, both to depositors and creditors and to the shareholders;
- b) guarantee the dismissal from office and prosecution of any official or other employee of the entity who, because of his negligent, fraudulent or unlawful conduct, is responsible for the situation that makes the reorganization necessary; and
- c) adjust any consolidation or merger that may turn out to be necessary to the provisions of this Decree-Law and the other legal provisions in effect.

Article 74: No asset of the financial institution will be subject to seizure, attachment or retention while the financial institution is intervened or in the process of reorganization.

Article 75: During reorganization, with the authorization of Banco Central de Cuba, the interveners may negotiate loans on behalf of the financial institution and offer its assets as security.

Article 76: All of the necessary expenditures incurred in the intervention, reorganization or liquidation will, in each case, be charged to the assets of the financial institution.

Article 77: If, after the reorganization plan has begun to be put into effect, situations arise which make it unfair or its implementation inappropriate, Banco Central de Cuba may modify it or decide to request the liquidation of the entity, as set forth in the following section.

THIRD SECTION

FORCED LIQUIDATION

Article 78: If, in accordance with the legal provisions in effect, Banco Central de Cuba decides to present the pertinent court with a request for the dissolution and liquidation of a financial institution, it notifies the legal representative of the entity of its intention and advise the shareholders, depositors and other creditors by means of the general circulation of the resolution in this regard.

Article 79: Once Banco Central de Cuba has requested the liquidation, it orders that the depositors, creditors, lessees of safe-deposit boxes and other depositors of property be notified by mail of its decision. The notification should be accompanied by a statement showing the amounts due to the depositors or creditors, according to the financial institution's books. A copy only of the notification will also be posted in a visible place in each of the entity's offices.

Article 80: The provisions of Article 64 of this Decree-Law will be applicable in cases of forced liquidation.

If there are any funds or credits against which no claims are outstanding at the conclusion of the forced liquidation, the provisions of Article 66 of this Decree-Law will be applied.

CHAPTER VIII

BANK SECRECY

Article 81: The financial institutions are bound to keep secrecy about their accounts, deposits and transactions in general and may not give any news or reports other than to the depositor, heir, beneficiary and his legal representatives or to whom are empowered to dispose of the account or intervene in the transaction, unless ordered to do so by a legal finding handed down in a trial in which the depositor is the plaintiff or in the cases in which the accused or the law expressly authorizes this.

The officials and other employees of the nonbanking financial institutions are responsible for violations of bank secrecy.

TEMPORARY PROVISIONS

FIRST: Every State Bank that was created before this Decree-Law went into effect has thirty (30) days, counted from the time of its promulgation, in which to obtain a license from Banco Central de Cuba setting forth the scope and kind of operations it may carry out. Banco Central de Cuba has sixty (60) days, counted from the time the request is presented, in which to grant the license.

SECOND: Within thirty (30) days of the date of promulgation of this Decree-Law, every existing non-State Bank must submit its license to Banco Central de Cuba for review; Banco Central de Cuba has sixty (60) days in which to grant the license again, on the basis of the provisions of this Decree-Law. In the course of that review process, the non-State Banks may continue to carry out the functions and operations for which they were authorized.

THIRD: Every nonbanking financial institution that was established before this Decree-Law went into effect may continue operating in the same way as usual for ninety (90) days, counted from the promulgation of this Decree-Law. During that time, it should comply with the provisions of this Decree-Law for the establishment of this kind of institution.

Banco Central de Cuba has sixty (60) days, counted from the time the request for a license is presented, to decide whether or not to authorize the operation of that institution.

FOURTH: Every financial institution has ninety (90) days, counted from the promulgation of this Decree-Law, to adjust its conditions to the requirements of banking supervision.

FIFTH: Banco Central de Cuba will propose to the Council of Ministers the draft regulations referred to in Article 4 within one hundred and eighty (180) days of the time when this Decree-Law goes into effect.

SPECIAL PROVISIONS

FIRST: As soon as this Decree-Law goes into effect, Banco Central de Cuba will become responsible for the General Registry of Banks, which was created in Banco Nacional de Cuba in accord with the provisions of Decree-Law 84, of October 13, 1984.

SECOND: The duration of the licenses that Banco Nacional de Cuba issued to representative offices is ratified, as is the registration of banks and representative offices in the General Registry of Banks of Banco Nacional de Cuba .

FINAL PROVISIONS

FIRST: The Banco Financiero Internacional will continue operating on the same basis and for the same objectives for which it was established.

SECOND: The President of Banco Central de Cuba is empowered to issue as many legal provisions as may be necessary to ensure compliance with the provisions of this Decree-Law.

THIRD: Articles 1 through 18 of Decree-Law 84, on the National Banking System and Banco Nacional de Cuba , of October 13, 1984, are expressly repealed.

FOURTH: Any other legal provisions which go contrary to compliance with the provisions of this Decree-Law are hereby repealed. This Decree-Law will go into effect upon its publication in the *Official Gazette of the Republic of Cuba*.

Done at the Palace of the Revolution, in the city of Havana, on May 28, 1997.

FIDEL CASTRO RUZ
PRESIDENT OF THE
COUNCIL OF STATE

This is a true translation of the original published at Gaceta Oficial de la República de Cuba - Extraordinary of May 28th, 1997.

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