

**REPUBLIC OF PANAMA  
MINISTRY OF ECONOMY AND FINANCE**

**EXECUTIVE DECREE NO. 52  
(of 30 April 2008)**

**Whereby the Sole Text of Decree Law 9 of 26 February 1998,  
modified by Decree Law 2 of 22 February 2008 is Adopted.**

**THE PRESIDENT OF THE REPUBLIC**  
in full use of his constitutional and legal powers,

**WHEREAS:**

Decree Law 9 of 26 February 1998, which modified the Banking Regime and created the Superintendency of Banks, was modified by means of Decree Law 2 of 22 February 2008.

Article 277 (Transitory) of Decree Law 2 of 22 February 2008 authorizes the Executive Branch to systematically order in a proper sequence all non-reformed provisions of Decree Law 9 of 1998, as well as the new provisions of Decree Law 2 of 2008, in the form of a Sole Text in sequentially numbered articles, starting with Article One.

In compliance with the provisions of Decree Law 2 of 22 February 2008, a Sole Text was composed, whose purpose is to facilitate the use and understanding of the Banking Regime to the general public,

**DECREES:**

**ARTICLE ONE:** To adopt the Sole Text of Decree Law 9 of 26 February 1998, as modified by Decree Law 2 of 22 February 2008, with sequential numbering of the articles, commencing with the Number 1, as follows:

**TITLE I**

**GENERAL RULES AND DEFINITIONS**

**ARTICLE 1. SCOPE OF APPLICATION.** This Decree Law will apply to:

1. The banks or any person engaged in the banking business in or from the Republic of Panama.
2. The banking groups, as they are defined in this Decree Law and in the enabling regulations issued for its implementation.
3. The representative offices.
4. The non-banking or non-financial affiliates as described in article 63 of this Decree Law.

**ARTICLE 2. EXERCISE OF THE BANKING BUSINESS.** Only those persons who have obtained a banking license may engage in the banking business in or from the Republic of Panama. Public Legal entities authorized to that effect may also engage in the banking business in or from the Republic of Panama.

**PARAGRAPH:** It is forbidden for any person, in or from the Republic of Panama, to raise funds from the general public, directly or indirectly, in the form of time monies in deposits or in any other form, unless (a) said person holds a license or authorization for this activity issued by a competent legal authority or regulatory entity, or (b) said person is engaged in fundraising activities expressly exempt by law from any requirement for licensing, regulation or authorization.

In relation to these cases, the Superintendency will have the same powers and may follow the same procedures described in article 45 of this Decree Law, notwithstanding the application of other sanctions that may apply.

**ARTICLE 3. DEFINITIONS.** For the purposes of this Decree Law, the following terms will be understood as:

1. **Accruing asset:** an asset that generates income regularly, independently of its location, as determined by the Superintendency of Banks.
2. **Rule:** any decision of general application adopted by the Board of Directors of the Superintendency, for the development of policies, or the interpretation or definition of the scope of the provisions of this Decree Law.
3. **Non-banking affiliate:** non-banking or non-financial entity associated with an economic group of which a banking group, bank or bank holding company is part of.
4. **Bank:** any person engaged in the banking business or acting as a representative office.
5. **Foreign bank:** branch or subsidiary of a bank or a bank holding company, whose head office is located outside the Republic of Panama.
6. **Panamanian bank:** a bank whose head office is in the Republic of Panama.
7. **Official bank:** an entity owned by the State and engaged in the banking business.
8. **Assigned capital:** capital funds that a foreign bank destines or assigns to a branch in Panama.
9. **Primary capital:** consists of paid-in capital, declared reserves and retained earnings.
10. **Secondary capital:** capital made up of non-declared reserves, valuation reserves, general loss reserves, hybrid debt-capital instruments, and subordinated term debt.

11. **Tertiary capital:** capital made up exclusively of short term subordinated debt to address market risks.
12. **Career:** banking supervisors' career.
13. **Circular:** document issued by the Superintendent to the banks operating in Panama, which has instructions for the due compliance of the standards/regulations.
14. **Competence:** the continuous demonstration of having the required skills to efficiently and effectively perform in a public position in the Superintendency in accordance to the standards established in the Positions Profile Handbook of the Institution.
15. **Banking adhesion contract:** a contract whose clauses have been unilaterally established by the bank, excluding the customer from negotiating their content.
16. **Days:** calendar days unless otherwise stated.
17. **Foreign supervisory body:** foreign supervisory authority with similar functions to those of the Superintendency of Banks.
18. **Establishment:** any office, branch or agency through which a bank engages in the banking business, excepting any equipment, machines, systems, offices or dependencies expressly defined by the Superintendency.
19. **Financial statements:** the general balance sheet, the profit-and-loss statement, the net worth statement, the cash flow statement, and notes on the most relevant accounting policies and other explanatory notes.
20. **Evaluation:** action and effect of appraising the competencies and performance of employees of the Superintendency or candidates to become one.
21. **Secured credit facility:** a credit facility that at any time is secured by collateral whose value is equal to or greater than the amount owed.
22. **Unsecured credit facility:** a credit facility that, at the moment of its classification, does not have any collateral whatsoever.
23. **Partially secured credit facility:** a credit facility that, at any moment, is secured by collateral whose value is less than the amount owed. The Superintendency will determine what constitutes collateral under numbers 21, 22, and 23 of this article and how to establish its valuation.
24. **Capital funds:** the aggregate of primary capital, secondary capital, and tertiary capital of a bank.
25. **Official:** a public employee in the service of the Superintendency.

26. **Banking group:** one constituted by a bank holding company and its subsidiaries at any level, whose activities consist, predominantly, of providing services in the banking or financial sectors, including the non-banking subsidiaries of the latter which, in the opinion of the Superintendency, operates under common management, either through the bank holding company or through different shares or agreements.
27. **Economic group:** any group of natural or juridical persons, of any nationality or jurisdiction, whose self interests are in such a manner related among themselves that, in the opinion of the Superintendency, they should be considered as one person.
28. **Interest:** any sum or sums of money, under any form or under any name, that are charged, received or paid for the use of money.
29. **Board of Directors:** the Board of Directors of the Superintendency.
30. **Banking business:** principally, the taking of resources from the public or financial institutions, by means of the acceptance of time deposits, or by any other means determined by the Superintendency or by banking practices, and the use of such resources, for the bank's own risk and account, to grant loans, make investments or any other transactions defined by the Superintendency to these effects.
31. **Accounting standards:** those adopted by the Superintendency as a general regulation and which all banks must follow in their accounting.
32. **Technical and prudential standards:** those issued by the Superintendency to assure the soundness and efficiency of the banking system.
33. **Representative office:** the office of a bank which promotes the banking business from within the Republic of Panama without actually engaging in it.
34. **Bank holding company:** any natural or juridical person which, directly or indirectly, is predominantly the owner of the shares of a bank or who, in the Superintendency's best judgment, exercises control of said bank's management.
35. **Capital reserve:** reserves made up by funds originating as accumulated earnings in the books of banks and destined to reinforce their financial condition.
36. **Resolution:** a decision adopted by the Superintendent or by the Board of Directors, in the exercise of powers granted by this Decree Law, applicable to a particular case.
37. **Merit system:** labor regime based upon a system of performance appraisals, whose purpose is to promote competitiveness, job stability, and productivity among the required personnel for the efficient functioning of the Superintendency.
38. **Subsidiary:** a juridical person whose shares are owned, totally or in a majority, by a bank or bank holding company, with the exclusion of juridical persons for whom the bank acts as fiduciary agent.

39. **Branch:** an establishment of a bank which is an integral part of the bank without separate, independent or autonomous juridical status.

40. **Superintendency:** the Superintendency of Banks of Panama.

41. **Superintendent:** the Superintendent of Banks.

## **TITLE II THE SUPERINTENDENCY OF BANKS**

### **CHAPTER I GENERAL OUTLINES**

**ARTICLE 4. THE SUPERINTENDENCY OF BANKS.** The Superintendency of Banks is hereby created as an autonomous institution of the State, with juridical personality, own equity, and administrative, budgetary and financial independence. The Superintendency will have exclusive competence to regulate and supervise the banks, the banking business and other entities and activities assigned to it by other laws.

In order to insure its autonomy, it is hereby established that the Superintendency:

1. Will have its own funds, separate and independent from the Central Government, which will administer exclusively with full freedom and autonomy.
2. Will approve its own income and expense budget, which will sub-sequentially be incorporated into the General Budget of the State.
3. Will establish its own organic and administrative structure, with the power to select, appoint, and dismiss its personnel as well as to establish their compensation and benefits.
4. Will act independently in the discharge of its functions and will be subject to the supervision of the Office of the Comptroller General of the Republic, as established in the Political Constitution of the Republic and this Decree Law. This supervision will not in any way imply interference of any kind with the administrative powers of the Superintendency.
5. Will not be subject to the payment of taxes, duties, fees, charges, levies or tributes of a national nature, with the exception of social security and education insurance payments, professional risks coverage, fees for public services and import taxes.
6. Will enjoy all the guarantees and immunities that are established in favor of the State and public entities.

**ARTICLE 5. OBJECTIVES OF THE SUPERINTENDENCY.** The objectives of the Superintendency are:

1. To safeguard the soundness and efficiency of the banking system.
2. To strengthen and foster auspicious conditions to the development of the Republic of Panama as an international financial/banking center.
3. To promote public trust in the banking system.
4. To safeguard the judicial equilibrium between the banking system and its clients.

**ARTICLE 6. FUNCTIONS OF THE SUPERINTENDENCY.** The functions of the Superintendency are:

1. To ensure that the banks maintain adequate liquidity and solvency ratios to discharge their obligations, as well as adequate procedures that allow the supervision and control of their national and international activities, in close collaboration with foreign supervisory entities, if such were the case.
2. To develop the regulatory framework of the banking regime. When this function is discharged by the Board of Directors, it will be done so through rules, and when is done by the Superintendent, through resolutions.
3. To impose the corresponding sanctions to those parties guilty of engaging in the banking business without proper authorization.
4. To discharge the functions that may be assigned to it by this Decree Law or by other laws.

**ARTICLE 7. ORGANS OF THE SUPERINTENDENCY.** The Superintendency will have a Board of Directors and a Superintendent, appointed by the Executive Branch.

The appointment of the directors and of the Superintendent will not be subject to the ratification of the Legislative Branch as established by Law 3 of 1987.

## **CHAPTER II THE BOARD OF DIRECTORS**

**ARTICLE 8. COMPOSITION, DIGNITARIES, AND REMUNERATION.** The Board of Directors will serve as the highest body of consultation, regulation, and formulation of general policies of the Superintendency. The Board will be composed of five directors with the right to speak and vote. Amongst them, a chairman and secretary shall be elected who will serve as such for a term of one year. Said term may be extended for an equal period.

The directors will not receive remuneration nor representation expenses, except an allowance to attend meetings of the Board, or to participate in official missions, whose amount will be established by the Executive Branch.

**ARTICLE 9. PREREQUISITES TO BECOME A DIRECTOR.** To become a member of the Board of Directors, the candidate must meet the following requirements:

1. Must be a Panamanian citizen.
2. Must not have been convicted for deceitful crimes by a competent authority.
3. Must not have any kinship with other directors or with the Superintendent within the fourth degree of consanguinity or second degree of affinity, nor be the spouse of another director or of the Superintendent.
4. Must not be a full time public servant, except if serving as a university professor.
5. Must hold a university degree and have a minimum of ten years of professional experience in the banking or financial sectors or in similar activities.
6. Must not have been disqualified by the Superintendency or by the National Banking Commission to perform banking functions.
7. Must not have been judicially declared in bankruptcy, or involved in insolvency proceedings, nor have been involved in a situation of manifest insolvency.
8. Must not be a practicing banker, or member of a board of directors of a bank or a bank holding company, or shareholder in possession, directly or indirectly, of more than five percent of the stock of a bank or a bank holding company.

**ARTICLE 10. TERM OF THE DIRECTORS.** The directors will remain in their positions for a period of eight years, renewable once only for an equal term.

The directors will be appointed in such a manner as to ensure, at any time, their gradual renovation. In case of the anticipated cessation of a director, his/her replacement will be appointed to fulfill the rest of the corresponding term.

**TRANSITORY PROVISION:** The incumbent directors at the moment this Decree Law takes effect will remain in their positions for the period for which they were appointed.

**ARTICLE 11. DUTIES OF THE BOARD OF DIRECTORS.** The following duties are assigned to the Board of Directors:

**I. Of a Technical Nature:**

1. To approve general standards for the identification, regulation, and consolidated supervision of banks and banking groups.
2. To approve generally applicable standards for the definition and identification of credits to clients related among themselves or related to banks or to banking groups.

3. To approve general criteria for the classification of risk assets and rules for the provision of reserves against risks.
4. To approve generally applicable standards to cease accruing interests, in accordance with accepted international criteria.
5. To establish, within the administrative sphere, the interpretation and reach of the legal provisions or regulations on banking matters.
6. To establish the rules for on-site examinations ordered by this Decree Law or by the Superintendency itself to banks or banking groups, as the case may be.
7. To establish the accounting requirements related to the financial information that banks must provide and approve the chart of accounts for banking use.
8. To establish the general standards that banks must follow in their accounting processes.
9. To modify the banking regulatory and supervisory fees, including the maximum established, by means of an affirmative vote of four of its members.
10. To issue the technical standards required for compliance with this Decree Law.
11. To discharge all other technical duties as indicated in this Decree Law.

## **II. Of an Administrative Nature:**

1. To approve the general guidelines, goals, and objectives of the Superintendency.
2. To approve the preliminary draft of the Superintendency's annual budget submitted by the Superintendent for the pertinent constitutional process.
3. To approve the administrative organizational structure of the Superintendency and its functions, and to revise them when considered appropriate.
4. To decide all appeals against resolutions of the Superintendent.
5. To approve performance bonus programs for employees of the Superintendency as well as any other incentive programs designed to promote their productivity.
6. To approve internal labor regulations as well as a Code of Ethics and Conduct and Internal Work Regulations.
7. To approve all direct contracts required by the Superintendency for amounts greater than thirty thousand balboas but less than one hundred thousand balboas, as set forth in this Decree Law and according to the rules of exception contained in the

procedures for the selection of contractors as provided for in the Public Procurement Law and its regulations concerning such procedures.

8. To issue the administrative regulations necessary for fulfilling the duties and functions of the Superintendency.
9. If necessary, to assist the Executive Branch, on an exclusive basis, to establish an integral, sole body of enabling by-laws for this Decree Law or for any other legal provisions intended to regulate the banking system.
10. To discharge any other administrative duties assigned by this Decree Law.

**ARTICLE 12. QUORUM AND DECISIONS OF THE BOARD OF DIRECTORS.** To constitute quorum in the meetings of the Board of Directors, the presence of at least three members is required.

The decisions of the Board of Directors shall be adopted by the affirmative vote of at least three directors, except in those cases especially established in this Decree Law.

When due to conflict of interests, one or more directors are disqualified from voting, the decision will be adopted by the affirmative vote of the majority of those members qualified to vote.

### **CHAPTER III THE SUPERINTENDENT**

**ARTICLE 13. THE POSITION OF SUPERINTENDENT.** The Superintendent will be the legal representative of the Superintendency and will be in charge of the administration and management of its daily affairs. He/she will serve as a full time public official and will be compensated with a salary, as determined by the Executive Branch. The Superintendent will serve a term of five years, renewable once.

The Superintendent may participate in the meetings of the Board of Directors with a right to speak, except when, in the best judgment of the latter, the subject of the meeting is best discussed in the absence of the former.

In case of an anticipated cessation of the Superintendent, the replacement will be appointed for the remaining term.

In the absence of the Superintendent, the legal representation of the Superintendency will fall on the President of the Board of Directors. In the case of a temporary absence of the Superintendent, the Board of Directors may appoint an interim Superintendent.

**TRANSITORY PROVISION.** The incumbent Superintendent at the time this Decree Law enters in force will remain in the position for the term for which he/she was appointed.

**ARTICLE 14. PREREQUISITES FOR BECOMING SUPERINTENDENT.** To become Superintendent, the candidate must meet the following requirements:

1. Must be a Panamanian citizen.
2. Must not have been convicted of deceitful crimes by a competent authority.
3. Must not have any kinship with the members of the Board of Directors within the fourth degree of consanguinity or the second degree of affinity, nor be the spouse of a director.
4. Must possess a university degree and must have held executive or management positions in the banking, financial, commercial or other related activity, in the public or private sectors, for at least ten years.
5. Must not be an active banker or director of a bank or bank holding company, or shareholder who, directly or indirectly, possesses more than five percent of the stock of a bank or a bank holding company.
6. Must not have been disqualified by the Superintendency or the National Banking Commission to perform banking functions.
7. Must not to have been judicially declared in bankruptcy or involved in insolvency proceedings nor have been involved in a situation of manifest insolvency.

**ARTICLE 15. FUNCTIONS OF THE SUPERINTENDENT.** The Superintendent will comply with and execute all rules and resolutions adopted by the Board of Directors, and will ensure compliance with the standards and policies established in banking matters.

Similarly, the Superintendent may propose to the Board of Directors the adoption of decisions that correspond to the latter.

**ARTICLE 16. DUTIES OF THE SUPERINTENDENT.** The following duties are assigned to the Superintendent:

**I. Of a Technical Nature:**

1. To approve the granting of temporary operating permits and banking licenses.
2. To authorize the closing or transfer of banking establishments, as well as the opening abroad of branches or subsidiaries of Panamanian banks or foreign banks operating in Panama.
3. To authorize the voluntary liquidation of banks.
4. To order the seizure of administrative control, reorganization or compulsory liquidation of banks in those cases established in this Decree Law.

5. To order the cancellation of banking licenses.
6. To authorize the merger and consolidation of banks, of bank holding companies, and of the banking groups of which they form part of.
7. To authorize the acquisition or transfer of stocks of banks, bank holding companies or banking groups when, as a result of the acquisition, the buyer or persons related to the buyer, will become total or majority owners or will acquire a controlling interest, as defined by the Superintendency.
8. To publish or order the publication of the financial statements of banks with appropriate regularity and content.
9. To order the banks to remove its directors, officials or executives if, in his/her judgment, there is sufficient reason to do so.
10. To issue certifications related to the existence and activities of banks, based on the information on hand in the Superintendency.
11. To supervise the banks in accordance with this Decree Law and the regulations enforcing it, as well as the internationally accepted standards and criteria encompassed within the Panamanian judicial banking framework.
12. To carry out the consolidated supervision of banking groups in accordance with the provisions of this Decree Law and the Board of Directors.
13. To carry out the examinations ordered by this Decree Law, by the Board of Directors, and those considered necessary or prudential.
14. To establish prevention programs to allow full cognizance of the financial condition of a bank, as well as the verification of the truthfulness of the information remitted by banks to the Superintendency.
15. To appoint advisors, supervisors or administrators in those banks that require special attention from the Superintendency.
16. To impose the sanctions corresponding to violations of the provisions contained in this Decree Law or in regulations issued thereby.
17. To authorize reforms to bank corporate charters.
18. To issue regulations to avoid or correct irregularities or flaws in bank operations which, in his/her judgment, may jeopardize the interests of depositors, the stability of the bank or the soundness of the banking system.
19. To ensure that banks provide to their customers with information that will assure the utmost transparency in their operations.

20. To establish cooperative agreements with foreign supervisory entities to strengthen control mechanisms, update preventive regulations, and interchange useful information in the discharge of supervisory responsibilities.
21. To establish cooperative agreements with public institutions or with private institutions of a professional or educational character.
22. To evaluate the financial indicators of banks and banking groups to allow an adequate follow-up of the principal banking risks such as capital adequacy, credit, liquidity, operating and market risks, and others that the Superintendency may consider appropriate.
23. To assist in the efforts of competent public organisms to eradicate disloyal competitive practices or practices that curtails free access to the banking market.
24. To issue regulations that, inside the bounds of activities allowed by this Decree Law or other complementary legislation, should be complied with by banks so that their operations take place within adequate risk levels, including the authority to establish limits and coefficients that banks must observe in their operations.
25. To issue the necessary circulars containing instructions for compliance with this Decree Law and enabling regulations.
26. To order onsite examinations to those persons of which there exists reasons to suspect that they engage or pretend to engage in the banking business without proper authorization, as well as to seize control of their operations, or suspend them or close the concerned establishments.
27. To resolve all technical matters which are not expressly reserved for the Board of Directors or another authority.
28. To discharge all other duties provided for in this Decree Law.

## **II. Of an Administrative Nature:**

1. To acquire the goods and services required for the proper functioning of the Superintendency and to execute or carry out the functions assigned to it by this Decree Law and its regulations.
2. To prepare the draft of the annual budget, the annual report of activities and projects of the Superintendency and submit them to the consideration of the Board of Directors.
3. To establish the wages, salary scale, and other compensation, as well as to select, appoint, transfer, promote, grant licenses or discharge employees or officials of the Superintendency and apply whatever disciplinary sanctions are necessary.

4. To assure the efficient execution and administration of the Superintendency's annual budget.
5. To approve all direct contracts required by the Superintendency for amounts below thirty thousand balboas, in accordance with the provisions of this Decree Law and according to the rules of exception contained in the procedures for the selection of contractors as provided for in the Public Procurement Law and its regulations concerning such procedures.
6. To determine those days that are of an obligatory nature in which service to the general public will be suspended.
7. To present to the Board of Directors the non-audited financial statements of the Superintendency within two months of the closing of the first semester of each fiscal year.
8. To present to the Board of Directors the financial statements of the Superintendency, properly audited by independent certified public accountants, within three months after the closing of the fiscal year.
9. To delegate functions to officials of the Superintendency, subject to the decisions and guidelines of the Board of Directors.
10. To present to the Board of Directors an annual report of his/her work.
11. To resolve all issues of an administrative character which are not expressly reserved for the Board of Directors or another authority.
12. To prepare and submit, for the approval of the Board of Directors, proposals for rules, decisions, and administrative reforms that the latter may request including, among others, but not limited to, the Banking Supervisor Civil Service Career regime and the internal labor regulations of the Superintendency.
13. To discharge all other duties assigned by this Decree Law.

#### **CHAPTER IV GENERAL PROVISIONS**

**ARTICLE 17. REMOVAL.** The Directors and the Superintendent may be removed from their positions only for reasons established in this Decree Law, upon decision of the Third Chamber of the Supreme Court of Justice and in accordance with the procedure established in the Judicial Code. Only the Executive Branch and the Board of Directors are empowered to solicit said removal.

**ARTICLE 18. CAUSES FOR REMOVAL.** The Third Chamber of the Supreme Court of Justice may order the removal of a member of the Board of Directors, or of the Superintendent, who has incurred in one of the following causes for removal:

1. Permanent inability to discharge his/her duties.
2. Bankruptcy or creditors proceedings or manifest state of insolvency.
3. Failure to comply with the prerequisites to become a director or Superintendent.
4. Lack of probity in the discharge of his/her duties.
5. Repeated and unjustified absence from the meetings of the Board of Directors.
6. Failure to comply with the obligations and prohibitions imposed by this Decree Law.

**ARTICLE 19. CONFLICT OF INTERESTS.** When a meeting of the Board of Directors discusses a subject over whom any of the directors or the Superintendent may have a conflict of interests, such director or the Superintendent will abstain from participating in such meeting. In the absence of voluntary abstention, the Board of Directors may formally require from such director or the Superintendent, as the case may be, to refrain from participating in the meeting and, therefore, in the decision.

**ARTICLE 20. PRESUMPTION OF LEGALITY.** The actions of the members of the Board of Directors, of the Superintendent, and his/her delegates, in the discharge of their functions and duties, are presumed to satisfy all requirements of legality, diligence, and good faith. No legal complaint against them for their actions will lead to separation from their posts, until the case has been decided.

**ARTICLE 21. RIGHT TO INSTITUTIONAL DEFENSE.** The members of the Board of Directors, the Superintendent, and his/her delegates, as well as any other official authorized by the Board of Directors by means of a considered resolution, have the right to the Superintendency's payment of all expenses and legal costs necessary for their defense when they are the subject of legal actions, proceedings, trials or lawsuits derived from their actions or decisions adopted in accordance with this Decree Law and in the discharge of their duties, functions or obligations.

The institutional defense referred to in this article, applies to these officials for actions taken during their period of office and after their cessation.

If the official should be held accountable for the actions or events attributed to him/her, said official will reimburse the Superintendency for the expenses that it incurred in his/her defense.

The Superintendency shall self subrogate in respect of the rights of the defendant or accused, for the recovery of expenses and court costs.

The Board of Directors will establish or provide whatever is necessary for the faithful compliance of the provisions of this article.

## **CHAPTER V BANKING REGULATORY AND SUPERVISORY ASSESSMENT**

**ARTICLE 22. BANKING REGULATORY ASSESSMENT.** A regulatory and supervisory assessment is hereby created in favor of the Superintendency. Banks are subject to the annual payment of said assessment according to the following list:

1. **General License Banks:** Thirty thousand balboas (B/.30,000.00) plus the equivalent of thirty-five balboas (B/.35.00) for each million balboas (B/.1,000,000.00) or fraction thereof of total assets, this last portion up to a maximum of one hundred thousand balboas (B/.100,000.00).
2. **International License Banks:** Fifteen thousand balboas (B/.15,000.00)
3. **Representative Offices:** Five thousand balboas (B/.5,000.00)

The amount of the assessment must relate strictly to the costs in which the Superintendency must incur to comply with its functions in a rational and efficient manner, consistent with its budget. To that end, the Superintendency may, at its discretion, increase or reduce the applicable assessment.

Notwithstanding the above, if, at the end of a budgetary period, there were to exist surplus deriving from the payment of these assessments, the Superintendent will transfer such balances to a special account, which will be used in the defrayal of expenses corresponding to future budgetary periods. If the excess balances were to occur during two consecutive budgetary periods, the Superintendency will reduce the amount of the assessments as necessary, so that such surplus will not occur in subsequent budgetary periods.

**ARTICLE 23. OTHER FUNDING OF THE SUPERINTENDENCY.** The Superintendency will count, in addition, with the following other funding:

1. The income from examinations and other special services paid by the banks and other regulated entities.
2. Donations and other testamentary gifts accepted.
3. Assets and rights that it might possess, acquire or receive under any title.
4. Goods or revenues generated by its assets.
5. Other income that it may obtain under any concept.

**CHAPTER VI**  
**BANKING SUPERVISOR CIVIL SERVICE CAREER**

**ARTICLE 24. CREATION OF THE BANKING SUPERVISOR CIVIL SERVICE CAREER.** The Banking Supervisor Civil Service Career is hereby created to be instituted through a human resources administration system, to structure the norms, procedures, and compensation plans applicable to the public servants in the Superintendency, on the basis of merit and efficiency.

**ARTICLE 25. BASIC PRINCIPLES OF THE CAREER.** The primary objectives of the Career are:

1. To guarantee that the human resources administration of the Superintendency is based strictly on the effective and efficient performance of the officials, on their comprehensive professional development and on an appropriate compensation to the needs and financial reality of the Superintendency.
2. To guarantee the fair treatment of officials without any discrimination due to race, birth, disability, social standing, sex, religious or political affiliation.
3. To guarantee equality of opportunities for promotion.
4. To achieve higher efficiency of officials and the Superintendency.
5. To guarantee a working environment within the Superintendency free of political fears or pressures.
6. To promote diversity and free flow of ideas that will attract worthy, upright officials, conscious of their role in the service to society and to guarantee the competitiveness of the Superintendency.
7. To promote the entry and retention of officials notable for the capability, competence, loyalty, and integrity necessary to attain a position in the Superintendency.

If any of the provisions in this Chapter were not clear, they will be interpreted on the basis of these principles and according to the definitions established in this Decree Law.

**ARTICLE 26. AGENCIES OF THE CAREER.** The main agencies of the Banking Supervisor Civil Service Career are:

1. The Board of Directors, which will be empowered to adopt the provisions, internal work regulations, manuals, and policies necessary to implement the norms of the Banking Supervisor Civil Service Career.
2. The Superintendent.
3. The Superintendency's Human Resources Division.

**PARAGRAPH.** The Board of Directors will act as the normative entity and the others will act as executive entities of the human resources policies of the Superintendency established in this Chapter, their actions will bound by the provisions of the Political Constitution and the internal regulations, and policies adopted for the implementation of this Decree Law.

**ARTICLE 27. CAREER COMMITTEE.** In its role as Career Committee, the Board of Directors will have the following functions:

1. To act as a consultant to the executive entities of the Career in matters concerning to the application and interpretation of this Decree Law.
2. To resolve appeals by career officials against disciplinary punishment.

**PARAGRAPH.** The functioning of the Career Committee will be determined by resolution of the Board of Directors.

**ARTICLE 28. CAREER OFFICIALS.** Those who have been admitted or will be admitted in the future to the Banking Supervisor Civil Service Career, according to the procedures established in this Chapter.

The Superintendent shall not be a career official.

**ARTICLE 29. ADMISSION AS A CAREER OFFICIAL.** The official who enters as an employee of the Superintendency according to the recruitment and selection procedures established in this Chapter and the norms adopted for the implementation of the Career, will become a career official upon completing a trial period of no less than two years of continuous service, with a satisfactory performance appraisal.

The procedures for selection will be designed, at a minimum, based on professional competence, academic record, experience, and moral background, all of which will be verified by valid methods and examinations, previously prepared and approved according to the provisions of this Chapter.

Those persons, whom, at the time of enactment of this Decree Law, are officials of the Superintendency, will be confirmed as career officials if they have at least two years of continuous service in the Superintendency and, subject to performance appraisal, comply with all requisites and profile for the position they occupy.

**ARTICLE 30. RIGHTS OF THE CAREER OFFICIAL.** Career officials have the rights and benefits established in this Chapter, in the internal regulations of the Superintendency and principally, but not limited to, the following:

1. Job stability.
2. Promotions and transfers.

3. Seniority bonuses.
4. Leave of absence, with or without pay.
5. Compensation for unfair dismissal.

Job stability for career officials is conditioned to an effective, productive, honest, agile, and responsible performance as well as to an equitable, impartial, and respectful treatment to users of the Banking System and the common public.

**ARTICLE 31. SENIORITY BONUS.** At the time of the cessation of employment with the Superintendency, career officials have the right to a seniority bonus at the rate of a week's salary for each year of employment, up to a maximum of ten month's salary. In the event of a partially completed year of employment, the career official will have the right to the corresponding proportionate bonus.

The career official will have the right to recognition of continuous service in the former National Banking Commission.

For purposes of calculation, the base will be the last salary earned.

The seniority bonus will be applicable only to those career officials who terminate their employment due to resignation, unfair dismissal, manpower reduction or physical disability.

**ARTICLE 32. PROCEDURES AND POLICIES MANUAL.** The Superintendency will issue a detailed manual, based on norms adopted by the Board of Directors, defining human resources actions and the procedures to be followed for their implementation.

**ARTICLE 33. POSITION DESCRIPTIONS AND CLASSIFICATIONS.** The Superintendency will issue a manual of position descriptions and classifications. Each position will have a specific description of its inherent tasks and the minimum requisites to fill the position. The descriptions will be periodically reviewed and updated.

Position classifications will carry a corresponding nomenclature, in line with the duties, responsibilities and minimum requisites of the position. Each position will be graded according to its complexity and hierarchy.

**ARTICLE 34. COMPENSATION AND SALARY SCALE.** The Superintendency will design a salary scale which will take into account the position classification, the financial condition of the Superintendency, the conditions of the labor market, and the compensation standards of the Panamanian banking marketplace.

The Superintendency will review, at least every two years, its compensation policy to guarantee to career officials a salary that will allow them to live under decorous and dignified conditions, as well as to guarantee the principle of equal pay for equal work.

**ARTICLE 35. MOTIVATION POLICIES OR PROGRAMS.** The Superintendency will establish motivation policies or programs for career officials to incentive their productivity, efficiency, and competitiveness, as well as to improve their moral, social and cultural development, and their work spirit.

Motivational policies or programs will establish economic, moral, and socio-cultural incentives based strictly on the performance of the career official and the achievement of his/her personal objectives/goals.

**ARTICLE 36. PERFORMANCE APPRAISAL SYSTEM.** The Superintendency will establish a performance appraisal system to serve as the basis for the compensation, incentives, training, and dismissal of officials.

The performance appraisal system shall be a series of norms and procedures to evaluate and grade the performance of officials. The evaluation and grading will be based only on the performance and output, without any prejudice whatsoever. The appraisal system will be approved by the Board of Directors.

**ARTICLE 37. TRAINING POLICIES.** The Superintendency will establish training policies, preferring whenever possible, training courses offered by the National Vocational Training Institute for Human Development (INADEH). Nevertheless, the Superintendency will act with full autonomy and without need of prior approval from any other entity with respect to its training policies and programs.

**ARTICLE 38. TERMINATION OF EMPLOYMENT.** The career official will terminate employment with the Superintendency in any of the following cases:

1. Written resignation, duly accepted.
2. Workforce reduction.
3. Dismissal.
4. Disability confirmed by the public health services.
5. Disassociation due to performance appraisal.
6. Death.

**ARTICLE 39. COMPENSATION FOR UNFAIR DISMISSAL.** The career official, notwithstanding the right to job stability granted by this Chapter, can be dismissed from his/her position by the Superintendent, at any time and for any cause, as long as he/she is paid, without impairment of the seniority bonus, a compensation calculated at the rate of a week's salary for each year of employment up to ten months' salary. In the event of a partially completed year of employment, the career official will have the right to the corresponding proportionate bonus.

The career official will have the right to recognition of continuous service in the former National Banking Commission.

For purposes of calculation, the base will be the last salary earned.

The Superintendency will cancel this compensation for unfair dismissal within no more than sixty working days, from the date the right is acquired.

**ARTICLE 40. APPLICATION OF OTHER NORMS IN CASE OF CONTRADICTION.** To the effects of this Chapter exclusively, in case of contradiction between the provisions herein established and other norms, the applicable norms are those established in this Chapter and the regulations that may be developed to define administratively their interpretation and reach.

Law 9 of 1994 and its modifications shall apply only as a default rule.

### **TITLE III BANKING REGIME**

#### **CHAPTER I AUTHORIZATIONS**

**ARTICLE 41. BANKING LICENSES.** No one may engage in the banking business within or from the Republic of Panama without possessing the correspondent banking license or without having been properly authorized by law.

Three types of licenses may be issued:

1. **General License.** Allows the licensee to engage in the banking business within the Republic of Panama, as well as to carry out transactions that are perfected, consummated or have their desired effect outside the territory of the Republic of Panama, and to carry out whatever other activities that may be authorized by the Superintendency of Banks.
2. **International License.** Allows the licensee to engage, from an office established within Panama, transactions that are perfected, consummated or have their desired effect outside the territory of the Republic of Panama, and to carry out whatever other activities that may be authorized by the Superintendency of Banks.
3. **Representation License.** Allows licensed foreign banks to establish a representation office in the Republic of Panama and carry out whatever other activities that may be authorized by the Superintendency of Banks. Representation offices must always include the expression “representative office” in all of their operations.

A representation license has to be requested directly by the bank that will be represented and may only be issued to said bank. Once the license is issued, the bank may engage in representation activities through a branch or a wholly owned subsidiary.

**PARAGRAPH.** Banks may request the Superintendency for a change in the type of license, in which case the updated documentation on file in the Superintendency will be recognized as valid. On a case by case basis, the Superintendency will determine what additional requirements are necessary to effect the change.

**ARTICLE 42. VALIDITY OF EXISTING BANKING LICENSES.** Banking licenses issued by the former National Banking Commission are recognized full validity upon the coming into force of this Decree Law.

**ARTICLE 43. AUTHORIZATION OR PRIOR NO OBJECTION.** Without prejudice on other provisions of this Decree Law, foreign banks must have the authorization or no objection of their home supervisor to request a license to engage in the banking business within or from Panama or to request a representative office.

**ARTICLE 44. USE OF THE WORD “BANK”.** Only those banks authorized by means of a corresponding banking license, issued by the National Banking Commission or the Superintendency, as may be the case, may use the word “Bank” or any of its derivatives in any language, be it in their everyday name, their corporate name, their commercial denomination, description, letterheads, invoices, printed letter paper, announcements, advertising or by any other means or by any other form that may indicate or induce anyone to think that they are engaged in or dedicated to the banking business. Specifically excluded from these provisions are those institutions or associations of a national nature that are exclusively dedicated to humanitarian or charitable activities, official entities engaged in the financing of social interest sectors, and multilateral or international organizations recognized by the Republic of Panama.

Notwithstanding this, the Superintendent may, in exceptional cases, authorize the use of the word “Bank” or any of its derivatives, in any language, to a natural or juridical person who does not engage in the banking business, if the word “Bank” or its derivatives is to be used only as part of the name of the applicant and does not, for that reason, create confusion or doubt about the nature of the operations and activities to be realized.

The Superintendency is the only institution empowered to authorize the use of the word “Bank” and its derivatives, in any language, in the Republic of Panama.

**PARAGRAPH:** Public notaries are forbidden from authorizing any legal document, or copies of these, peculiar to their office, or the authentication of signatures, that contravene the provisions of this article. A similar prohibition applies to the Public Registry of Panama with respect to the filing of such documents, the Director General of the Public Registry being under obligation to report to the Superintendency the existence of any filing that may contravene the provisions of this article.

The Superintendent must evaluate said report and order a marginal annotation on the filing of any corporation that might have transgressed the provisions established in this Decree Law and, after completing a period of sixty calendar days beginning on the day of the marginal annotation, the corporation in question will be fully dissolved by law in the

case of a Panamanian corporation or disqualified from conducting business in Panama in the case of a foreign corporation.

**ARTICLE 45. ENGAGEMENT IN THE BANKING BUSINESS WITHOUT A LICENSE.** If, at any time, there should be cognizance or reason to believe that a person is engaged or pretends to engage in the banking business without a license, the Superintendency is empowered to examine such person's books, accounts, and other documentation to ascertain the matter. Any unjustified refusal to present said books, accounts, and other documentation will be considered a presumption of engagement in the banking business without a license.

If it were necessary, the Superintendency may intervene the establishments in which it is presumed that the banking business is taking place without a license and, if the fact were proven true, order its closure. In these cases, the Superintendency may call on the support of the National Police and other authorities.

The Superintendency will order the Public Registry a marginal annotation in the filing of any corporation affected by this article and will impose the sanctions called for in this Decree Law. After completing a period of sixty calendar days beginning on the day of the marginal annotation, the corporation in question will be fully dissolved by law, in the case of a Panamanian corporation, or disqualified from conducting business in Panama, in the case of a foreign corporation.

The provisions of this article will also apply to those cases in which the Superintendency has reason to believe that a person is gathering or pretends to gather funds from the general public in contravention of article 2 of this Decree Law.

**ARTICLE 46. PUBLICATION OF ORDERS.** In every case in which the Superintendency orders the Director General of the Public Registry a marginal annotation as provided for in articles 44 and 45 of this Decree Law, the Superintendency will publish said orders during three working days in a newspaper with wide national circulation in the Republic.

## **CHAPTER II PROCEDURES FOR THE ISSUING OF LICENSES**

**ARTICLE 47. LICENSE APPLICATION.** The applications for a banking license to the Superintendent must be evidenced in writing through an empowered legal agent. The Board of Directors will determine the requisites and other conditions that the petitioners must meet in order to obtain a banking license.

**ARTICLE 48. CRITERIA FOR THE APPROVAL OR REFUSAL OF A BANKING LICENSE.** The Superintendent will have up to ninety days, counted from the submittal of the complete documentation required by the Superintendency, to approve or refuse the petition for a banking license, according to the following criteria:

1. Identity of the principal shareholders and professional competence of the administrative staff based on their experience, integrity, and professional background.
2. Evidence of their capacity to contribute the required minimum capital, whose origin must be clearly determinable.
3. A business plan which clearly demonstrates the viability of the bank and its contribution to the Panamanian economy.
4. Corporate governance policies.
5. Any other criteria that the Superintendent or the Board of Directors consider pertinent.

The time period referred to in this article may be extended, at the discretion of the Superintendent, when he/she considers it necessary for a better evaluation of a given petition.

**ARTICLE 49. TEMPORARY PERMIT.** Once the requisites established for the petition of a license are met, the Superintendent will grant a temporary permit, with the exclusive purpose of allowing the petitioner to file in the Public Registry of Panama their articles of incorporation using the word “Bank” or any of its derivatives, in any language, while the approval of the definitive license is processed.

The temporary permit will be granted for a period of ninety days.

**ARTICLE 50. DEFINITIVE LICENSE.** Once the petitioner’s corporation has been filed or enabled in the Public Registry, within the duration of the temporary permit and having complied with the minimum capitalization required by article 68 and, in the case of an international license, with the guarantee deposit called for in the same article, the petitioner will solicit the definitive license for said corporation. The provisions of this article apply equally with respect to other forms of legal organization of the petitioner.

Once the documentation and the corresponding requisites have been analyzed, the Superintendent is empowered to grant or refuse the requested license, which he/she will do by means of a considered resolution, which must be personally notified to the petitioner, all within one hundred and twenty days following the receipt of the petition for a definitive license.

The time period referred to in this article may be extended by the Superintendent, when the particular circumstances of a given petition make it necessary.

**ARTICLE 51. PUBLICATION OF PETITIONS FOR LICENSES.** Once the Superintendency has received and analyzed the documentation of the petitioner for a license to its satisfaction, the Superintendency will publish, in a newspaper with wide national circulation in the Republic, for three working days, a public notice containing the following information:

1. Name of the petitioner for the license.
2. Name of the directors and officials of the petitioner.
3. Operative background of the petitioner.
4. Names and identifications or passports of the directors, officials, and executives of the bank, indicating their respective positions.

The audited financial statements of the petitioner, corresponding to the previous fiscal year, will be at the disposal of the general public in the offices of the Superintendency.

Persons who believe they have well founded reasons to oppose the granting of the requested license, may expound them in writing to the Superintendency and present the documentation which supports their opposition, if available, within fifteen days following the date of the last publication mentioned in this article. The Superintendency will consider well founded reasons those that deal with the economic capacity and moral solvency of the petitioner or of the entity that aspires to a banking license, of the directors, the officers, and executives mentioned in the public notice and, in general, those verifiable circumstances that make it inconvenient to establish a new banking entity in Panama. The Superintendency will have no obligation to issue any decision over such opposition or objections. In any case, the petitioner will have the right to refute the objections against the granting of a banking license, within fifteen days after the Superintendency has notified them to the petitioner.

**ARTICLE 52. PRELIMINARY AUTHORIZATION FOR INTERNATIONAL BANKING.** Foreign banking entities that do not have a banking license to operate from Panama, may request the Superintendency for a preliminary authorization to engage in the international banking business, with the purpose of anticipating the interruption that could occur in the continuity of business due to *force majeure* or natural disasters that might affect them. This authorization would allow the petitioner, eventually, to engage, from an office located in Panama, under a full international license, in transactions that are perfected, consummated or have their desired effect outside the territory of the Republic of Panama.

The preliminary authorization must comply with all the requisites established in this Chapter for international licenses and the regulations that govern them. The eventual approval of an international banking license will be forthcoming when the following requisites are complied with:

1. Confirmation from the home supervisor that continuity of business has been effectively interrupted in the country of origin of the petitioner.
2. Confirmation from Banco Nacional de Panamá or from Caja de Ahorros that the transfer of funds required to establish a guarantee deposit as required by article 68 of this Decree Law has been received.

3. Evidence that the petitioner counts with the minimum paid-in or assigned capital required from international licensed banks.

This authorization must be renewed annually and will not be considered, under any circumstances, that the preliminary authorization is equivalent to a license to carry out banking business from Panama. The approval and renewal of the preliminary authorization will be subject to cover the expenses for special services that the Superintendency may establish.

**ARTICLE 53. LEGAL AGENTS OF BRANCHES OF FOREIGN BANKS.** Branches of foreign banks shall designate at least two empowered legal agents, both natural persons residing in Panama, one of which must be a Panamanian citizen.

**ARTICLE 54. BUSINESS CONTINUITY.** Banks shall have policies, regulations, and procedures to assure that their principal operations can be maintained or recovered in a timely manner, in the event of any significant interruption that might affect its operational capability, in order to minimize the consequences that might arise from such interruption.

The Superintendency may issue the applicable regulations to this matter.

**ARTICLE 55. CORPORATE GOVERNANCE.** Banks are required to comply with Corporate Governance regulations issued by the Superintendency. In case of non-compliance, they will be sanctioned according to the provisions of this Decree Law.

### **CHAPTER III CANCELLATION OF LICENSES**

**ARTICLE 56. CAUSES FOR CANCELLATION.** The Superintendent may cancel the license of any bank that incurs in any of the following causes:

1. Failure to start operations within six months following the granting of a definitive license. The bank may solicit an extension of this term based on verifiable justification.
2. Cease in the exercise of the banking business.
3. Intervention of the Head Office of the bank, or cancellation of the license by the home supervisor or lack of effective consolidated supervision by the latter in the Superintendency's judgment.
4. Submission of false or fraudulent information or omission of information relevant to the obtainment of a license.
5. Repeatedly serious violations of the provisions of this Decree Law.
6. In all other cases provided for in this Decree Law.

Before canceling the license, the Superintendency will personally notify the bank its intentions, specifying the cause, and the latter will have thirty days, beginning from the day of notification, to set forth their reasons for opposing the cancellation, together with the relevant evidence. Once this term expires, the Superintendency will issue its decision by means of a considered resolution. This decision is subject to a motion of reconsideration addressed to the Superintendent or an appeal addressed to the Board of Directors. The decision that resolves the appeal will exhaust all administrative recourse.

**ARTICLE 57. SUBSEQUENT MEASURES TO THE CANCELLATION OF A LICENSE.** Once the resolution canceling the license becomes final and irrevocable, the Superintendency will proceed immediately to:

1. Inform the Director General of the Public Registry of Panama of the decision, so that he/she may make the corresponding marginal annotation regarding the cancellation of the banking license.
2. Publish the resolution in a newspaper with wide national circulation for three working days.
3. Appoint the Liquidator or Board of Liquidators of the bank that will be in charge of the liquidation, according to the provisions set forth for a compulsory liquidation.

**ARTICLE 58. OPENING AND CLOSING OF ESTABLISHMENTS.** No new establishments may be opened in Panama without previous notification to the Superintendency.

The prior authorization of the Superintendency is required in the following cases:

1. For the opening, in a foreign jurisdiction, of subsidiaries or branches of Panamanian banks or foreign banks operating in Panama.
2. For the closing or moving of an existing establishment, so that the Superintendency may watch over the orderly proceedings of the event in order to protect the interests of the depositors of said establishment.

#### **CHAPTER IV BANKING SUPERVISION**

**ARTICLE 59. BANKING SUPERVISION.** All banks that engage in the banking business in the Republic of Panama are subject to inspection and supervision by the Superintendency to confirm their financial stability and their compliance structure of the provisions contained in this Decree Law and its regulations.

**ARTICLE 60. SUPERVISION OF STATE-OWNED BANKS.** State-owned banks are subject to inspection and vigilance by the Comptroller General of the Republic under the provisions of the Political Constitution and the legislation, to the supervision of the Superintendency, as well as to the compliance with all norms, regulations, prerogatives,

rights, and requirements that, according to this Decree Law, are applicable to the rest of the banks for the same type of operations and situations as may be the case.

**ARTICLE 61. HOME SUPERVISION.** The Superintendency will exclusively exercise the consolidated, cross-border home supervision of Panamanian banks and banking groups that consolidate in Panama, according to the generally applicable provisions that may be adopted by the Board of Directors on the subject.

**ARTICLE 62. HOST SUPERVISION.** Foreign banks, their branches, and subsidiaries shall be subject to the consolidated supervision of the corresponding foreign supervisor. Furthermore, such entities will be subject to individual and sub-consolidated supervision by the Superintendency and to all applicable provisions contained in this Decree Law and its regulations.

**ARTICLE 63. SUPERVISION OF NON-BANKING OR NON-FINANCIAL AFFILIATES.** The Superintendency will carry out the consolidated supervision of the activities of all non-banking or non-financial entities affiliated or related to banking groups, but that are not part of these, as provided for in this Decree Law and its regulations, and in that respect may require the information necessary to take cognizance of, and evaluate:

1. The risks that said activities might pose for the banks belonging to those banking groups.
2. The quality and scope of the management and control of said risks, including capital adequacy.

The Superintendency is empowered to require from these banking groups, including the bank holding companies that form part of them, those measures necessary to prevent or correct practices or conditions that, in the Superintendency's judgment, might represent a material risk to the banks owned by said banking groups.

**ARTICLE 64. INSPECTIONS BY FOREIGN SUPERVISORY BODIES.** Exclusively and only for the purposes of supervision, foreign supervisory bodies may request information from, and make inspection visits in Panama to, those foreign banks of which they are the home supervisors.

The information so obtained will be strictly confidential and may not be revealed by the foreign supervisory body or used for purposes other than banking supervision without the previous authorization of the Superintendency, for which the latter will require sufficient guarantee of confidentiality.

The foreign supervisory body will submit to the Superintendency copies of all reports and documentation resulting from said inspection.

**ARTICLE 65. UNDERSTANDINGS WITH FOREIGN SUPERVISORY BODIES.** The Superintendency shall enter into understandings with foreign supervisory bodies, by either bilateral or multilateral memoranda, that allow and facilitate the consolidated, cross-

border supervision referred to in this Chapter, and the global evaluation of banks and banking groups subject to regulation and supervision under this Decree Law. These memorandums of understanding will specify, among other things, the applicable criteria to inspections, the interchange of information, and cooperation among the parties.

The cooperation with foreign supervisory bodies will be based on principles of reciprocity and confidentiality and must adhere strictly to purposes of banking supervision.

**ARTICLE 66. BANK EXAMINATIONS.** The Superintendency will, at least every two years, conduct an examination of each bank to determine its financial situation and if, in the normal course of business, it has complied with the provisions of this Decree Law. Said examinations will include the bank and may be extended to other companies of the banking group and to non-banking or non-financial affiliates referred to in article 63 of this Decree Law. The total cost of the examinations, as well as incidental expenses, will be paid for by the bank.

The Superintendency may carry out these examinations with its own personnel or may outsource them to independent external auditors or to specialized, qualified professionals, in which case the examination reports submitted must be evaluated by qualified Superintendency officials.

Those companies or firms over which the bank effectively controls their operations as trustee are exempted from the provisions of this article.

Any refusal by the bank to subject itself to an examination, as provided for in this article, will be sanctioned as provided for in Title IV of this Decree Law, without prejudice to the corresponding criminal sanctions.

## **CHAPTER V CAPITAL**

**ARTICLE 67. COMPOSITION OF CAPITAL.** All banks must comply with the capital funds required by this Decree Law and its regulations. The capital funds of the banks will be made up of primary capital, secondary capital, and tertiary capital. The amounts of the latter two, taken together, shall not exceed the first one.

The Superintendency will establish the deductions from the capital base that it considers technically necessary.

**ARTICLE 68. MINIMUM PAID-IN CAPITAL.** The minimum amount of paid-in or assigned capital, net of any losses, required to solicit and maintain a banking license is of ten million balboas, for a general license, and of three million balboas for an international license. Banks may not, at any time, allow a reduction of their capital below the minimum amount required.

In the case of an international license, two hundred and fifty thousand balboas of the paid-in or assigned capital will be maintained as a guarantee deposit in Banco Nacional de

Panamá or Caja de Ahorros. This deposit will earn interests at market rates agreed upon between the depositors and the government banks. This guarantee is established solely and exclusively in favor of the Superintendency, for whatever purposes the Superintendency may determine, for which reason said deposit will not be subject to sequestration or garnishment or any other precautionary measures by third parties.

The Superintendency is hereby empowered to modify, through an agreement, the amount of the minimum paid-in or assigned capital.

**ARTICLE 69. CAPITAL RESERVE.** Previous authorization from the Superintendency is required to reduce the capital reserve of any bank.

**ARTICLE 70. CAPITAL ADEQUACY RATIOS.** All general license banks, as well as international license banks, under the home supervision of the Superintendency, will maintain the following capital adequacy ratios:

1. Capital funds equivalent to, at least, eight percent of risk weighted total assets and contingent off-balance sheet operations.
2. Primary capital equivalent to no less than four percent of risk weighted total assets and contingent off-balance sheet operations.

**PARAGRAPH.** The Superintendency may modify the ratios provided for in this article, for all banks, when it deems it convenient, by means of a rule of the Board of Directors.

The Superintendent may require from any bank in particular, by means of a considered resolution, a higher capital adequacy ratio when the bank's risk profile makes it advisable, either temporarily or definitively.

**ARTICLE 71. CAPITAL ADEQUACY FOR INTERNATIONAL LICENSE BANKS.** International license banks, subject to the host supervision of the Superintendency, must comply, at all times, with the capital funds adequacy ratio required by its home supervisor.

**ARTICLE 72. OTHER RISKS ASSESSMENT.** In determining the capital adequacy ratio provided for in this Decree Law, the Superintendency may take into account the presence of other risks, among which are market risks, operating risks, and country risks, that may serve to evaluate the need for capital funds.

## **CHAPTER VI BANKS LIQUIDITY**

**ARTICLE 73. LIQUIDITY REQUIREMENTS.** General license banks and international license banks who are subject to the home supervision of the Superintendency, must maintain, at all times, a minimum amount of liquid assets equivalent to the percentage of the total gross deposits that will be periodically fixed by the Superintendency. Said percentage will not exceed thirty five percent. At the time of enforcement of this Decree

Law, and until the Superintendency decides otherwise, said percentage will be thirty percent.

In order to calculate the liquidity percentage, the deposits made by the home office or branch, subsidiary or affiliate outside the national territory, to the general license banks or international license banks, will be excluded from the calculation of the total gross deposits.

**ARTICLE 74. MODIFICATIONS TO LIQUIDITY PERCENTAGES.** Modifications to the liquidity percentages must be complied within a period indicated by the Superintendency, which shall not be less than thirty days.

**ARTICLE 75. LIQUID ASSETS.** For the purposes of the previous articles, the following shall be considered as liquid assets, as long as they are exempt from all obligations or liens and are freely transferable:

1. Gold or legal currency in Panama.
2. Net balances in the Panama Clearing House.
3. Net balances deposited in any bank in Panama on demand, or term balances whose maturity do not exceed one hundred and eighty six days from the date of the liquidity report, and all obligations payable in Panama on demand, or at term with a maturity no greater than one hundred and eighty six days from the date of the liquidity report.
4. Treasury bills issued by the National Treasury and other securities issued by the State, with maturities not greater than one year, at market value.
5. Net balances deposited in any overseas bank, previously approved by the Superintendency, payable on demand, or term balances whose maturity do not exceed one hundred and eighty six days from the date of the liquidity report, and payable in legal currency in Panama.
6. Debt instruments issued by foreign governments or by international financial organisms, approved by the Superintendency, that are actively traded in stock markets, in accordance with the weighting criteria developed by the Superintendency for these purposes.
7. Debt instruments issued by private local or foreign entities, approved by the Superintendency, that are actively traded in a stock market and have been accorded investment grade by a qualified, internationally recognized credit rating agency, at market value.
8. Debt instruments issued by local private entities, guaranteed by a general license bank, as long as the issuer and the guarantor bank do not belong to the same economic group.

9. Loan payments due within one hundred and eighty six days from the date of the liquidity report.

10. Other assets that the Superintendency may authorize.

**PARAGRAPH.** The Superintendency is empowered to establish the compulsory proportion of liquid assets that may represent the total liquidity of banks or any bank in particular. When the Superintendency does not establish said proportion, the latter will be open to the discretion of the banks. Furthermore, the Superintendency is empowered to define the specific characteristics that liquid assets, referred to in this article, must comply with.

**ARTICLE 76. ASSETS AND LIABILITIES STRUCTURE.** Banks will maintain a maturity structure of assets and liabilities that favors an adequate financial liquidity. The Superintendency will develop regulations on this matter.

**ARTICLE 77. LIQUIDITY REPORTS.** Banks will present to the Superintendency the liquidity reports in the form and frequency required by the Superintendency.

**ARTICLE 78. RELATION BETWEEN LOCAL ASSETS AND LOCAL DEPOSITS.** General license banks will maintain assets in the country equivalent to the percentage of local deposits determined by the Superintendency according to national economic or financial conditions. Said percentage will be the same for all banks and will not exceed one hundred percent of said deposits.

The Superintendency will define local deposits for the purposes of this article.

**PARAGRAPH.** At the time of enforcement of this Decree Law, and until the Superintendency decides otherwise, the percentage subject of this article will be of eighty five percent.

## **CHAPTER VII BANK INTEREST**

**ARTICLE 79. INTEREST RATES.** Banks may freely fix the interest rates on asset and liability operations, for which reason other laws or regulations that establish maximum rates of interest are not applicable to banks.

**ARTICLE 80. ACKNOWLEDGEMENT OF THE EFFECTIVE INTEREST RATE.** Banks must indicate, clearly and unequivocally, the effective interest rates for their loans and deposits, in the statements of account, in contractual documents with their clients, or whenever the latter request this information.

Furthermore, when a bank advertises a nominal interest rate in their publicity, they must simultaneously advertise the corresponding effective interest rate.

The Superintendency will establish the regulations it deems convenient to regulate this subject.

## **CHAPTER VIII EXTERNAL AUDITORS**

**ARTICLE 81. DESIGNATION OF EXTERNAL AUDITORS.** Each bank must, annually within the first three months of its fiscal year, designate at its expense external auditors who must be certified public accountants, specialized, and with sufficient experience, in the Superintendency's judgment, and professionally capable, whose duties will be to remit reports to the shareholders or partners of each Panamanian bank or to the Head Office of a foreign bank, or State-owned banks.

To these effects, the banks will inform the Superintendency, within the time allowed by the latter, the names of the external auditors contracted by the banks.

**ARTICLE 82. REPORTS OF THE EXTERNAL AUDITORS.** The external auditors will be responsible for issuing an independent opinion regarding the financial statements, in accordance with the international auditing standards in force, and will put into record in their auditing report if in their opinion the financial statements reflect the true and reasonable state of the financial situation, the financial performance, and the cash flow of the bank, and if the financial statements are in conformity with the accounting, technical, and prudential standards issued by the Superintendency, assuming full responsibility for the reports they issue.

**ARTICLE 83. EXTERNAL AUDITORS DESIGNATED BY THE SUPERINTENDENCY.** If the bank were not to comply with the designation provided for in article 81 within the time allowed by the Superintendency, the latter will proceed to make said designation, and will determine the compensation for the external auditors so designated, at the expense of the bank.

**ARTICLE 84. OBJECTIONS TO EXTERNAL AUDITORS.** The Superintendency is empowered to refuse or object the designation of external auditors when it deems that these do not possess enough experience, specialization or independence.

The Superintendency will not accept auditing reports that contravene this Decree Law and the accounting, technical, and prudential standards established by the Superintendency and, in such cases, it is empowered to order the dismissal of the external auditors.

**ARTICLE 85. INCLUSION OF BANKING GROUPS.** To the effects of this Chapter, it is understood that all reference to banks include the banking groups to which the bank belongs to.

## **CHAPTER IX DOCUMENTS AND REPORTS**

**ARTICLE 86. POWER TO SOLICIT INFORMATION TO BANKS OR BANKING GROUPS.** The Superintendency is empowered to request from any bank, from any firm in the banking group, from bank holding companies or from non-banking affiliates the documentation and reports regarding their operations and activities. To these effects, each bank must maintain in the Superintendency a descriptive list of the firms that conforms the banking group, the bank holding company, and non-banking affiliates, and inform any variation that may occur, within five working days from the date of said variation.

Those firms over which the bank exercises effective control of operations as trustee are exempted from the provisions of this article.

**ARTICLE 87. PRESENTATION OF AUDITED FINANCIAL STATEMENTS.** Within three months following the close of each fiscal year, general and international license banks must submit to the Superintendency their corresponding audited financial statements, complying with the accounting, technical, and prudential standards issued by the Superintendency, with respect to their operations. The documentation so submitted will be signed by the legal representative of the bank or, in its defect, by a properly and legally empowered agent of the bank for this purpose.

**ARTICLE 88. PUBLICATION AND DISPLAY OF AUDITED FINANCIAL STATEMENTS.** The banks will publish, in a national circulation newspaper in the Republic of Panama, an unsigned copy of the audited financial statements referred to in the previous article, with their respective explanatory notes, if there were any, within thirty days after their presentation to the Superintendency, and will display them during the next ninety days in an accessible place to the general public in all their establishments in Panama.

**ARTICLE 89. PUBLICATION OF NON-AUDITED FINANCIAL STATEMENTS.** The banks must submit to the Superintendency their non-audited financial statements within thirty days after the closing of each quarter, complying with the accounting, technical, and prudential standards that the Superintendency may establish.

**ARTICLE 90. INTEGRITY OF THE AUDITED FINANCIAL STATEMENTS.** If the Superintendency were to determine, at any time, that the financial statements do not comply with the requested accounting, technical or prudential standards established by the Superintendency for their submittal, or contain false or inexact information, it will order the bank, through a considered resolution, to withdraw them from display, correct them, and publish the corrected version or explanatory notes that, in the Superintendency's best judgment, are necessary. The former is without prejudice to sanctions or other actions that may apply.

**ARTICLE 91. OTHER REPORTS.** All banks must submit to the Superintendency, in the time period and format indicated by the Superintendency:

1. A balance sheet that shows the assets and liabilities and profit and loss results of its establishments in Panama at the close of the last working day of the previous month.
2. A report containing: (a) an analysis and classification of its credit and investments portfolios of its establishments in Panama at the close of operations, and (b) a conciliation of the capital accounts.
3. Any other information required by the Superintendency, with the frequency determined by the latter, without prejudice to the provisions of article 93.

**ARTICLE 92. PUBLICATION OF INFORMATION.** The Superintendency will disclose and publish financial and statistical information on the banking system and on each bank in particular, and may require to each particular bank to disclose specific financial information.

**ARTICLE 93. INFORMATION ABOUT LIABILITIES.** The Superintendency may obtain from each bank information on maturities, concentration, and geographical distribution of its liabilities in order to establish liquidity and identify excessive risks.

The Superintendency may not request the identity of individual depositors of the bank, except when such deposits collateralize assets that are object of analysis or supervision on the part of the Superintendency.

## **CHAPTER X PROHIBITIONS AND LIMITATIONS**

**ARTICLE 94. PROHIBITION ON ACCEPTING OWN STOCK AS COLLATERAL.** Banks are prohibited from granting loans or credit facilities with the sole collateral of their own stock or stock of their bank holding company.

**ARTICLE 95. CONCENTRATION ON ONE OBLIGOR.** Banks and bank holding companies in which the banking group consolidates, are prohibited from granting, directly or indirectly, to any one natural or juridical person, including those other that form with the latter an economic group, loans or credit facilities or granting any other guarantee or contracting any other obligation in favor of said person, whose total exceeds at any time, individually or jointly, twenty five percent of the capital funds of the bank.

**PARAGRAPH.** In the case of banks referred to in article 97 of this Decree Law, the limit to which the first paragraph of this article refers to will be thirty percent of the capital funds.

**ARTICLE 96. CONCENTRATION ON RELATED PARTIES.** Banks and bank holding companies, in which the banking group consolidates, are prohibited from:

1. Granting unsecured loans or unsecured credit facilities to any of its employees, whose total exceeds the corresponding salaries, wages, and other annual emoluments for that employee.

2. Granting loans or credit facilities, under more favorable conditions of cost and maturity than are usual in the market for that particular type of operation, to their managers, officers, and employees or any natural or juridical person who owns five percent of the stock of the bank or the bank holding company in which the banking group consolidates or anyone who, with the aforementioned persons, forms an economic group.
3. Granting, directly or indirectly, unsecured credit facilities that exceed five percent of its capital funds or, secured with real collateral other than deposits, loans that exceed ten percent of its capital funds, in favor of:
  - a. One or more directors or any natural or juridical person that, directly or indirectly, owns five percent or more of the stock of the bank or the bank holding company, in which the banking group consolidates, be it jointly or severally.
  - b. Any juridical person of which one or more directors are a director or officer of the bank or a guarantor of the loan or credit facility.
  - c. Any juridical person or association of persons, in which the bank or the bank holding company, in which the banking group consolidates, or one or more of the bank's directors or officers owns, individually or jointly, a significant interest, a preponderant influence or, in any case, a participation that exceeds twenty percent of the ownership of the said juridical person.
  - d. Their managers, officers, employees, and the spouses of the aforementioned, except residential mortgages for their principal living quarters or secured personal loans, granted under benefit plans for their personnel.

The aggregate of unsecured loans or loans secured with real collateral other than deposits, granted by the bank and other firms that together with the bank make up a banking group, to related parties mentioned in this article, may not in any case exceed the percentage of capital funds established periodically by the Superintendency and which, in any case, will not exceed twenty five percent of the capital funds of the bank.

**ARTICLE 97. EXCEPTIONS ON LOANS TO OTHER BANKS.** In the case of unsecured loans and other unsecured credit facilities granted by mixed-capital banks headquartered in Panama, that are mainly engaged in the granting of loans to other banks, the Superintendency may authorize the total or partial exclusion of said loans or said credit facilities from the total sum of unsecured loans and credit facilities that make up the base for the application of the limits established in number 3 of the previous article.

The aforementioned authorization requires compliance with the following criteria:

1. The stockholdings in the debtor bank, directly or indirectly, of any common director or officer, may not exceed five percent of the capital of said bank or of any percentage that might secure majority control of the decisions of said bank.

2. The stockholdings in the creditor bank, directly or indirectly, of the debtor bank, represented in any way by a common director or officer, may not exceed five percent of the total issued and paid-in stock of the creditor bank or of any percentage that might secure majority control of the decisions of said bank.
3. The common director or officer will abstain from participating in the discussions and voting taking place within the creditor bank with respect to the loan or credit facility subject to the provisions of this article.
4. The loan or credit facility will comply strictly with the usual prudential parameters of the credit policy of the lending bank.

The Superintendent will determine the amount of the exclusion with respect of each loan or credit facility submitted to his/her consideration.

The Superintendent may require any certification he/she deems pertinent and order any necessary inspection for the adequate supervision of the loans and other facilities subject to the provisions of this article.

**ARTICLE 98. ECONOMIC GROUPS.** The application of the prohibitions contained in articles 95 and 96 of this Decree Law will take into account the existence of economic groups. However, if the existence of an economic group is supervening to the transaction, in the sense that the economic group did not exist at the time the obligations were contracted, the bank will not be considered in violation of said articles.

If that be the case, the Superintendency will grant the bank a time period to remedy the excess in the applicable limits. However, if it is confirmed that the economic group existed at the time the obligations were contracted, the Superintendency will fine the bank in question according to the provisions of this Decree Law and will order the infraction corrected pursuant to a peremptory period of time.

**ARTICLE 99. LIMITATION TO PARTICIPATIONS IN OTHER VENTURES.** Banks and bank holding companies are prohibited from acquiring or owning stock or participations in any other ventures not related to the banking or financial business, whose aggregate value exceeds twenty five percent of their capital funds. Investments made by the bank as trustee are excepted, as well as participations or stocks that the bank or the bank holding company, has acquired in payment of obligations, in which case they must be liquidated at the earliest opportunity, in accordance with the bank's best economic interests as judged by the Superintendency, who may establish a time period to that end.

**PARAGRAPH.** Considering the aforementioned limits, banks may not acquire or invest in firms that belong to the same economic group or are related to it, for sums in excess of five percent of their capital funds.

**ARTICLE 100. EXCEPTIONS TO LIMITATIONS TO PARTICIPATIONS IN OTHER VENTURES.** The provisions of the previous article are not an impediment to the purchase or sale of securities for the account or by order of a client. Neither is it an

impediment, prior authorization of the Superintendency, to the purchase or sale of securities for the bank's own account in any corporation organized to insure banking deposits, stimulate the development of a securities or capital market in Panama or improve the financial system for economic development.

**ARTICLE 101. PROHIBITION OVER THE PURCHASE OR LEASING OF REAL ESTATE.** Banks are prohibited from buying, acquiring or leasing real estate for themselves, except in the following cases:

1. When necessary to carry out their operations or for accommodation or leisure of their personnel.
2. When acquiring land to build housing or any kind of real estate development, with the purpose of selling them and as long as sales are perfected within the limits of article 99.
3. Under exceptional circumstances and with prior approval of the Superintendency.

The aforementioned notwithstanding, banks that have accepted real estate as collateral for credits may, in case of non-payment, acquire said real estate to sell at the earliest opportunity within the time period that the Superintendency may provide, in accordance with the banks' economic interests.

When the Superintendency considers it convenient, it may establish general limits to the banks' capacity to concentrate risks in any given area or sector of the economy.

**ARTICLE 102. PROHIBITION ON TAKING DEPOSITS.** Banks are prohibited from taking deposits when in a state of insolvency, as well as from taking any other resources from anyone who might not have been previously informed of said state of insolvency. No employee, director or officer of a bank that has, or should have, knowledge of said insolvency will accept or authorize receipt of deposits or other resources in contravention of the provisions of this article.

**ARTICLE 103. MERGERS AND ACQUISITIONS.** No bank who engages in the banking business in or from Panama, and no bank holding company, may merge or consolidate or sell, wholly or partially, their assets when such sale is equivalent to a merger or consolidation, without the prior approval of the Superintendency.

**ARTICLE 104. SCOPE OF THE PROHIBITIONS AND LIMITATIONS.** All banks or bank holding companies subject to the home supervision of the Superintendency must comply at all times with the prohibitions and limitations established in this Chapter.

International license banks subject to the host supervision of the Superintendency must comply at all times with the standards of risk concentration and limitations on investments in other ventures set by their home supervisors.

**PARAGRAPH:** Beginning with the enforcement of this Decree Law, international license banks who, at the time, may not comply with these provisions will enjoy a period of two

years to adjust to these requirements. The Superintendent, nevertheless, may extend this period by means of a considered resolution.

**ARTICLE 105. LOANS SECURED BY DEPOSITS.** Loans or credit facilities duly secured by lien on deposits in the same bank up to the value of the collateral are exempted from the provisions of this Chapter.

## **CHAPTER XI INCOMPATIBILITIES**

**ARTICLE 106. INCOMPATIBILITIES OF ACCOUNTANTS.** No certified public accountant or firm of certified public accountants of which any of its partners or officers is an employee, director or officer of a bank or a bank holding company, or possesses or acquires the condition of stockholder or partner, directly or indirectly, of a bank or a bank holding company, may act as an external auditor of said bank or bank holding company.

The aforementioned applies equally to external auditors that are contracted to carry out banking inspections as provided in article 66.

**ARTICLE 107. DISQUALIFICATION OF BANK DIRECTORS AND BANK MANAGERS.** Without prejudice to the provisions in the Commercial Code and other legislation in force, any person who holds the position of director or officer or holds a management position in a bank, will cease his/her job and be disqualified to perform in those positions in any bank, if any of the following should occur:

1. The person should be declared bankrupt or brought before a meeting of creditors.
2. The person should be found guilty of crimes against property or crimes involving public instruments.
3. The person should be found guilty of grievous mismanagement of the affairs of the bank, as determined by the Board of Directors of the Superintendency.

The disqualification will remain in force until said person has been reinstated by the Board of Directors of the Superintendency.

**ARTICLE 108. DISQUALIFICATION TO ACT AS DIRECTOR, OFFICER OR MANAGER OF A BANK.** Any person who has been a director or officer of a bank at the time of its compulsory liquidation, or that has participated in the management of a bank and has been found responsible for actions leading to the compulsory liquidation of the bank, may not act as director or officer or participate in the management of another bank.

**ARTICLE 109. NOTIFICATION OF LEGAL PROCEEDINGS TO THE SUPERINTENDENCY.** All banks so affected will notify the Superintendency of any civil or criminal proceedings against the bank, as well as all civil or criminal proceedings against any of its directors or management officers at the highest levels, related to the performance of banking activities or related to intentional crimes. Said notification will take place within

fifteen days after the complaint has been notified to the bank. The Superintendency may, at any time, require pertinent information or clarification.

Lack of compliance with these provisions will be sanctioned by the Superintendency as established in this Decree Law.

## **CHAPTER XII RIGHT TO CONFIDENTIALITY**

**ARTICLE 110. ADMINISTRATIVE CONFIDENTIALITY.** The information obtained by the Superintendency in the discharge of its functions, related to individual clients of a bank, shall be maintained under strict confidentiality and may only be revealed when required by competent authority, as per legislation in force, in the course of criminal proceedings.

The Superintendency, including all its personnel and external auditors, advisors, interim administrators, reorganizers, and liquidators appointed by the Superintendency, must comply with due confidentiality over all information that may have been supplied to them or that may have been obtained by them as provided for in this Decree Law. As a consequence, the Superintendency may not reveal such information to third parties, unless required by competent authority, as provided for in this article. Exceptions to these provisions are those reports or documents that, in conformity with this Decree Law and because of their nature, are of a public character and those that must be submitted in compliance with criminal legislation on prevention of Money Laundering, the Financing of Terrorism, and related crimes.

Public employees who, because of their positions, have access to information subject to this article, are obligated to safeguard due confidentiality, even after ceasing in their employment.

Excluded from the provisions of this article, is the information that, because of consolidated supervision, must be shared by the Superintendency with foreign supervisory bodies under articles 64 and 65 of this Decree Law.

**ARTICLE 111. BANKING CONFIDENTIALITY.** Banks may only release information about their clients or their operations with their clients' consent. Banks will not require the consent of their clients in the following cases:

1. When the information is required by competent authority in accordance with existing legislation.
2. When, on their own initiative, banks must supply the information in compliance with criminal legislation on prevention of Money Laundering, the Financing of Terrorism, and related crimes.
3. When the information is supplied to rating agencies for risk analysis.

4. When the information is supplied to data processing centers for accounting and operating purposes.

In the case of numbers 3 and 4, the obligation to safeguard the confidentiality of the information supplied is transferred in full to the recipients.

### **CHAPTER XIII PREVENTION OF MONEY LAUNDERING, FINANCING OF TERRORISM, AND RELATED CRIMES**

**ARTICLE 112. CRIME PREVENTION.** Banks and other entities supervised by the Superintendency are obligated to establish policies and procedures and the internal control structures to prevent that their services may be used unduly for criminal purposes in Money Laundering, Financing of Terrorism, and other related crimes similar in nature or origin.

The Superintendency will establish the framework for the scope, functions, and proceedings of said compliance structure.

**ARTICLE 113. SUBMITTING INFORMATION.** Banks and other entities supervised by the Superintendency will submit the information required by law, decrees, and other regulations for the prevention of Money Laundering, Financing of Terrorism, and other related crimes similar in nature or origin, in force in the Republic of Panama. Furthermore, they are obligated to submit the aforementioned information to the Superintendency whenever it may so require.

**ARTICLE 114. KNOW YOUR CUSTOMER AND KNOW YOUR EMPLOYEE POLICY.** Banks and other entities supervised by the Superintendency will adopt policies, practices, and procedures that will allow them to know and identify their clients and their employees with the greatest certainty possible, as part of the process of prevention referred to in this Chapter and its regulations. The Superintendency will be empowered to develop the pertinent standards, adjusted to the policies and regulations in force in the country.

### **CHAPTER XIV VOLUNTARY LIQUIDATION**

**ARTICLE 115. PRIOR AUTHORIZATION.** Any bank may decide its voluntary liquidation. To that effect, it must count with the prior authorization of the Superintendency. The Superintendency will grant such authorization if the bank possesses sufficient assets to satisfy all its liabilities.

**ARTICLE 116. REQUIREMENTS FOR A VOLUNTARY LIQUIDATION.** The bank which requests from the Superintendency authorization for a voluntary liquidation must submit the following documents:

1. A resolution of the appropriate authority as designated in its charter, approving the liquidation, duly legalized.

2. A liquidation plan.
3. Financial statements audited by an independent external auditor, at the close of the last fiscal period or at the close of the date determined by the Superintendency.
4. All other documents that may be required by the Superintendency.

**ARTICLE 117. PUBLICATIONS.** Once the liquidation is authorized, the bank must publish the resolution issued by the Superintendency in a newspaper with wide national circulation for five consecutive working days. These publications must be done within fifteen days following the date in which the bank is notified of the resolution. Additionally, and within thirty days following the date in which the resolution is notified, the bank must send an advice of liquidation to each depositor, creditor or interested party.

**ARTICLE 118. CESSATION OF OPERATIONS.** Granted the authorization to liquidate voluntarily, the requesting bank will cease operations, and its powers and rights will be limited to those strictly necessary to carry out the liquidation, collect its placements and loans, reimburse its depositors, pay its creditors and, in general, terminate all its business dealings. The former notwithstanding, the bank may carry out the following activities up to fifteen (15) calendar days following the date of the last publication of the resolution required in the previous article:

1. Pay all checks drawn against current accounts.
2. Act as collecting agent for other banks or financial institutions located offshore and remit the funds so collected to the aforementioned institutions.
3. Other concomitant activities authorized by the Superintendency.

The authorization to liquidate will not harm the rights of depositors or creditors to collect in full the value of their claims or the right of the title holders of funds or other assets to recover these. All legitimate claims of creditors and depositors must be paid and all off-balance funds and other assets excluded from the mass in the possession of the bank must be returned to their proprietors within the time period indicated by the Superintendency in the authorization to liquidate.

The bank will negotiate the assignment to other banks of the credits of those customers who desire to do so, under the same conditions originally contracted.

**ARTICLE 119. DESIGNATION OF THE LIQUIDATOR.** The bank, prior approval of the Superintendent, will designate a liquidator or liquidators, who may be members of the management of the bank. The liquidator or liquidators so designated must have a minimum of five years of management experience in the banking sector.

In the course of the voluntary liquidation, the liquidator or liquidators are obligated to furnish to the Superintendency, as often as it determines, with whatever reports it requires on the state of the liquidation.

**ARTICLE 120. PROHIBITION ON ASSETS DISTRIBUTION.** The bank which decides to liquidate voluntarily may not distribute any assets whatsoever among its stockholders until it has previously complied with its obligations to all depositors and other creditors according to the liquidation plan approved by the Superintendency.

In the case of credits subject to litigation, the liquidator will consign before the court in charge of the proceedings the monies subject to litigation, so that they may be eventually surrendered according to the executed judgment of the court.

In the case of proceedings in which the bank is the defendant, the liquidator will consign the monies subject to litigation in cash or guaranties from insurance companies or banks, before the court in charge of the proceedings as a judgment bond. If the bank were acquitted or if due to any circumstances there should result a balance in favor of the bank, these monies shall be returned to the bank.

If the process of liquidation were to conclude, without it being possible to return the funds to the bank or its stockholders, the Superintendency will be notified of the existence of said funds, which shall be deposited in Banco Nacional de Panamá.

Banco Nacional de Panamá is under the obligation to restitute the aforementioned funds to its owners if they are claimed within the following ten years from the date in which they were transferred to Banco Nacional de Panamá. The restitution will be made without interests. Once this period has passed, said funds will be transferred to the National Treasury.

**ARTICLE 121. OBLIGATIONS OF THE LIQUIDATOR.** During the voluntary liquidation, the liquidator or liquidators are under the following obligations:

1. Inform the Superintendency on the state of the liquidation, as often as the former determines.
2. Notify the Superintendency if the assets of the bank are insufficient to cover the liabilities, in which case the Superintendency will proceed in accordance with the provisions of Chapter XVI “Administrative and Operating Control of the Bank”

**ARTICLE 122. TERMINATION OF THE VOLUNTARY LIQUIDATION.** Once the liquidation process is fulfilled, according to the liquidation plan approved by the Superintendency, the latter will cancel the respective banking license.

Once the resolution canceling the license is notified, the Superintendency will proceed immediately to remit a copy of the resolution to the Director General of the Panama Public Registry so that the latter may insert the corresponding marginal annotation provided for in article 44, and will proceed to publish the resolution in a newspaper with wide national circulation for three consecutive working days.

**ARTICLE 123. UNCLAIMED ASSETS AND SECURITIES.** Unclaimed assets and securities will be liquidated and sold in the Stock Exchange or in private auction, as be the case, one year after termination of the liquidation process and the proceeds of the sale will be deposited in Banco Nacional de Panamá to the name of the owners.

By the same token, if there are any unclaimed liabilities at the end of the liquidation process, the liquidator will transfer them to Banco Nacional de Panamá.

In all aforementioned cases, Banco Nacional de Panamá is under obligation to restate the aforementioned funds to its owners if they are claimed within the following ten years from the date in which they were transferred to Banco Nacional de Panamá. The restitution will be made without interests. Once this period has passed, said funds will be transferred to the National Treasury.

## **CHAPTER XV CORRECTIVE MEASURES**

**ARTICLE 124. ADVISOR.** If, based on the information he/she possesses, the Superintendent determines that there exists or may exist a deterioration or operating, administrative or financial weakness in a bank, he/she may, without jeopardy of any measures he/she may demand from the bank, order the bank to appoint one or several persons that meet the required academic credentials and experience to advise the bank on specific or general measures that must be taken to correct the deterioration or weakness.

The Superintendent will determine the compensation that the bank will pay the advisor.

In no case may the advisor be a director, officer, member or employee of an external auditing firm that has participated in one of the examinations described under article 66. Employees of the Superintendency, as well as natural persons that have practiced an examination, their partners or employees, if any, are equally disqualified from acting as advisors to the bank. The advisor is under the obligation to maintain strict confidentiality regarding the information and documentation to which he/she may have had access in the course of his/her employment.

**ARTICLE 125. EMPOWERMENT.** The advisor will have the powers determined by the Superintendent, in writing, at the time the latter ordered his/her designation or at a later date, and those that are inherent to the tasks assigned to him/her. In any case, it is understood that the advisor will have access to all documents, minutes, correspondence, and records of the bank so that he/she may carry out a proper evaluation of any irregularities or unusual acts that may have caused the operating, administrative or financial weakness of the bank that motivated his/her appointment.

On his/her own initiative, or any time during the advisory process, the Superintendent may order or implement preventive, restrictive or limiting measures to protect the interests of the depositors and may delegate these powers to the advisor.

**ARTICLE 126. TERM OF THE ADVISOR.** The advisor will be appointed for a period up to thirty days, except when, for exceptional reasons, the Superintendent decides to extend this term.

During the term of the advisor, the legal representation and management of the bank continues to be under its stockholders, directors, and officers.

**ARTICLE 127. PERIODIC REPORTS.** The advisor will submit reports to the Superintendent, with a copy to the bank, with the frequency that the Superintendent considers necessary, which will contain as a minimum a detailed and accurate narration of the bank's situation regarding those irregularities which caused his/her appointment. Any action or omission of the employees of the bank to obstruct the work of the advisor, as determined by him/her, or to obstruct the execution of the preventive or corrective measures ordered by the Superintendency, will cause the immediate dismissal of said employees, without jeopardy to other administrative sanctions that the Superintendent may impose on the bank at his/her discretion.

**ARTICLE 128. FINAL REPORT.** At the end of the term for which he/she was appointed, the advisor will submit a final report which will contain his/her considered opinion regarding the condition of the bank and his/her recommendations to rectify the circumstances which motivated his/her appointment.

**ARTICLE 129. EVALUATION OF THE ADVISOR'S RECOMMENDATIONS.** The Superintendent will have fifteen days to evaluate the advisor's recommendations and adopt those measures that he/she considers convenient. The advisory process will continue during this period, enabling the Superintendent to call upon the advisor as many times as the Superintendent considers necessary for additional explanations of his/her work.

**ARTICLE 130. APPLICATION OF CORRECTIVE MEASURES.** The Superintendent is empowered to impose on the bank the corrective measures that he/she deems pertinent and the bank will have fifteen days to analyze them and submit a chronogram for their execution, for the approval of the Superintendent. Once adopted, the bank will maintain the corrective measures for a time period determined by the Superintendent, maintaining the management of the bank under the responsibility of its Board of Directors, until the Superintendent evaluates the results of the corrective measures. If, at the end of this period, the bank has not complied with the measures ordered by the Superintendent, he/she will immediately take the legal or administrative steps applicable.

## **CHAPTER XVI ADMINISTRATIVE AND OPERATING CONTROL OF THE BANK**

**ARTICLE 131. SEIZURE OF ADMINISTRATIVE AND OPERATING CONTROL.** The Superintendency will assume administrative and operating control of a bank through a considered resolution, including possession of its assets and seizure of its management, in conformity with the grounds established in article 132, in order to defend the best interests of the bank's depositors and creditors.

**ARTICLE 132. CAUSES.** The Superintendent may seize administrative and operating control of a bank under any of the following grounds:

1. Upon a sustained request of the bank itself.
2. If the bank may not continue operations without endangering the interests of the depositors.
3. As a consequence of the evaluation of the report submitted by the appointed advisor.
4. Non-compliance with the measures ordered by the Superintendency as provided for in article 130.
5. If the bank carries out its operations in an illegal, negligent or fraudulent manner.
6. If the bank has suspended payment of its obligations.
7. If the Superintendency confirms that capital adequacy, solvency or liquidity of the bank has deteriorated in such a way as to require the Superintendency's action.

**ARTICLE 133. DESIGNATION AND TERM OF THE INTERIM ADMINISTRATOR.** At the moment of seizing administrative and operating control of the bank, the Superintendent will designate a competent interim administrator, to exclusively exercise the legal representation of the bank on behalf of the Superintendency. The term of the interim administration will not be longer than thirty days, except that, due to exceptional reasons and a prior sustained request of the administrator, the Superintendent decides to extend it, in which case the extension shall not be longer than thirty days. The interim administrator may be an employee of the seized bank.

**ARTICLE 134. NOTICE AND NOTIFICATION OF THE SEIZURE OF ADMINISTRATIVE AND OPERATING CONTROL.** The Superintendent will order the placing of a notice, in a public and visible part of the main establishment of the seized bank and its branches, containing a transcription of the resolution that orders the seizure of administrative and operating control, as well as the designation of the interim administrator. The resolution will indicate the time in which the seizure of administrative and operating control will be enforced which, in any case, may not be prior to the time of the placing of the notice.

The aforementioned notice will remain in place for a period of five working days and the copy of the resolution will remain in place for as long as the seizure of control lasts. Upon termination of the five working days from the time of the placing of the notice at the bank's main establishment, it will be understood that the civil notification has been served. Upon placing the notice, the resolution shall be published for five working days in a newspaper with wide national circulation.

**ARTICLE 135. MEANS OF IMPUGNMENT OF THE RESOLUTION ORDERING THE SEIZURE OF ADMINISTRATIVE AND OPERATING CONTROL.** The

resolution from the Superintendent that orders the seizure of administrative and operating control may be impugned by means of a contentious-administrative appeal of full jurisdiction before the Third Chamber of the Supreme Court of Justice, in accordance with the law. The filing of the appeal against the resolution of the Superintendent, ordering the seizure of administrative and operating control, will not suspend the effects of the administrative act in virtue of the fact that it protects a social interest.

**ARTICLE 136. EMPOWERMENT OF THE INTERIM ADMINISTRATOR.** The interim administrator will have the powers determined by the Superintendent at the time the latter ordered his/her designation or at a later date, and those that are inherent to the tasks assigned to him/her. In any case, it is understood that the interim administrator will have access to all documents, minutes, correspondence, and records of the bank.

Among the powers that the interim administrator may have are the following:

1. Stop or limit payment of the bank's obligations, during a period that will not exceed, in any case, the period of seizure of control.
2. Employ the necessary personnel and dismiss those employees whose fraudulent or negligent actions have motivated the seizure of control.
3. Take control of the bank's correspondence.
4. Any other power requested by the interim administrator and approved by the Superintendent.
5. Any additional power which the Superintendent considers necessary.

**ARTICLE 137. SUSPENSION OF TERMS.** For as long as the Superintendency maintains a bank under administrative and operating control, the statute of limitations related to all of the rights or legal actions to which the bank is a principal, and the terms of all trials and proceedings to which the bank is a party, are understood to be suspended. Said terms will remain suspended until the term of administrative control ends, except if the compulsory liquidation of the bank is ordered in which case the provisions of article 159 of this Decree Law are applicable, with the exception of those whose purpose is to foreclose on a pledge, mortgage or other real secured guaranties.

**ARTICLE 138. PROHIBITION OF ATTACHMENT, EMBARGO OR WITHHOLDING.** The assets of a bank under the administrative and operating control of the Superintendency shall not be subject to attachment, embargo or withholding or any other precautionary measures. Likewise, the seizure of administrative control suspends the statute of limitation of all credits and rights of the bank beginning on the date of the notice described in article 134, save those embargoes which purpose is to foreclose on a pledge, mortgage or other real secured guaranties.

**ARTICLE 139. EXPENSES OF THE SEIZURE OF ADMINISTRATIVE CONTROL.** All expenses caused by the seizure of control, including the compensation

and benefits of the interim administrator, as determined by the Superintendent, will be for the account of the bank under administrative and operating control.

Debts of the bank under administrative control, originated before the seizure of administrative and operating control, shall not be paid without the authorization of the Superintendent.

**ARTICLE 140. TERMINATION OF ADMINISTRATIVE CONTROL.** Upon expiration of the period of administrative control, the Superintendent will decide upon the reorganization of the bank, the compulsory liquidation of the bank, under the provisions of this Decree Law, or the return of administrative and operating control to the directors or legal representatives of the bank, as may be the case.

## **CHAPTER XVII REORGANIZATION OF THE BANK**

**ARTICLE 141. REORGANIZATION.** The Superintendent will decide upon the reorganization of a bank, with the purpose of taking the measures and adopting the changes necessary to protect the best interests of the depositors and creditors.

**ARTICLE 142. REORGANIZATION APPROVAL.** In the resolution ordering the reorganization, the Superintendent will decide on the following:

1. The designation of a reorganizer or a reorganization committee, made up of up to three members, who shall not have direct or indirect relationships among themselves up to the fourth degree of consanguinity or with the bank or the bank holding company. The reorganizer or the reorganization committee will have exclusive responsibility over the administration and control of the bank while the reorganization lasts, and will be accountable to the Superintendency.

In the case of a reorganization committee, at least one of its members must have a minimum of five years of experience in the banking or financial sector. In the case of a reorganizer, he/she must have a minimum of five years of experience in the banking or financial sector. The Superintendency will designate the person who will preside over the reorganization committee.

2. The instructions for the removal of any director, officer, executive, manager or other employee considered necessary.
3. The time period within which the reorganization shall be completed, which may be anticipated or extended by the Superintendency, based on a sustained request of the reorganizer or the reorganization committee.

**ARTICLE 143. REORGANIZATION NOTICE.** The Superintendent will order the placement of a notice, in a public and visible place of the main establishment of the bank and its branches that will contain a transcription of the resolution ordering the reorganization of the bank. The resolution will indicate the time in which the order of

reorganization will be enforced which, in any case, may not be prior to the time of the placing of the notice.

**ARTICLE 144. NOTIFICATION OF THE ORDER OF REORGANIZATION.** The notice mentioned in the previous article will remain in place for a period of five working days, and the copy of the resolution will remain in place for as long as the reorganization lasts. Upon termination of the five working days from the time of the placing of the notice, it will be understood that the civil notification has been served. Upon placing the notice, the resolution shall be published for five working days in a newspaper with wide national circulation.

**ARTICLE 145. EMPOWERMENT OF THE REORGANIZER.** The reorganizer or the reorganization committee shall have the most ample powers to conduct the reorganization of the bank. Among these powers are the following:

1. Amortize all losses against primary and secondary capitals, as well as to determine the value of the stock at that point in time.
2. Appoint new managers.
3. Authorize the issuance of new stock as well as its sale to third parties at a price determined by the reorganizer or the reorganization committee.
4. Negotiate and execute the merger or consolidation of the bank with one or more banks, the obtainment of loans for the bank, the sale or partial liquidation of the bank's assets or the acceptance of liens over said assets, according to criteria developed by the Superintendency.
5. Recommend to the Superintendency the compulsory liquidation of the bank.
6. Any other power requested and properly sustained, for a specific purpose, by the reorganizer or reorganization committee and approved by the Superintendent.
7. Any additional power which the Superintendency considers necessary.

**ARTICLE 146. REORGANIZATION PLAN AND REPORTS.** The reorganizer or the reorganization committee will prepare, within a maximum period of thirty days, which may be extended for up to thirty days, a reorganization plan which shall contain the general guidelines necessary to bring the bank back to safe and efficient operation, considering the interests of the depositors and creditors, and those of the stockholders or partners. The plan must also contain a chronogram for its execution.

The reorganization plan must be approved or disapproved by the Superintendent of Banks. Approval may be subject to the conditions, modifications or instructions determined by the Superintendent.

The reorganizer or reorganization committee will submit reports to the Superintendent as often as the latter considers necessary that shall contain, at a minimum, a detailed and accurate narration of the bank's situation.

If, during the course of the reorganization, there should develop or be brought up to attention situations which make the implementation of the reorganization plan inconvenient or unfeasible, the Superintendency may modify said reorganization plan or order the compulsory liquidation of the bank.

**ARTICLE 147. PUBLICATION AND MANDATORY CHARACTER OF THE REORGANIZATION PLAN.** The implementation of the reorganization plan will be preceded by its publication during five consecutive working days in a newspaper with wide national circulation in the Republic and, while it remains in force, it will be mandatory for all stockholders and creditors of the bank.

**ARTICLE 148. MERGER, CONSOLIDATION OR SALE OF THE BANK.** In the event of a merger, consolidation or sale of the bank under reorganization, the reorganizer or the reorganization committee may, with the approval of the Superintendent, determine a term during which pre-existing deposits may not be withdrawn, during which time they will earn interest at the average market rate for said term, as determined by the Superintendency.

**ARTICLE 149. SUSPENSION OF TERMS.** For as long as the Superintendency maintains a bank under reorganization, the statute of limitations related to all of the rights or legal actions to which the bank is a principal, and the terms of all trials and proceedings to which the bank is a part of, are understood to be suspended. Said terms will remain suspended until the term of reorganization ends, except if the compulsory liquidation of the bank is ordered in which case the provisions of article 159 of this Decree Law are applicable, with the exception of those whose purpose is to foreclose on a pledge, mortgage or other real secured guaranties.

During the reorganization process, the stockholders of the bank, its board of directors, management, and empowered agents shall be disqualified to make decisions. The Superintendency will inform the Public Registry of Panama and other corresponding authorities the disqualification of stockholders, directors, officers, and empowered agents. The same communication will be sent to the correspondent banks of the entity under reorganization.

**ARTICLE 150. PROHIBITION OF ATTACHMENT, EMBARGO OR WITHHOLDING.** The assets of a bank under reorganization shall not be subject to attachment, embargo or withholding or any other precautionary measures. Likewise, the reorganization suspends the statute of limitation of all credits, rights, and actions of the bank beginning on the date of the notice described in article 143.

Neither shall debts of the bank under reorganization, originated before the reorganization, be paid without the authorization of the Superintendency, unless those related to foreclosure on a pledge, mortgage or other real secured guaranties.

**ARTICLE 151. MEANS OF IMPUGNMENT.** The resolution of the Superintendent that orders the reorganization may be impugned by means of a contentious-administrative appeal of full jurisdiction before the Third Chamber of the Supreme Court of Justice, in accordance with the law. The filing of the appeal against the resolution of the Superintendent, ordering the seizure of administrative and operating control, will not suspend the effects of the administrative act in virtue of the fact that it protects a social interest.

**ARTICLE 152. REORGANIZATION EXPENSES.** All expenses caused by the reorganization, including the compensation and benefits of the reorganizer or reorganizers, as determined by the Superintendency, will be for the account of the bank under reorganization.

**ARTICLE 153. TERMINATION OF THE REORGANIZATION.** The state of reorganization will end upon expiration of the period determined for that purpose or its extension. In those cases in which the reorganization shall not have been satisfactorily completed or at any time the Superintendent considers it necessary, because the bank is insolvent or for any other reason that makes its recovery impossible or extremely difficult, the Superintendent will terminate the reorganization and will order the compulsory liquidation of the bank.

If the reorganization were to be concluded satisfactorily, the Superintendent will surrender the bank to its directors or legal representatives, as may be the case.

## **CHAPTER XVIII COMPULSORY LIQUIDATION**

**ARTICLE 154. ORDER OF LIQUIDATION.** If the Superintendent considers that the compulsory liquidation of a bank is necessary, he/she will issue a considered resolution by means of which he/she will order the administrative liquidation of the bank and will designate one or more liquidators that must comply with the same requirements necessary to act as an interim administrator of a bank.

**ARTICLE 155. DESIGNATION OF THE LIQUIDATOR OR BOARD OF LIQUIDATORS.** The Superintendent will designate, as may be the case and at his/her discretion depending on the complexity of the bank, a liquidator or a board of liquidators, made up of up to three persons, whose members may not have any relationship, directly or indirectly, with the bank or among themselves, to the fourth degree of consanguinity. The liquidator or the board of liquidators will exclusively exercise the legal representation, administration, and control of the bank, and will be accountable to the Superintendent. In the case of a board of liquidators, at least one of its members must have a minimum of five years of experience in banking or finance. In the case of a sole liquidator, he/she must have a minimum of five years of experience in banking or finance. The Superintendent will designate the chairman of the board of liquidators.

The liquidator or the board of liquidators will depend functionally on the Superintendent of Banks and will be accountable for his/her/their actions to the Board of Directors through the Superintendent. In addition, he/she/they will set up and maintain the accounts of his/her/their management in an orderly and easily verifiable manner.

The liquidator or the board of liquidators will guide the compulsory liquidation process keeping in mind the following criteria:

1. The celerity which must accompany the process in order to liquidate in as less time as possible, and in accordance with the standards set by the Superintendency, the assets of the bank to satisfy the existing credits.
2. The diligence, simplicity, and transparency that must accompany the process.
3. The respect to the rights and precedence recognized by this Decree Law.

**ARTICLE 156. COMPULSORY LIQUIDATION NOTICE.** The Superintendent will order the placing of a notice, which will contain a transcription of the resolution ordering the compulsory liquidation of the bank, in a public and visible place in the main establishment of the bank and all its branches. The resolution will indicate the time in which the order of liquidation goes into effect, which in no case shall be prior to the time the notice was placed.

**ARTICLE 157. NOTIFICATION OF THE ORDER OF COMPULSORY LIQUIDATION.** The notice referred to in the previous article will remain in place for at least five working days and throughout the process of liquidation. Once the five working days are completed, it is understood that proper notification to all parties has been made. Upon placing the notice, the resolution shall be published for five days in a newspaper with wide national circulation.

**ARTICLE 158. MEANS OF IMPUGNMENT.** The resolution of the Superintendent that orders the compulsory liquidation may be impugned by the affected parties by means of a contentious-administrative appeal of full jurisdiction before the Third Chamber of the Supreme Court of Justice, in accordance with the law, within the next fifteen working days following the publications provided for in this Chapter. The filing of the appeal against the resolution of the Superintendent, ordering the compulsory liquidation of the bank will not suspend the effects of the administrative act in virtue of the fact that it protects a social interest.

**ARTICLE 159. SUSPENSION OF TERMS.** When a bank is under compulsory liquidation, the statute of limitations related to all of the rights or legal actions to which the bank is a principal, and the terms of all trials and proceedings to which the bank is a party, are understood to be suspended for six months, with the exception of those whose purpose is to foreclose on a pledge, mortgage or other real secured guaranties. The bank may renounce to this right in those cases considered advantageous for the liquidation.

**ARTICLE 160. SUSPENSION OF INTERESTS.** As of the date of the resolution ordering the compulsory liquidation, all interests shall cease to accrue on all obligations of the bank under liquidation, except those obligations secured by pledge or mortgage over assets of the bank, in which case the creditors may demand the current interests on their credits up to the amount covered by the lien.

**ARTICLE 161. PAYMENT OF PRIMARY DEPOSITS AND OTHER OBLIGATIONS.** In order to contribute to the maintenance of trust in the banking system, the liquidator or the board of liquidators will pay the totality of all deposits and other obligations described in numbers 1 and 2 of article 167 of this Decree Law, within fifteen days following the date in which the resolution ordering the liquidation is fully enforced and cannot be challenged. Such payment shall be made against the available liquid assets to the extent they exist, and shall be made prior to the recognition proceedings described in articles 162 and 163, and in accordance with the information contained in the bank's books.

**ARTICLE 162. APPEARANCE OF DEPOSITORS AND OTHER CREDITORS AT THE LIQUIDATION.** The resolution ordering the liquidation will require that the depositors and other creditors appear before the bank to present their claims. Said depositors and creditors may appear at any time until the liquidator or the board of liquidators issue the report described in the following article which in no case shall be in less than thirty or more than sixty days from the date of the last publication referred to in article 157. Nonetheless, the lack of appearance shall not affect the obligations properly recorded in the bank's registers.

**ARTICLE 163. PRELIMINARY REPORT.** The liquidator or the board of liquidators will issue a preliminary report, which will contain the following information:

1. The names of the creditors of the bank.
2. Title to, or proof of, the credits and their precedence.
3. Identification of the debtors of the bank.
4. A general statement of condition, determining the losses which are to be charged to capital funds.

**PARAGRAPH.** The liquidator will publish a list of debtors and creditors so that they may appear before the liquidation, during a period of three working days in a national circulation newspaper and in the web pages of the bank and the Superintendency, where the information must be accessible during the period of liquidation. Creditors will count with a period of thirty days, beginning after the last publication, to request clarifications or present the objections that may be the case.

**ARTICLE 164. RESOLUTION ON OBJECTIONS.** Once the thirty day period referred to in the previous article is over, the liquidator or the board of liquidators will issue as many considered resolutions as they deem necessary, in which they will resolve all the objections submitted and will provide for the following:

1. The identification of the assets that make up the mass in liquidation.
2. An inventory of the deposits and other accepted obligations, and those that were rejected, indicating their nature and amount.
3. The precedence with which the obligations of the bank will be paid.

Likewise, in a separate file, the liquidator or board of liquidators will issue a resolution containing the list of the assets excluded from the mass in liquidation.

Each of the resolutions referred to in this article must be published in a national circulation newspaper during five working days and may be impugned by incidental recourse before the Third Chamber of the Supreme Court of Justice, within five working days following the last publication. The proceedings will take place before the liquidator or the board of liquidators who, at their discretion, may order the accumulation of the proceedings that have common causes, parts or pretensions.

Having completed the judicial formalities, the liquidator or the board of liquidators will remit to the Third Chamber of the Supreme Court of Justice the different files, together with an explanatory report of their resolutions, with the purpose that the recourses may be decided upon there. In consideration of the social character surrounding the compulsory administrative liquidation, those impugnments remitted by the liquidator or the board of liquidators to the Third Chamber should be resolved with precedence to any other contentious-administrative proceedings.

**ARTICLE 165. THE MASS IN LIQUIDATION.** The mass in liquidation is made up of all assets and rights, present and future, of a bank in liquidation. Excluded from the mass in liquidation are:

1. All documents delivered to the bank for collection and those that have been acquired for the account of third parties, as long as they have been issued or endorsed directly in favor of the constituent or trustee.
2. All monies or assets delivered to the bank under commission, mandate or trust as long as there exist written proof of contract on the date the liquidation was ordered. Included under this number are severance funds, pension and retirement funds, and other monies that the bank administers. The administration of trusts may be delegated to third parties properly trained to that end.
3. In general, all identifiable species that, although in the possession of the bank, have been sufficiently proven to belong to a third party.
4. The sums that the bank must return because they were received in exchange for securities and other assets belonging to third parties that the liquidator may have sold.

5. Goods and assets deposited in safe deposit boxes and, in general, all securities and other movable property that the bank may maintain in its possession as custodian or depositary.

The liquidator or the board of liquidators must return these assets that are excluded from the mass in liquidation to their owners as soon as they are identified. The liquidator will return the assets or goods in accordance with the bank's registers.

**ARTICLE 166. DEBTS OF THE MASS IN LIQUIDATION.** The following are considered debts of the mass in liquidation:

1. Those that originate as judicial or extra judicial operational expenses incurred in the common interest of the creditors to verify or confirm and liquidate the assets and obligations of the liquidation; for the management, conservation and sale of the assets of the bank, and for the distribution of the proceeds, including the fees or remuneration of the liquidator or board of liquidators and the trustee referred to in articles 168 and 169, the salaries of the employees hired by the liquidation and the operating expenses of the bank.
2. All those resulting from acts or contracts legally executed or entered into by the liquidator or board of liquidators or trustee.
3. The sums that the bank must return due to the resolution or termination of any act or contract of the bank and the indemnities due to the holders in good faith of assets the liquidation may recover or reclaim.
4. Credits arising in favor of the banks in the system resulting from inability of the bank to offset claims in the Clearing House.
5. Current national and municipal taxes.

The debts of the mass in liquidation must be paid with precedence over any other obligation of the bank, unless obligations secured by pledge, mortgage or other real rights referred to in article 176.

**ARTICLE 167. ORDER OF PRECEDENCE.** Unless the provisions contained in other articles of this Decree Law, the obligations of the bank will be paid during the liquidation in the following order of precedence:

1. New deposits taken during the period of reorganization.
2. Deposits for ten thousand balboas or less. If there were two or more deposits in this category on behalf of the same person, only the largest of them shall be paid, up to the sum of ten thousand balboas. This amount may be modified by the Superintendency.
3. Labor obligations.

4. Obligations in favor of the Social Security Fund, in the form of withheld employee contributions.
5. Taxes due to the National Treasury or the municipalities, as well as obligations due to public services supplied by the State.
6. Other deposits and other obligations.

The obligations within each category will be paid pro rata. Each category excludes the rest in the order established in this article and to the extent that the assets of the bank suffice.

The obligations recognized by a court judgment or by an arbitration award will be paid in their corresponding category, according to their nature, and pro rata.

No other order of precedence or preference established in other legislation shall be applicable to the payment of bank obligations.

**ARTICLE 168. EMPOWERMENT OF THE LIQUIDATOR OR BOARD OF LIQUIDATORS.** The liquidator or the board of liquidators shall have the following powers:

1. To stop or limit payment of the bank's obligations and of the debts of the mass in liquidation as per availability of funding.
2. To employ the necessary personnel and dismiss those employees whose fraudulent or negligent behavior has favored or created the conditions for the liquidation, as well as those employees that are no longer needed due to reduction in the activities of the bank.
3. To manage the bank's correspondence and issue any document on behalf of the bank.
4. To manage, control, and safeguard the bank's assets.
5. To assign or sell assets according to their realizable value, net of provisions, reserves, and any other adjustment determined by the Superintendency, according to the existing prudential norms and regulations.
6. To transfer totally or partially the assets and liabilities of the bank to an institution licensed to exercise the trust business in Panama, prior authorization of the Superintendency.
7. To execute those acts and enter into those agreements within the scope of his/her/their responsibilities that would permit the initiation, fulfillment, and execution of the liquidation through the transfer of assets and liabilities, and a trusteeship.
8. To establish in the trust contract the mandates, terms, and conditions for the proper liquidation of assets and liabilities transferred to the trust.

9. Any other power which, upon a well founded request from the liquidator or the board of liquidators may have been authorized by the Superintendent for a specific purpose.

**ARTICLE 169. AUTHORITY FOR A TRUSTEESHIP.** When the Superintendent considers that the realizable value of the assets in the mass in liquidation, and the opportunity and probability of recovery of the debts do not justify the costs of the liquidation, he/she may order the liquidator or the board of liquidators to transfer or commit the remaining assets and liabilities of the bank to a trust institution.

The assets so transferred or committed will be taken at their realizable value, net of provisions, reserves, and any other adjustment that the Superintendent might determine according to the existing prudential norms and regulations.

The liabilities will be taken pro rata according to the realizable value of the transferred assets.

**ARTICLE 170. OBLIGATIONS OF THE TRUSTEE.** The trustee will have the following obligations:

1. To issue the negotiable participation certificates which give their title holders the rights thereupon described representing their aliquot in the estate transferred or committed to the trust. The participation certificates will be issued as appointed.
2. To pay the obligations of the liquidation.
3. To manage the sale and collection of all property, rights, and other assets of the bank in the most advantageous conditions possible.
4. To manage the credit portfolio and the corresponding collection efforts.
5. In general, to manage the assets and liabilities transferred or committed.
6. To issue the monthly reports required by the Superintendency.
7. Any other obligation that the Superintendency may establish.

**ARTICLE 171. INAPPLICABILITY OF SECURITIES LEGISLATION.** The trusteeship referred to in article 169 of this Decree Law and the negotiable participation certificates and their issuance referred to in article 170, will not be subject to the provisions of Decree Law 1 of 1999.

**ARTICLE 172. DISMISSAL OF THE LIQUIDATOR OR BOARD OF LIQUIDATORS.** Once the responsibilities for which they were appointed have been fulfilled, and all the assets have been transferred to the trusteeship, the liquidator or board of liquidators will cease in their functions.

**ARTICLE 173. REINITIATING THE PROCESS OF LIQUIDATION.** If after the termination of the liquidation of a bank there were found information regarding the existence of assets or property rights of said bank, the Superintendent will order the reinstatement of the liquidation process, designate a liquidator with the purpose of inventorying said assets, and transferring them to the trusteeship to which the remaining assets and liabilities of the original liquidation were committed.

Those parties that consider themselves affected by the corresponding resolution may impugn or challenge it by means of a motion of reconsideration before the Superintendent or may appeal before the Board of Directors of the Superintendency.

**ARTICLE 174. TERMINATION OF CONTRACTS.** From the date in which the resolution ordering the compulsory liquidation is fully enforced and cannot be challenged, the liquidator or the board of liquidators may terminate all leases, service contracts, administrative and operating contracts, including all arbitration clauses, compulsory or not, contained in said contracts. As of the date of enforcement of the resolution, the bank in liquidation may not be sued or prosecuted for breach of said contracts and the penalty clauses contained in them shall not be applicable.

**ARTICLE 175. RESTRAIN OF PROCEEDINGS.** Once the resolution ordering the liquidation of a bank is fully enforced, the bank may not be sued or prosecuted or become a party to an arbitration process.

**ARTICLE 176. OBLIGATIONS SECURED BY PLEDGE, MORTGAGE OR OTHER REAL RIGHTS.** The obligations secured by pledge, mortgage or other real rights will have preference over any other obligation with respect to the encumbered assets, up to their realizable value, except monies owed to the State as real estate taxes over the encumbered real estate.

The creditors may claim said credits in the liquidation or may demand them separately through the corresponding judicial or extrajudicial proceedings.

**ARTICLE 177. LEASING CONTRACTS.** With respect to those assets leased by the bank in accordance with a leasing contract, the corresponding leasing legislation will apply.

**ARTICLE 178. DISSOLUTION OF THE BANK.** At the conclusion of the liquidation, the liquidator or the board of liquidators or the trustee, as may be the case, will submit, in the terms established by and for the approval of the Superintendency, a final report of the liquidation. Once approved, the Superintendency will order the dissolution of the bank and will remit the corresponding written notice to the Public Registry.

In the case of a branch of a foreign bank, the Superintendency will proceed to order the annulment of the corresponding filing in the Public Registry.

**ARTICLE 179. PRECAUTIONARY MEASURES OR EMBARGOES.** The assets of a bank in liquidation are not susceptible to precautionary measures or embargoes, unless

they are based on real rights. Those already enforced shall be lifted in benefit of the bank in liquidation.

**ARTICLE 180. APPEAL BEFORE THE SUPERINTENDENCY.** The resolutions issued by the liquidator or board of liquidators that are not susceptible of impugment before the Third Chamber of the Supreme Court of Justice, will be appealable before the Board of Directors of the Superintendency.

**ARTICLE 181. INADMISSIBILITY OF BANKRUPTCY.** Banks will not be subject to bankruptcy proceedings.

**ARTICLE 182. APPLICABLE LEGISLATION.** Banks that are in the process of liquidation upon enforcement of this Decree Law will continue their liquidation process as provided for in Decree Law 9 of 1998, before these modifications.

**ARTICLE 183. EXPENSES OF THE LIQUIDATION.** All the expenses caused by the liquidation, including the salaries and emoluments of the liquidator or the board of liquidators, as established by the Superintendent, will be for the account of the bank in liquidation.

#### **TITLE IV SANCTIONS**

**ARTICLE 184. CRITERIA FOR THE ASSESSMENT OF SANCTIONS.** The Superintendent will assess the proper administrative sanctions for the violation of the provisions of this Decree Law and laws and rules that regulate and modify it, taking into consideration the seriousness and recidivism of the offense, and the magnitude of damages and prejudice caused to third parties.

The Superintendency will establish a gradation of sanctions and the sanctioning process that shall be followed in compliance with this Title and special laws.

**ARTICLE 185. FINES.** The following sanctions are established:

1. Fines of up to one million balboas to:
  - a. Natural or juridical persons engaged in the banking business without license.
  - b. Anyone not complying with the provisions of Chapter XIII in Title III on the Prevention of Money Laundering, Financing of Terrorism, and related crimes.
2. Fines of up to five hundred thousand balboas for violations of the provisions of Title III of this Decree Law related to:
  - a. The obligation to submit to examination referred to in Chapter IV.
  - b. The capital, referred to in Chapter V.

- c. The banking liquidity, referred to in Chapter VI.
- d. The documents and reports, referred to in Chapter IX.
- e. The prohibitions and limitations, referred to in Chapter X.
- f. The obligation of confidentiality, referred to in Chapter XII.

**ARTICLE 186. GENERIC SANCTIONS.** Violations of this Decree Law and its enabling regulations, for which no specific sanction has been established, shall be sanctioned by the Superintendent, at his/her discretion and without prejudice of the penal action that might accrue, by means of any of the following sanctions:

- 1. Private admonition.
- 2. Public admonition.
- 3. Fine of up to two hundred and fifty thousand balboas.

**ARTICLE 187. PROGRESSIVE FINES.** In all cases where violations of the provisions of this Decree Law and its enabling regulations persist in time, the Superintendent may impose progressive fines until the violation is corrected.

**ARTICLE 188. SANCTIONS.** The special and generic sanctions established in this Decree Law may be imposed by the Superintendent to the bank, its directors, officers, managers, employees, and other personnel that have participated in the violation of the provisions of this Decree Law. In the case of employees and directors, the bank shall be jointly and severally responsible for the fine imposed to these persons.

The fines and sanctions imposed by the Superintendent are independent and without prejudice of other fines or sanctions accruable for violations of any other applicable norm or law, and the civil and criminal sanctions that may apply.

**ARTICLE 189. PUBLICITY OF THE SANCTIONS.** The Superintendent shall be empowered to publish the sanctions imposed in accordance with the provisions of this Decree Law.

**ARTICLE 190. ADMINISTRATIVE PROCEEDINGS.** If the Superintendent considers that there is a violation of this Decree Law and the norms or agreements that modify or complement it, the Superintendent will notify the corresponding bank or regulated entity so that it may properly answer the charges and submit the pertinent supporting evidence, within a term that will not exceed thirty days, counted from the day of notification.

The proceedings for the imposition of sanctions shall be determined by the Superintendency.

**ARTICLE 191. PERSONNEL OF THE SUPERINTENDENCY.** Personnel of the Superintendency that may have incurred in violation of the provisions of this Decree Law shall be subject to the sanctions provided for in this Title, independently and without prejudice of other fines or sanctions accruable for violations of any other applicable norm or law, and the civil and criminal sanctions that may apply.

## **TITLE V THE BANK CLIENT**

### **CHAPTER I PRINCIPLES**

**ARTICLE 192. PRINCIPLES.** The purpose of the principles established in Titles V and VI of this Decree Law is to contribute, to the contractual relations, the necessary and desired balance between the parties.

Banks have the obligation to provide their services to their bank clients with transparency, probity, and equity in conformity with the norms and principles of this Title.

**ARTICLE 193. OBLIGATIONS OF THE BANKS.** Banks have the following obligations:

1. To inform the bank client, from the beginning of the relationship, the terms and conditions applicable to their particular contract.
2. To abstain from taking advantage of the acts of the bank client, such as signing a blank document, for purposes different from those originally identified at the time the action was requested.
3. To abstain from impeding, by any means, that the bank client, without dishonoring his/her obligations to the bank, could desist of maintaining a relationship with the bank.
4. Not to apply or collect charges for services undelivered and not previously agreed upon with the bank client and to reimburse them upon demand.
5. To be diligent in answering inquiries and petitions from their bank clients regarding the status of their obligations or to make said status known to third parties.
6. To inform, without cost whatsoever and in a timely manner, about the evolution of the operations, accounts, and business relations maintained with their bank clients, as well as to issue, free of charge, the receipts and certifications of the transactions with them.

**ARTICLE 194. RIGHTS OF THE BANK CLIENTS.** Bank clients shall have, among others, the following basic and non-renounceable rights:

1. To know before, during, and after, in a clear and truthful manner and free of charge, all the information regarding a product or banking service.

2. To desist, at any time, to continue a relationship with a bank, without dishonoring his/her obligations nor the charges previously agreed upon applicable to the early termination of the relationship.
3. The right to confidentiality before third parties regarding his/her relationship with the bank, as well as to his/her privacy.
4. To receive a diligent and efficient service from the bank, particularly regarding his/her inquiries and petitions on the status of his/her obligations and his/her rights deriving from the former.

## **CHAPTER II BANKING CONTRACTS AND DOCUMENTS**

**ARTICLE 195. REVIEW OF MODEL BANKING CONTRACTS.** Banks shall maintain up-to-date models of banking contracts and other accessory documents at the disposal of the Superintendency who may review them at any time and issue opinions on their contents in relation with the provisions of this Decree Law and its enabling regulations.

The review and no objection of the model contracts or of any other document by the Superintendency shall not confine the consumer in his/her right to resort to a judicial authority if he/she considers that his/her rights have been infringed.

**ARTICLE 196. WRITTEN CONTRACTS.** Banking contracts should contain, at the time of signing, at least the following basic information:

1. The complete name, nationality, domicile, and personal identification number or another valid personal identification document of each of the contracting parties. In the case of a juridical person, the information must include the corporate name, the filing data from the Public Registry or its legal equivalent, the corporate domicile and the complete personal identification data of its legal representative.
2. A detailed description of the contracted services.
3. Total amount of the contracted obligation or of whatever transaction is the case, expressed in monetary terms, when applicable.
4. Instructions regarding the timing of the payments or amortizations, the amount of these, and the place where such payments should be made.
5. Maturity of the obligation or term of the contract.
6. Nominal interest rate and the effective rate applicable with an example of its calculation. In the case of lines of credit, the formula to determine the effective interest rate applicable should be shown.

7. In case that the contract or transaction contains exclusions, limitations, and/or causes of termination, these should appear in bold letters.
8. Official date of the contract or transaction.
9. In the same contract or in a separate document that must be delivered to the bank client, the bank must make a detailed description of the amounts that will be charged to the bank client, indicating the reason for the charge and its amount or estimate in monetary terms. It is understood that these include the cost of credit investigations, handling of applications, delinquent interest charges, extra charges, commissions, notary fees, filing fees, insurance premiums, overcharges, and any other of a similar nature.
10. The manner and timing in which the bank will communicate to the bank client any changes or modifications to the terms and conditions agreed upon in the contract.
11. Any other clause or provision that the parties consider convenient to include.

**PARAGRAPH.** The provisions of articles 72 and 73 of Law 45 of 2007 shall not be applicable to banking contracts and transactions.

**ARTICLE 197. BLANK DOCUMENTS.** The bank client may sign accessory documents in blank as long as they are related to the main transaction to which he/she assents, and as long as they are clearly identified as such.

A brief description of the blank document or documents shall be included in the main contract or in another document signed by the bank and the bank client.

Once the contractual relationship between the bank client and the bank has terminated, the blank accessory documents signed but not utilized shall be returned to the bank client and, if within thirty days the latter does not retrieve said documents, the bank shall destroy them.

It is understood that the above is without prejudice to the provisions in the Law of Negotiable Instruments.

## **TITLE VI BANK CONSUMER PROTECTION**

### **CHAPTER 1 GENERAL PROVISIONS**

**ARTICLE 198. SPECIAL NORMS AND JURISDICTION.** The bank consumer or user of banking services protection will be governed by the special norms contained in this Title.

The Superintendency is charged with the exclusive vigil over the compliance of the provisions of this Title. In consequence, the Superintendency is hereby empowered to

develop the necessary standards and determine their sense, reach, and interpretation in whatever form it deems convenient for said compliance with these provisions.

Due to their banking nature, the Superintendency is hereby granted exclusive jurisdiction to take cognizance of and protect the rights of the bank consumer.

**ARTICLE 199. BANK CONSUMER.** For the purposes of this Title, a bank consumer is that bank client, either natural or juridical person, who acquires a bank service or product, asset or liability that meets the following conditions:

1. Natural persons:
  - a. Financing destined for the personal consumption of the bank consumer or his/her family, as defined by the Superintendency, up to an amount of fifty thousand balboas per transaction.
  - b. Financing for the purchase, construction or improvements to the principal residence of the bank consumer or his/her family, up to an amount of one hundred and twenty five thousand balboas per transaction.
  - c. Demand deposits whose title holder is a bank consumer up to an amount of twenty thousand balboas.
  - d. Savings or time deposits whose title holder is the bank consumer up to an amount of fifty thousand per account.
2. Juridical persons:
  - a. Financings received for commercial purposes by micro and small businesses as defined by the Law for Micro, Small, and Medium Enterprises, up to an amount of two hundred thousand balboas.
  - b. Financings received through a juridical person for final use by their shareholders, owners, family members or their beneficiaries, up to an amount of one hundred and twenty five thousand balboas.
  - c. Any other transaction by a juridical person as determined by the Superintendency.

**PARAGRAPH.** The Board of Directors of the Superintendency is hereby empowered to update the amounts established in this article whenever it deems convenient, taking into account, among other criteria, the consumer price index.

## **CHAPTER II INFORMATION**

**ARTICLE 200. FURNISHING INFORMATION TO THE BANK CONSUMER.** Of the contents of article 36 of Law 45 of 2007, only the provisions in numbers 1, 2, 7, 9, 12,

and 13, which establish the obligation to furnish information to the bank consumer, shall be applicable to banks.

For the effects of the mentioned provisions, and assuming that banking contracts comply with the requirements of the law, it is hereby understood that the service providers are in compliance with the obligation of furnishing information to the bank consumer with the delivery of the document that contains the contract or the terms and conditions of the service or product in question.

### **CHAPTER III NULLITIES**

**ARTICLE 201. NULLITY OF THE CLAUSES IN AN ADHESION CONTRACT.** In banking contracts of adhesion, all stipulations that imply renouncement or diminution of a right recognized in this Decree Law and its enabling regulations, shall be considered null.

Those clauses that imply renouncement of rights or proceedings expressly permitted by other laws are excluded from the effects of said nullity.

**ARTICLE 202. NULLITY OF CONTRACTUAL CLAUSES.** The reach and interpretation of article 74 of Law 45 of 2007 shall be the following:

1. The abusive or excessive character of a contractual clause and, therefore, its absolute nullity, shall be determined taking into account the nature of the products or services object of the contract and considering, at the time of signing, all the circumstances that concur around said clause, as well as all other clauses of the contract, or other contracts from which the former depends on.
2. Price fluctuations of financial products shall not be considered a change in the conditions of the contract, as long as it has been so agreed upon.
3. Bank contracts drafted in a language other than Spanish shall not be considered null as long as this has been so requested by the user of the banking services and the contract is not a public document. Likewise, the drafting of bank contracts in a language other than Spanish is hereby permitted in those cases when the international nature of the contract demands so.
4. Clauses that permit waiver of domicile, of formality of proceedings, of procedural terms, and of personal notifications shall not be considered null as long as they comply with the norms of the Judiciary Code, the Civil Code and/or other laws.
5. Clauses that allow the bank to change or modify the terms and conditions of the bank contract shall not be considered null as per the provisions of article 196-10.

**ARTICLE 203. CAUSES OF RELATIVE NULLITY.** The parameters to determine the proper applicability of each of the causes of relative nullity established in article 75 of Law 45 of 2007 shall be those established in special legislation. In the absence of these causes,

the norms developed by the Superintendency shall be applied and, lacking those, the banking usage and practices generally adopted in the market and the principles of good faith and contractual balance.

**ARTICLE 204. DECLARATION OF NULLITY.** The Superintendency may not declare the nullity of a clause in a bank contract of adhesion. Such power shall belong to other competent authority.

**ARTICLE 205. AUTHORITY TO DECLARE NULLITY.** The declaration of nullity in contracts between banks and their clients is subject to the jurisdiction of the Courts, as provided for in the law. Therefore, it is not a power or responsibility of the Superintendency to declare any nullity whatsoever in contracts among banks and their clients.

#### **CHAPTER IV COMPLAINTS**

**ARTICLE 206. SYSTEM FOR ASSISTING COMPLAINTS.** All general license banks will implement an administrative system, fitted to their activities, responsible for hearing of and assisting, in a personalized fashion, all complaints, claims or disputes that may arise in their relationship with their clients.

The executive responsible for this service will be accountable to the management of the bank. His/her decisions shall be compulsory for the bank and shall be rendered in no less than thirty days. In its answer to the bank consumer, the bank must state that in the case of inconformity the consumer has an additional term of thirty days to submit his/her complaint to the Superintendency as provided for in article 211.

Banks are responsible for informing their clients the location of the complaint assisting areas and identifying the responsible executive with adequate signage. The banks will maintain a logbook of complaints received.

**ARTICLE 207. RIGHTS AND OBLIGATIONS.** The bank consumer, in addition to the provisions of article 194, shall have the right to be heard by the Superintendency via administrative recourse, in all matters related to Titles V and VI of this Decree Law.

On their part, the banks shall have the obligation to appear before the Superintendency when, through an administrative recourse, a complaint is lodged against them for violation of, or not complying with, any provision of this Title.

**ARTICLE 208. JURISDICTION AND COMPETENCY.** The Superintendency shall have exclusive administrative authority to hear of and decide upon the complaints for violation to the provisions of Titles V and VI lodged by bank consumers against the banks, up to an amount of twenty thousand balboas. Once the Superintendency hears of these complaints for non-compliance of the banking norms for the banking protection of bank consumers, and due to the interest thereof protected and the nature of the activity, there shall be no intervention whatsoever, simultaneous or posterior, from any other authority.

**PARAGRAPH.** The Board of Directors will be empowered to update the sums set forth in this article, when it considers so, taking into account, among other criteria, the consumer price index.

**ARTICLE 209. EXCEPTIONS TO THE COMPETENCY.** The Superintendency shall not hear of complaints over matters provided for in Law 6 of 1987 regarding to benefits for retirees, pensioners, and senior citizens; Law 24 of 2002 regarding credit references, and Law 45 of 2007 regarding to truth in advertising.

**ARTICLE 210. SOLUTION OF COMPLAINTS.** Violations to the rights and obligations established in Title VI of this Decree Law shall be heard and solved by means of administrative recourse before the Superintendency.

**ARTICLE 211. COMPLAINTS BEFORE THE SUPERINTENDENCY.** The Superintendency will hear complaints from bank consumers against the banks in the following cases:

1. When the bank does not solve the consumer's complaint within thirty days and the consumer decides to lodge the corresponding administrative recourse before the Superintendency.
2. When the decision of the bank, even if timely, does not satisfy the bank consumer and he/she decides to lodge a complaint before the Superintendency.

**PARAGRAPH.** The bank consumer will have thirty days counted from the day he/she obtained a formal answer from the bank, to submit his/her complaint before the Superintendency.

**ARTICLE 212. ARBITRATION IN BANK SERVICES.** Arbitration in bank services is hereby instituted as an alternate method of solution to disputes among bank and bank consumers. The Superintendency is empowered to arbitrate in disputes between banks and consumers when both parties submit their dispute to the Superintendency's competency, with full authority to resolve these conflicts according to the provisions of this Decree Law and enabling regulations.

**ARTICLE 213. DEFAULT RULE.** For the purposes of this Title, in matters of consumer protection the pertinent provisions of Law 45 of 2007 shall be applicable to the extent that they do not contradict the provisions of this Title. In as much as they are applicable, they shall be interpreted administratively and shall be applied, in any case, in conformity with the norms and principles set forth in this Title.

## **TITLE VII FINAL PROVISIONS**

**ARTICLE 214. NON-WORKING DAYS.** The Superintendency may, prior public notice, establish those days in which banks will not provide service to the general public, without necessarily coinciding with official holidays or mourning.

**ARTICLE 215. INACTIVE ASSETS.** All banks shall inform the Superintendency about any property, funds or securities in their possession that have been inactive for five years and belong to persons whose domicile is unknown. The Superintendency, after verifying the facts, will order these assets be liquidated and their value transferred to Banco Nacional de Panamá.

In the case of numbered accounts, the full identification of the client at the time of transferring the account to Banco Nacional de Panamá will not violate the duty of confidentiality described in Law 18 of 1959.

**ARTICLE 216. RESTITUTION OF FUNDS.** Banco Nacional de Panamá is under the obligation to restitute the funds described in the previous article to their owners if they are claimed within ten years following the date in which they were transferred, but without interest. After said term, the funds shall be transferred to the National Treasury.

**ARTICLE 217. UNITY OF THE BANK.** All establishments of a bank in Panama shall be considered as one bank to the effects of this Decree Law.

**ARTICLE 218. IMMUNITY OF ACCOUNTS.** Funds of any nature deposited in this country by Central Banks or similar institutions when these are depositories of the international reserves of Sovereign States, shall not be subject to precautionary measures, embargoes or any type of retention or withholding.

**ARTICLE 219. DESIGNATION OF BENEFICIARIES IN DEPOSIT ACCOUNTS.** Banks may convene with their clients that, in case of death of the principal titleholder of an account, whatever its nature, the balance, independently of its amount, may be paid by the bank directly and without any other formality or judicial proceedings, to the person or persons designated by said titleholder as beneficiary or beneficiaries. To these effects, the designation of the beneficiary or beneficiaries shall be made by the titleholder or titleholders with the formalities that the bank will determine.

Each bank will establish a procedure for the delivery of the balance of the accounts, which shall be informed to the titleholder or titleholders that designate beneficiaries. The corresponding payment shall be made by the bank once the beneficiary has been properly identified and the death of the titleholder or holders ascertained. Whenever the established formalities are complied with, payments provided for in this article shall be considered complied with by the bank and shall not be challenged.

**ARTICLE 220. DEPOSITS IN INTERNATIONAL LICENSE BANKS.** Monies and other property and securities deposited in international license banks are considered

domiciled in Panama and, therefore, shall be subject to the jurisdiction of Panamanian Courts.

**ARTICLE 221. CREDITORS OF BRANCHES IN PANAMA.** In the case of liquidation, the assets of a branch of a bank in Panama will first satisfy the obligations of creditors of the branch in Panama, be they local or foreign.

**ARTICLE 222. SUBMISSION TO PANAMA'S LEGISLATION AND JURISDICTION.** The assets transferred or deposited in banks, either as a deposit, mandate or trust or any other manner, shall be subject entirely to the laws and the jurisdiction of the Republic of Panama, except if the instruments implementing or evidencing their transfer state otherwise.

It is hereby declared a matter of public order and public policy that the assets of foreigners, as they are defined in the paragraph to this article, are fully subject to the principle of free will and of free disposal of property, even when the inheritance or the marriage laws of the country of nationality or domicile of the titleholder or grantor or founder or beneficiary provide otherwise.

**PARAGRAPH.** To the effects of this article, foreign assets are declared to be those belonging to titleholders, grantors or beneficiaries that were not Panamanian citizens or residents of the Republic of Panama at the time the transfer of the assets was perfected.

**ARTICLE 223. ATTACHMENTS OR EMBARGOES AGAINST BANK ASSETS.** In case of attachment, embargo or any other precautionary measure against assets owned by a bank, the Court shall notify the corresponding order to the Superintendency before its execution, so that the latter may make the proper dispositions in accordance with the provisions of this Decree Law, for which it will have a term of thirty days.

If the Superintendency makes no disposition or does not take any measures whatsoever within this period, the judge will continue with the execution of the respective resolution, as provided for in the Judicial Code, without prejudice of the powers that this Decree Law grants to the Superintendency.

**ARTICLE 224. RECOURSES.** Except for special cases established in this Decree Law, the resolutions of the Superintendent will admit a hearing of reconsideration before the Superintendent himself/herself and of appeal before the Board of Directors, for which the affected party will have five working days counted from the day of notification of the respective resolution or the resolution deciding the reconsideration, as may be the case. The resolution deciding the appeal will exhaust all administrative recourse.

The resolutions of the Board of Directors will only admit reconsideration before the Board of Directors, for which the affected party will have five working days counted from the day of notification. The resolution of the Board of Directors or the resolution deciding the appeal will exhaust all administrative recourse.

The above is without prejudice of contentious-administrative recourses.

**ARTICLE 225. SPECIAL FISCAL PERIODS.** Banks, who wish to adjust to a fiscal period different from the calendar year and have received the pertinent approval from the Ministry of Economy and Finance, should notify said authorization to the Superintendency.

**ARTICLE 226. REFERENCE TO THE NATIONAL BANKING COMMISSION.** All reference to the National Banking Commission in laws, decrees, and other provisions, as well as in contracts, pacts, rules or circulars prior to this Decree Law are understood to have been made with respect to the Superintendency, and the rights, powers, obligations, and functions of the former thereof, shall be understood as rights, powers, obligations, and functions of the latter, except when expressly provided for in this Decree Law.

Likewise, all reference to the Executive Director of the National Banking Commission in laws, decrees, and other provisions, as well as in contracts, pacts, rules or circulars prior to this Decree Law are understood to have been made with respect to the Superintendent, and the rights, powers, obligations, and functions of the former thereof, shall be understood as rights, powers, obligations, and functions of the latter, until the Board of Directors decides otherwise.

**ARTICLE 227. VALIDITY OF THE BANKING RULES.** The validity of the banking rules issued by the National Banking Commission and the Superintendency that are in force at the time of the promulgation of this Decree Law, is hereby recognized as long as they do not contravene the letter and spirit of this Decree Law. Like effect is recognized with respect to the resolutions of the Superintendent and the Board of Directors presently in force.

**ARTICLE 228. MICROFINANCE.** This Decree Law will not affect the provisions of Law 10 of 2002, which establishes norms regarding the microfinance system.

**ARTICLE TWO:** This Executive Decree shall enter into force six months after the promulgation of Decree Law 2 of 22 February 2008.

Given in the City of Panama, on the \_\_\_\_\_ day of the month of \_\_\_\_\_, two thousand eight (2008)

**LET IT BE KNOWN AND PUBLISHED.**

MARTIN TORRIJOS ESPINO  
President of the Republic

HECTOR E. ALEXANDER H.  
Minister of Economy and Finance