

# Monetary and Financial Law

This law creates a regulatory system, which adapts to the international trends of market liberalization and globalization. It unifies numerous laws and regulations and introduces needed changes to the financial sector.

## SECTION I: GENERAL CONCEPTS

The Monetary and Financial Law contains provisions regulating the monetary system for purposes of maintaining price stability; and, provisions that regulate the financial system, with the objectives of ensuring compliance with the conditions of liquidity, financial stability and management applicable to Financial Institutions and to achieve proper functioning of the system in a competitive, efficient and free trade environment.

Regulation of both systems is comprised of the provisions included in the Constitution and the Monetary and Financial Law. Additionally, regulations, guidelines and other rules of procedures dictated by the entities of the Monetary and Financial Administration also constitute part of the legal framework, subordinated to the aforementioned legislation. Provisions of Administrative and Civil and Commercial Law are also applied in a supplementary manner.

### TERMS DEFINED UNDER THE MONETARY AND FINANCIAL LAW:

*a) All Purpose Banks:* Financial Institutions that may receive from the public deposits payable on demand or sight deposits and deposits to checking accounts, as well as carry out the operations included within the list of activities set forth in the Monetary and Financial Law.

*b) Abandoned Accounts:* are current, savings, term, special or any other type of accounts opened with Financial Institutions regarding which their owners have not performed any management act or given any instructions in a way

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that it becomes evident that the account has been inactive for ten years.

**c) Circular:** internal acts of the Central Bank and the Banking Superintendency.

**d) Credit Institutions:** Financial Institutions whose funds are obtained through savings and term deposits, and never in on demand deposits or in current accounts.

**e) Exchange brokerage:** purchase and sale of foreign currency in accordance with the Monetary and Financial Law and its customary manner.

**f) Financial Brokerage:** Customary receipt of funds from the public in order to grant them to third parties, whichever the type or denomination of the reception and granting instrument used. The authorities may determine, through regulations, if a customary receipt of funds, because of its charitable nature, does not constitute financial brokerage for the purposes of this Law.

**g) Foreign Currency:** bills and coins from foreign countries, whatever their denomination or characteristic, irrespective of the payment means used to carry out their sale or purchase.

**h) Guidelines:** regulations established by the Central Bank and the Banking Superintendency.

**i) Internal Rules:** internal rules issued by the Monetary Board, the Central Bank and the Banking Superintendency.

**j) Legal Reserve:** requirement to maintain in the Central Bank, or wherever is determined by the Monetary Board, a percentage of all the funds received from the public through any means or instrument, whether in local or foreign currency.

**k) Monetary and Financial Administration:** group of institutions exclusively responsible for the creation of policies, regulations, implementation, monitoring and application of sanctions in accordance with the Monetary and Financial Law and its Regulations.

**l) Monetary and Financial Resolutions:** Regulatory provisions of the Monetary Board.

**m) Monetary Program:** annual program proposed by the Central Bank and subject to approval by the Monetary Board, including the objectives and goals to be pursued during the period in question, as well as the measures or policy actions deemed necessary to ensure its compliance. This program is subject to a quarterly review.

**n) Public Financial Institutions:** entities which perform financial brokerage activities and whose majority shareholder is the Dominican State.

**o) Related Services Institutions:** are mutual funds managers and stockbrokers. These institutions cannot be financed through the reception of deposits from the public.

**p) Risk Groups:** refers to two or more individuals or corporations linked by property, management, family ties or control relationships. The Monetary Board will determine the existence of Risk Groups.

**q) Support Services Institutions:** are those devoted exclusively to collection activities, invoice discounts, leasing, administration of automatic tellers, affiliation and processing of credit cards, exchange agents, electronic processing of data, credit information centers and other similar services.

**r) Legal Reserve:** Requirement to maintain in the Central Bank, or wherever is determined

by the Monetary Board, a percentage of all the funds received from the public through any means or instrument, whether in local or foreign currency.

## SECTION II: MONETARY AND FINANCIAL ADMINISTRATION

*The Monetary Board, the Central Bank and the Banking Superintendency are in charge of regulating and supervising the financial and monetary system in the Dominican Republic.*

The Monetary and Financial Law created the Monetary and Financial Administration, comprised of a group of entities that exclusively regulate and supervise the local monetary and financial sectors, in accordance with the Law and its Regulations. These agencies are the Monetary Board; the Central Bank of the Dominican Republic; and the Banking Superintendency and they enjoy functional, organizational and budgetary autonomy for the performance of their supervisory and regulatory roles.

The Monetary Board, the Central Bank and the Banking Superintendency enjoy functional, organizational and budgetary autonomy.

In order to comply with the roles assigned to the above-mentioned authorities, all individuals and companies within the system must provide these regulating bodies with information, and the negative to do so may result in sanctions.

### ***A) Acts of the monetary and financial administration: effects and recourses***

The acts of institutions of the Monetary and Financial Administration when exercising their respective functions in accordance with the

procedures established by Law enjoy a presumption of legality, unless there is evidence to the contrary. According to provisions of the Monetary and Financial Law, these acts are immediately enforceable and their non-compliance carries the corresponding sanctions contemplated in the Law. For the compulsory enforcement of administrative actions, the Monetary and Financial Administration may request, if necessary, the assistance of the police and the public prosecutor.

The Monetary and Financial Law provides that actions of the Monetary and Financial Administration putting an end to an administrative process may be subject to appeal. These acts are appealed, through a Reconsideration Recourse before the same agency that issued the act and a Hierarchical Recourse before the Monetary Board. The acts of the Monetary Board that end an administrative recourse may be subjected to another recourse of review before the Tribunal Contencioso Administrativo de lo Monetario y Financiero. These processes shall be regulated by the Monetary and Financial Administration.

The following are not subject to recourse: (i) actions initiating proceedings and procedural actions separate from the action ending the corresponding proceedings; (ii) actions which define the annual objective of the monetary program, those of execution of the monetary policy or those which approve or modify the annual financial monitoring and supervision plan; and (iii) Rules and Guidelines (an appeal can only be filed to contest an enforcement action of such).

Filing an appeal does not have suspension effects with respect to the enforceability of the appealed action, except when said action puts an end to a sanctioning procedure or

when the execution of said action may cause, objectively considered, an irremediable effect for the purposes of this Law.

In order to comply with the roles assigned to the authorities, all individuals and companies within the system must provide these regulating bodies with information.

***b) Monetary and financial contentious – Administrative Court***

This court will be domiciled in Santo Domingo and will be constituted by five judges elected in accordance with the provisions of the Constitution. Said court will only hear of a review remedy (contencioso administrativo recourse) filed against actions and resolutions carried out by the Monetary Board, whether having been decided through a Reconsideration or Hierarchical Recourse.

A General Monetary and Financial Prosecutor appointed by the Executive Power will represent the Monetary and Financial Administration before said Tribunal. This official will be required to deliver his opinion within a term not to exceed 60 days from the date on which he is notified of the case, being able to request only one 45-day extension. Once these terms have elapsed, if an opinion has not been issued, the Court may rule the matters submitted without taking into account the opinion of the prosecutor.

Its operations will be regulated by Law 1494 dated October 1, 1947 and Articles 148 and following of the Tax Code. Until this Court starts operations, the actions of the Monetary Board will not be subject to appeals and once in operation the rulings passed by the Court may only be appealed before the Supreme Court of Justice.

***c) Monetary and financial administrative personnel***

The Monetary and Financial Administration has the following personnel:

**a)** Authorities, who are the members of the Monetary Board - which include the Governor of the Central Bank and the Banking Superintendent - the Vice Governor of the Central Bank and the Banking Intendent.

**b)** Officers, who are the ones that perform functions similar or higher to the level of Deputy Director in accordance with corresponding internal rules; and

**c)** Employees, who are the rest of the staff.

All personnel of the Monetary and Financial Administration have the duty to perform their work respecting confidentiality, with absolute impartiality and in accordance with established rules and procedures. Likewise, all will be governed by a system of personal administrative responsibility, without prejudice of relevant civil and penal laws, enforceable through the corresponding disciplinary procedures.

Among other things, the Monetary Board sets the Monetary and Financial policies, promotes legislative changes and approves the monetary program of the nation.

The Monetary Board is the highest body of the Monetary and Financial Administration and, as such, it is responsible for ensuring proper interaction and functioning of the agencies comprising it.

Its operating expenditures will be included in the budgets of the Central Bank and the Banking Superintendency in a proportion determined by the Monetary Board.

### *Functions*

- a)** Determine the monetary, exchange, and financial policies of the country;
- b)** Approve the Monetary Program;
- c)** Dictate the monetary and financial regulations and approve the Internal Regulations of the Central Bank and the Banking Superintendency as well as the basic structure of said institutions as proposed by the institutions themselves;
- d)** Approve the budgets of the Central Bank and the Banking Superintendency;
- e)** Grant and revoke authorization to operate as an Exchange Broker or Financial Institution, as well as authorize mergers, takeovers, segregations, and similar operations among Financial Institutions as proposed by the Banking Superintendency;
- f)** To know and rule on the Hierarchical Recourses filed against acts of the Central Bank and the Banking Superintendency;
- g)** Approve and submit to the Executive Power amendment proposals for the monetary and financial legislation;
- h)** Appoint, dismiss or remove officials of the Central Bank and the Banking Superintendency;
- i)** Appoint the Comptroller of the Central Bank and the Banking Superintendency;
- j)** Determine in accordance with the law, the denominations of the bills and coins of legal tender and its characteristics, as well as the elimination of currency in circulation; and
- k)** Perform other duties the Law may require.

### *Structure*

The Monetary Board will be constituted of a total of 9 members:

- a)** Three ex-officio members, which are the Governor of the Central Bank as Chairman; the Secretary of State of Finance and the Banking Superintendent. The Chairman of the Monetary Board is exclusively responsible for representing it officially, responsibility which cannot be delegated.
- b)** Six members appointed by the President of the Republic, for a two-year renewable term. All appointed members of the Monetary Board must be Dominican, of at least 35 years, of well-known professional abilities and with more than ten years of experience in economic, financial or entrepreneurial activities. Their respective activities must not constitute a conflict of interests with the performance of the responsibilities as member of the Monetary Board.

### *Causes which prevent a person from being a member of the Monetary Board*

The following are causes which prevent a person from being a member of the Monetary Board:

- a)** Being a relative of another member of the Monetary Board up to the third degree of consanguinity or second in affinity, or have ties or economic or working interests which coincide with another member;
- b)** Having been Director or Manager of a Financial Institution at some point during the five years prior to the date on which this institution had (i) its authorization to operate revoked due to violations; (ii) not complied with a recovery program; (iii) been subjected to an intervention, dissolution or forced liquidation, or bankruptcy process; or (iv) been part of a salvage action on the part of the State;
- c)** Having been sanctioned for violations to regulations in force regarding monetary and

financial matters being separated from the post and disabled to perform during the period of the sanction; having declared themselves bankrupt; sanctioned for violations of stock market, insurance and pension funds regulations; or condemned for fraud of an economic nature or laundering; and

**d)** Having been condemned by final judgment for criminal charges.

In addition, the post of appointed member of the Monetary Board is incompatible with:

**a)** Being an elected member or performing other public remunerated functions with the exception of teaching or academic posts;

**b)** Being a board member or participating in the control or management of a Financial Institution; and

**c)** Having a direct or indirect participation equal or higher to 3% of the capital of institutions regulated by the Monetary and Financial Law.

A member of the Monetary Board cannot perform other public remunerated functions with the exception of teaching or academic posts.

#### ***Causes for Dismissal***

Appointed members can only be dismissed through a decision adopted by 3/4th of the members of the Monetary Board, for one of the following causes:

**a)** When an event occurs that determines the existence of conflict of interests or any of the inability causes mentioned above;

**b)** When they violate the confidentiality obligation;

**c)** When they use for their own benefit or to benefit others information obtained in the performance of their duties; and,

**d)** When they are absent or do not attend, without justification, three consecutive sessions of the Monetary Board.

Members must present, at the beginning of their term and every succeeding year, a sworn statement of their assets and commercial and advisory relationships and also the non-existence of any of the incompatibility causes set forth by the Law in said relationships.

#### ***Operations***

**a) Summon:** Meetings of the Monetary Board must take place at least once a month and are summoned by its Chairman or by at least four of the appointed members. The Chairman of the Monetary Board is in charge of preparing the agenda for these meetings.

**b) Summon Quorum and Majority:** For said meetings to be valid, at least five members of the Monetary Board must attend among which at least three must be appointed members. Attendance of these members to the meetings cannot be delegated, except for the ex officio members who may be represented as set forth by the Law.

Decisions are adopted by simple majority, unless the Law sets forth special conditions for certain subjects. In case of a tie, the Chairman of the Board will cast the deciding vote.

#### ***The Central Bank, enforcer of The Monetary Policies***

Autonomous by constitutional mandate, it is also responsible for enforcing the financial and exchange policies and the issuance of the local currency.

The Central Bank is a public institution with its own legal personality. It is the only issuing institution and enjoys an autonomy granted by the Constitution. It has its own capital, which

cannot be judicially attached and can only be used to comply with its objectives.

It is exempted from all kinds of taxes, duties, rates or contributions, national or municipal, and in general all taxes that may affect its assets or operations. Additionally, all operations derived from the monetary policy implemented by Financial Institutions or of any other nature with the Central Bank are also exempted.

The Central Bank has the power of making its internal organizational regulations, subject to ratification by the Monetary Board, and it also has a subordinated regulating authority to develop through Guidelines the provisions set forth under the Monetary and Financial Regulations, on matters under its jurisdiction. The Central Bank must inform the Monetary Board on a monthly basis of its main accomplishments and submit a balance sheet and Annual Report during the first legislature of each year.

#### ***Lender of Last Resort***

The Central Bank cannot grant financing to the Government or other public institutions, directly or indirectly, or through contracts whose price implies any type of subsidies, except in cases of purchase of public debt securities in the secondary market from Financial Institutions. It cannot guarantee obligations of others, nor provide back up or any type of personal guarantee, nor assume any type of solidarity for third party obligations.

Notwithstanding the above, in order to assist with short term liquidity shortages, the Central Bank may grant loans to Financial Institutions, as long as they are not related to financial stability problems and conditions established by the Monetary Board are met.

The requirements for these credits are the following: (i) the amount of the loan may be up to one and a half (1-1/2) times the paid-in capital of the institution; (ii) it may be guaranteed with securities, Central Bank's deposits, or through purchase of low risk portfolio but collateral cannot be lower than one and a half (1-1/2) times the principal; and (iii) term cannot be longer than 30 calendar days.

Besides this possibility, as well as the loans the institution may grant as an employer or loans to the central government (on the conditions explained above), the Central Bank cannot grant any financing to individuals or companies, public or private.

Under the assumption that there were solvency problems of a financial institution, the law that creates the exceptional program of risk prevention for Financial Intermediaries No. 92-04 was issued on January 27, 2004, to create the exceptional Program of Risk for Prevention for such entities, by creating a fund to direct public and private resources in order to protect depositors and avoid systemic risk, could adversely affect the system payments and the provision of basic financial services as a whole.

Is a subsidiary objective of this Program to minimize the cost to the Dominican State and the monetary impact that the use of such funds may have.

#### ***Role of the Central Bank***

- a)** Execute the monetary, exchange and financial policies in accordance with the Monetary Program approved by the Monetary Board;
- b)** Administer, exclusively and without delegation, the issuance of local currency bills and coins and determine the quantity of those

in circulation. Additionally, it is responsible for the withdrawal of bills and coins that are worn-out from use through their exchange for others fit to circulate;

**c)** Submit proposals to the Monetary Board for Monetary and Financial Regulations related to monetary, exchange and financial matters;

**d)** Supervise and liquidate the payment and compensation systems for checks and other payment instruments;

**e)** Follow-up or supervise the operations of the interbank market;

**f)** Keep an adequate level of international reserves and manage them based on criteria of security, liquidity and profitability;

**g)** Perform operations with foreign currency as established by Law;

**h)** Compile and develop statistics of the balance of payments, of the monetary and financial sector, and others that may be necessary to comply with its responsibilities and the provisions regarding Monetary Transparency;

**i)** Manage the Contingency Fund established by the Monetary and Financial Law; and,

**j)** Apply relevant sanctions for deficiencies in the legal reserves, noncompliance with the rules of procedures of the payment systems and violation of the obligation to inform.

***Organization and Operation of the Central Bank***

The Central Bank is managed and represented by a Governor, who counts on an Executive Committee for counseling formed by the Deputy Governor, the Manager and Officials as may be determined by the Internal Regulations. The President of the Republic appoints,

both the Governor and the Deputy Governor for two-year renewable periods.

The Governor will be responsible for representing and managing the Central Bank, represent and preside over the meetings of the Monetary Board, as well as coordinate and issue Guidelines, Internal Regulations, and Circulars of the Central Bank.

The post of Governor is incompatible with any other professional activity, public or private, remunerated or not, with the exception of being a member of the Monetary Board and teaching activities. The Governor cannot be part of any board, agency, company, institution or similar entities, public or private, with the exception of those relevant to his role. Before taking office and annually, the Governor must submit a sworn statement of his assets. The Governor could be dismissed by unanimous decision of the rest of the members of the Monetary Board, for any of the causes for dismissal set forth for the members of the Monetary Board, as stated above.

Internal management of the Central Bank will be the responsibility of the Manager, who will also be its head of personnel. As part of his duties, the Manager should make recommendations to the Governor, who may in turn submit them to the Monetary Board, regarding advisable changes for the better organization and operations of the Central Bank. He must also submit periodic reports to the Governor regarding personnel efficiency, Bank operations, and its financial situation.

The Central Bank will have a Comptroller, who must be a Certified Public Accountant, with experience in the banking sector and of well-known moral integrity. He will be in charge of monitoring and controlling all operations and

accounts of the Central Bank through inspections and conciliations; will ensure compliance with Internal Regulations; and will submit reports directly to the Monetary Board as periodically as it may require. This Comptroller can be removed by decision adopted by two thirds (2/3) partes of the members in the Monetary Board.

Both the Manager and the Comptroller will be governed by the same rules regarding incompatibility and inability mentioned above.

The President of the Republic appoints both the Governor and the Deputy Governor for two-year renewable periods.

### *Monetary Transparency*

The Monetary and Financial Law has established a system of publications to be made by the Central Bank to ensure better accountability and transparency of the system. In this regard, the Central Bank must make available to the public the monthly balance sheets of its accounts; annual audited financial statements; as well as summaries of the implementation of the Monetary Program, of the situation of the Dominican economy; economic, monetary and financial statistics; the annual reports submitted to the Executive Power and National Congress; newsletters including the Resolutions, Regulations and Circulars of general interest, as well as any other information that may be relevant to keeping an adequate level of transparency in its activities.

### *The Banking Superintendency*

The Banking Superintendency is a Public entity with its own legal personality. It enjoys the same exemptions provided for the Central Bank and also has its own capital, which

cannot be judicially attached and can only be devoted to complying with its objectives. It also prepares its own annual budget, which is subject to approval by the Monetary Board.

Its income derives from quarterly contributions made by the Financial Institutions under its supervision. It is subject to monitoring by its Comptroller, the findings and annual certification of an external auditing firm and it is obligated to submit annual accounts before the Executive Power, as well as an Annual Report to the National Congress during the first legislature of each year.

### *Role:*

- a) Supervision of Financial Institutions and requiring their compliance with all legal provisions and regulations in force;
- b) Demand implementation of reserves to cover risks;
- c) Impose sanctions under its jurisdiction;
- d) Recommend the Monetary Board on the granting or annulment of authorizations to Financial Institutions to operate, merge, segregate, restructure, or other authorization that may correspond in accordance with the Law; and
- e) Issue the Guidelines and Circulars for which it is responsible and prepare the Internal Regulations which must have the approval of the Monetary Board as well as propose Regulations regarding matters within its scope of action.

### *Organization and Operation*

The Banking Superintendency will be managed by a Superintendent appointed by the President of the Republic for a renewable two-year term, and will have an Executive

Committee that must provide counseling to the Superintendent, composed of an Intendent and officials appointed through its Internal Regulations. The Superintendent will be responsible for informing, at least monthly, about the main activities of the Superintendence and issue Guidelines, Internal Regulations and Circulars of said institution.

The Superintendent, as well as the other appointed members of the Monetary Board, will have the same prerogatives in regards to their dismissal, incompatibility and inability mentioned above.

#### *Financial Transparency*

The Banking Superintendency must make available to the public its audited annual financial statements; summaries of annual reports submitted to the Executive Power and the National Congress during the first legislature of each year; bulletins containing the circulars of the Banking Superintendency of general interest and of the most relevant statistics of Financial Institutions as well as any other relevant information in order to maintain an adequate level of transparency in its performance.

#### *Monetary and Financial Administration/ Transitory Provisions*

The provisions related to the new composition, appointment mechanism of the members of the Monetary Board, capabilities, consequences of dismissal, activities and incompatibilities, appointments of the Governor, Deputy Governor, Superintendent, Intendent, Comptrollers and Managers of the Monetary and Financial Administration and the duration of their appointments, will become effective on August 17, 2004. Before that date, provisions of Law 6142 of 29 December 1962 will apply. Also, until August 17,

2004 the rules related to quorum and majority for decision making of the Monetary Board provided for under Law 6142 of 29 December 1962 will remain in force.

The first members of the Monetary Board to be appointed for a specific period of time will be appointed as of August 17, 2004. In case of dismissal, resignation or death of any of the officials of the Monetary and Financial Administration appointed before that date, a replacement may be appointed in accordance with the procedures and under the terms provided under Law 277 of 29 June 1966, of officials appointed by the Executive Power.

### **SECTION III: REGULATION OF THE MONETARY SYSTEM**

Monetary and financial operations must be performed under free market conditions.

#### *National Currency*

The national currency is the only one of legal tender with full liberating effects for all public and private obligations within Dominican territory. Nevertheless, the Monetary and Financial Law provides that monetary obligations may be paid in the currency agreed upon, and in case of lack of specification, in the national currency. For official matters, accounting of all institutions must be expressed in the national currency.

The Monetary and Financial Law provides that monetary and financial operations must be carried out under free market conditions. Interest rates, for transactions in local and foreign currency, may be freely determined between the market participants.

The local currency, whose unit is divided into 100 cents, is represented by bills - which

must bear the signatures of the Governor of the Central Bank and the Secretary of State of Finance - as well as coins and the liberating effect of both is equivalent to their face value.

Issue, reproduction, imitation, falsification or total or partial simulation of bills and coins of legal tender, through any means or manner, is prohibited by the Monetary and Financial Law.

The Central Bank may carry out open market operations exclusively with Financial Institutions and institutional investors.

#### ***Monetary Program and Monetary Policy Instruments***

The Central Bank is responsible for the execution of the monetary policy based on the Monetary Program approved by the Monetary Board taking into consideration the objectives of the monetary regulation provided by the Law. In order to achieve this objective, the Central Bank may use the following instruments and market mechanisms:

**a. Open Market Operations:** the Central Bank may carry out open market operations exclusively with Financial Institutions and institutional investors. These operations must be carried out, guaranteed or collateralized with public debt securities or with bonds issued by the Central Bank itself, with the prior authorization of the Monetary Board. Except as may be otherwise provided in the law, the Central Bank can only purchase public debt securities for its open market operations in the secondary market with securities issued at least one year prior to the operation.

**b. Legal Reserve:** The Monetary Board determines the Legal Reserve policy, which includes establishing how it must be integrated according to the currency in which the funds

are deposited, the percentage, the basis for its calculation, the period taken for its calculation, the positions with admissible criteria from intra period compensation and the limits to the intensity or the frequency of reserve shortfalls. The funds deposited in the Central Bank as Legal Reserve cannot be judicially attached and destined only to fulfill the regulatory objectives for which they were created and for payments for liquidation of the system of payments and charges for violations that the Central Bank as well as the Banking Superintendency may impose on the corresponding institution.

**c. Other Instruments and Mechanisms:** The Monetary Board, with a favorable vote of two thirds of its members, may establish other instruments and mechanisms of monetary policy, as long as they are market oriented and indirect.

#### ***Payment and Compensation System***

The Central Bank has exclusive title to the compensation and payment system of checks and other means of payment, being the supervisor and final liquidator of said system. All Financial Institutions must adhere to this compensation and payment system, and are not allowed to establish alternate multilateral compensation and liquidation of payment means outside the system managed by the Central Bank.

The Central Bank is prohibited from covering, for whatever reason, a negative position of a Financial Institution; regardless of how transitory the situation may be. The legal reserve accounts and other funds deposited by Financial Institutions at the Central Bank, will serve as a current account for the compensation and payments system, as may be determined by the Monetary Board.

### *Interbank Market*

Regarding the interbank market, the Central Bank has the responsibility of following up their operations. Financial Institutions are obligated to submit all the information required by the Monetary and Financial Administration to guarantee transparency of the interbank market.

### *Exchange Regulations*

The Monetary and Financial Law establishes the basis for the Exchange Regulations, which is the principle of free convertibility of our local currency for any other foreign currency. These regulations enable market participants to carry out transactions in Foreign Currency under conditions freely agreed upon, in accordance with the general rules of contract law. The Central Bank cannot require that certain exchange operations be executed with this institution or under conditions that do not ensure free market price determination. However, the Monetary Board may establish temporary limits, for periods that cannot exceed one year, to the entry of short term capital in Foreign Currency, as long as these limits are established equitably, in a non-discriminatory manner and in good faith.

There is a period of one (1) year to eliminate all current restrictions imposed on the free convertibility as of the date of entry into force of the Monetary and Financial Law. Additionally, the Monetary Board will establish a plan for the reduction of the exchange commission to avoid a negative impact on the items financed with it and also to avoid it resulting in a burden for the Central Bank.

The Central Bank cannot require that certain exchange operations be executed with this institution or under conditions that do not ensure free market price determination.

Regarding this matter, was issued the Exchange Regulation of the Monetary and Financial Law No.183-02, approved by the First Resolution of the Monetary Board dated as of February 5, 2004. The Exchange Regulation is to establish standards, policies and procedures governing foreign exchange transactions in the foreign exchange market in the national territory. These rules contained in the said regulations are applicable to the following entities:

- a) Commercial Banks;
- b) Credit and Savings Banks;
- c) Credit Corporations;
- d) Savings and Loan Associations;
- e) Agents of Change;
- f) Remittance agents and Change;
- g) Performing financial intermediation Cooperatives, following authorization by the Monetary Board, and,
- h) Other entities that the Monetary Board considers should be included.

### *Exchange Brokerage and Exchange Agents*

Only authorized Exchange Agents and Financial Institutions may perform Exchange Brokerage operations.

To become an Exchange Agent, a limited liability company must be incorporated in accordance with the laws of the Dominican Republic, whose corporate purpose and exclusive activity will be to perform Exchange Brokerage within the national territory and abroad as a remittance company. Brokers are subject to regulations under the Law, and need authorization of the Monetary Board, according to the Regulations to be dictated for said purpose.

***Management of National Reserves***

In order to maintain monetary stability and trust in macroeconomic policies, the Central Bank must keep an adequate level of international reserves, whose management must be based on security, liquidity and profitability criteria.

***Foreign Currency Operations***

The Central Bank will be able to perform the following transactions with Foreign Currency:

***a) Typical Operations of Central Banking:***

Obtain and grant financing and perform operations germane to central banks (including placement of funds in accordance with international agreements and practices). All operations to obtain financing for a period longer than one (1) year require Congressional approval, except for currency exchange operations with the International Monetary Fund.

***b) Purchase and Sale of Foreign Currency:***

Purchase and sale of Foreign Currency, securities expressed in foreign currency or other assets, subject to conditions determined by the Monetary Board, as well as other operations characteristic of exchange markets, with foreign financial agents, under conditions of free market and free convertibility.

***c) Correspondent:*** Act as an agent or correspondent of other central banks and financial institutions abroad, as well as appoint such institutions as its agents or correspondents.

## **SECTION IV: ADDITIONAL, FINAL, TRANSITORY AND DEROGATORY PROVISIONS**

***Public Financial Institutions***

The regulations and supervision of these Public Financial Institutions will be enforced

by the Monetary and Financial Administration, and shall be subject to the enforcement of their respective organizational laws and, where applicable, to the operations and applicable rules of the Monetary and Financial Law relating to All Purpose Banks and Credit Institutions.

The Monetary Board will issue transitional procedures for these institutions through a Regulation to that effect. Public

Financial Institutions may access Central Bank facilities as lender of last resort, once they are complying with the transitional procedures established by the Monetary Board.

***Banco Nacional De La Vivienda (National Housing Bank)***

Starting on the effective date of this Law, the Banco Nacional de la Vivienda will engage in the promotion of a secondary mortgage market and the marketing and supply of resources for the productive sector expanding its insurer role through the delivery of coverage of the Seguro de Fomento de Hipotecas Aseguradas [Insured Mortgage Development Insurance] to all financial Institutions granting housing mortgage loans, being able to act as securitization agent of such operations. The Government and the Central Bank, as an initial contribution to the Banco Nacional de la Vivienda, will transfer to that institution the loan portfolio and other assets of the Central Bank's Project Finance Department (DEFIN-PRO) as well as other productive assets of compensatory profitability.

In addition, the Banco Nacional de la Vivienda, will no longer have the role of monitoring and regulating the Savings and Loan Associations which will be under the monitoring and supervision of the Monetary and Financial Adminis-

tration, and will also cease in its role as insurer of savings accounts in these Associations, and in turn the Central Bank will receive said deposits insurance fund, with all the rights and obligations it generated.

The Monetary Board will establish by Regulation the implementation schedule and operating procedures that will govern the conversion process of the Banco Nacional de la Vivienda into a second floor multi-sectoral development bank. The overall implementation of said schedule must be carried out within a period of eighteen (18) months from the date the present Law becomes effective.

The Banco Nacional de la Vivienda will engage in the promotion of a secondary mortgage market and the marketing and supply of resources for the productive sector.

#### *Savings And Loans Associations*

Once the law becomes effective, the Savings and Loans Associations will preserve their mutualist nature and may perform the following operations:

- a)** Receive savings and term deposits in domestic currency;
- b)** Receive loans from financial institutions;
- c)** Grant loans in local currency, with mortgage guarantees earmarked for construction, acquisition and remodeling of family housing and refinancing of mortgage loans, as well as grant loans to other sectors of local economy with or without collateral and lines of credit in accordance with regulations of the Monetary Board;
- d)** Issue securities;
- e)** Discount drafts, bills of exchange, notes and other commercial documents representing means of payment;

- f)** Acquire, grant or transfer commercial papers, securities and other instruments representative of obligations, as well as enter into repurchase agreements of same;

- g)** Issue credit, debit and charge cards in accordance with legal provisions governing the matter;

- h)** Perform collections, payments and fund transfers;

- m)** Carry out financial leasing operations, invoice discounts, management of automatic tellers;

- n)** Assume monetary obligations, grant warranties and guaranties to guarantee compliance of specific liabilities of their customers in local currency;

- o)** Provide advisory services to investment projects;

- p)** Provide technical assistance for economic and administrative feasibility studies and organization and management of companies;

- q)** Carry out foreign Currency purchase/ sales operations;

- r)** Contract obligations abroad and grant loans in foreign currency, prior authorization of the Monetary Board;

- s)** Insure housing mortgage loans with the "Seguro de Fomento de Hipotecas Aseguradas" (FHA) [Insured Mortgage Development Insurance] issued by the Banco Nacional de la Vivienda [National Housing Bank] or its legal continuer, as may be statutorily determined by the Monetary Board;

- t)** Serve as originator or securities regulator of credit card and mortgage loan portfolios in the process of securitization;

- u) Act as manager of a securitized portfolio on account of issuer of local origin bonds; and,
- v) Carry out other operations and services demanded by new banking practices in the manner that may be determined by the regulations. The Monetary Board will enjoy interpretative regulatory power to determine the nature of new instruments or operations that may arise as a consequence of new practices and that may be carried out by savings and loans associations.

The Monetary Board may expand the operations performed by the Savings and Loans Associations. By virtue of Article 35 of the Monetary and Financial Law, these Institutions will be subject to the monitoring of the Banking Superintendency and under the Provisions of the Monetary and Financial Law.

Likewise, after a year of promulgation of this Law, the Monetary Board may authorize the conversion of these institutions in the type of financial Institutions foreseen by the Law, provided that a homogenous treatment to these institutions is guaranteed, including fiscal features, and the Monetary Board will provide also the conversion mechanisms.

#### ***Special Rule***

***Non Extra-regulatory Discrimination.*** The Monetary and Financial Law forbids any procedural privileges or benefits based exclusively on the legal nature of the institutions that legally and customarily carry out brokerage activities. Consequently, this law stipulates that the abridged real estate garnishment proceedings provided under Articles 148 and following of the Agricultural Development Law will be available for all financial brokerage agencies.

***Evidence.*** Admissible as evidence with regards to banking matters will be photostatic

copies certified by the Banking Superintendency. The Monetary Board will determine the mandatory requirements that must be requested to admit evidence on banking matters through electronic means and for the debit and credit card operations, as well as for any other payment instrument whichever its material or electronic basis.

***Withdrawal of Funds by Legal Heirs.*** The Monetary Board will determine the procedure and requirements for the withdrawal of funds by legal heirs from the financial Institutions in the case of statement of absence or death of its holder.

***Updating of Securities.*** To keep up to date the absolute monetary value foreseen under the present Law, the Monetary Board on an annual basis may authorize inflationary adjustments of such securities. Right to Verification and Compilation of Information. If an individual or a company do not comply with the statistical information required under the present Law, or submits partial or inaccurate information, the Central Bank will have the right to verify the accuracy and quality of the statistical information, as well as carry out its compulsory compilation. Joint Limit. The amount to be paid by financial Institutions to the Banking Superintendency on account of supervision and the contributions that said institutions must pay to the Contingency Fund cannot in any case exceed in a joint manner point 0.25% of total assets of same.

#### ***Penal Rules***

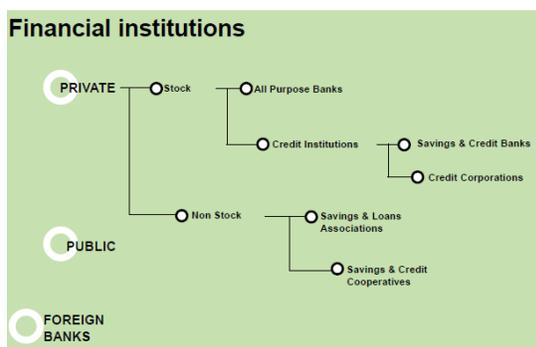
The Monetary and Financial Law contemplates fines from RD\$500,000.00 up to RD\$2,500,000.00 and sentences of 3 to 10 years in prison to persons committing the following violations:

- a) The authorities, officials and staff of the Monetary and Financial Bureau, and the officials, employees, shareholders, directors, managers and officials of financial Institutions and other institutions subject to regulation by virtue of the present Law, as well as any other individual or company that consciously divulges through any means false rumors or organize slanderous campaigns related to the liquidity or financial stability of one or several financial Institutions and the exchange market stability.
- b) The authorities, officials and staff of the Monetary and Financial Bureau who divulge or reveal any information of a reserved or confidential nature regarding operations of the Monetary and Financial Bureau or regarding matters notified to same, or take advantage of such information for personal gain, except for the information exchange to which the Monetary and Financial Bureau is obligated.
- c) Those issuing, reproducing, imitating, falsifying or simulating totally or partially bills and coins of legal currency, by any means, support, or type of representation, and those associated to them directly or indirectly, and those who refuse to receive local bills and coins at their face value.

approved or submitted an adulterated or false balance or financial statement, or had implemented or approved operations to cover up the situation of the institution.

- e) The shareholders, directors, managers, officials and employees of a financial agent that is submitted to a dissolution process, (i) if they had recognized nonexisting debts for the purpose of emptying the equity of the institution or entered in agreements with tied parties in detriment of the institution and its depositors; (ii) if they had pledged in their businesses the goods received as deposits; (iii) if knowing of the resolution to liquidate the institution had carried out any administrative action or disposal of goods; (iv) if within thirty (30) days prior to the dissolution resolution, had paid a creditor or depositor in detriment of the others, anticipating the maturity of an obligation; (v) if they had hidden, altered, falsified or disabled books or documents of the institution; (vi) if within sixty (60) days prior to the date of the dissolution resolution, had paid interests on term deposits or savings accounts at rates considerably higher than market average in similar institutions, or had sold goods of its assets at prices notoriously lower than those of the market, without the prior approval of the Banking Superintendency; (vii) in general, implemented operations that diminish the assets or increase the institution's liabilities.

Private financial Institutions operating at the time this Law becomes effective, will adapt to its provisions within a maximum period of two (2) years.



officials, auditors and employees of financial Institutions who knowingly had developed,

**Technical Equity Capital**

**Primary Capital + Secondary Capital**

Capital invested or assigned to other financial institutions, branches and agencies abroad.

Capital invested in excess of that established for Support Institutions, Related Services, Non-Financial Companies, Financial Institutions Abroad, insurance companies, pension fund administrators and investment funds administrators.

Capital invested locally in Support Institutions and Related Services, if it makes the Bank the majority shareholder or controller of same.

Accumulated losses, losses during the fiscal year, non-constituted contingencies, non-implemented write-offs and other items not reflected in the profit and loss statement.

***Adaptation of financial institutions to the provisions of the monetary and financial law***

Adaptation of Private Financial Institutions. Private financial Institutions operating at the time this Law becomes effective, will adapt to its provisions within a maximum period of two (2) years, as of the date of approval of the relevant Regulation, in the manner and within the partial periods foreseen by the Monetary Board. Institutions that at the time this Law becomes effective have the franchise as Development Bank, Mortgage Construction Bank, Small Amounts Finance or Loan Institution must request the authorization for re-registration from the Monetary Board into one of the types of financial Institutions provided in the Law.

***Public Financial Institutions.*** Public Financial Institutions will adapt to the provisions of this Law within a period of five (5) years counted as of the date of approval of the relevant Regulation.

***Foreign Banking.*** Branches of foreign banks established in the Dominican Republic as of the date of promulgation of the present Law,

will be granted a period of time determined by the regulations of the Monetary Board to adapt to the provisions of the present Law.

***Operating Debts and Deficit***

The Government will cover in its entirety the accumulated deficit of the Central Bank, public sector debts with the Central Bank existing at the time this Law becomes effective, through cession of bonds issued to this effect in local currency at a term not lower than 50 years, through the cession of funds obtained by the Government through long-term international financial, or through a combination of both. In the case of issuance of a bond in local currency, the reference interest rate will be of up to two per cent (2%) and will begin to accrue said interest after ten (10) years as of the date of issuance. The Executive Power will issue said bonds through a Decree.

Public Financial Institutions will adapt to the provisions of this Law within a period of five (5) years counted as of the date of approval of the relevant Regulation.

***Repealing Provisions and Entry Into Force***

All legal or regulatory provisions opposed to that provided for under this Law are repealed once said Law becomes effective. Regulatory provisions that are not contrary to the provisions of the Financial and Monetary Law will remain in force until the publication of the relevant Regulations. Should there be conflict regarding the scope of the repeal, the Monetary Board will rule to that respect, without further recourse until publication of the new Regulation.

Once the Financial and Monetary Law becomes effective, specific Laws and Decrees are also revoked, particularly the following: (i) Executive Order No. 312, dated 1 June 1919,

on Legal Interests; (ii) Monetary Law 1528, dated 9 October 1947; (iii) Basic Law of the Central Bank of the Dominican Republic No. 6142, dated 29 December 1962; (iv) Law 251 dated 11 May 1964 which regulates International Transfer of Funds and its revisions; (v) Law 708 dated 14 April 1965, General Banking Law and its revisions; (vi) Law 4290 dated 25 September 1955, regarding Small Amount Loan Houses and its revisions; (vii) Law 292 dated 30 June 1966 regarding Financial Associations of Companies promoting Economic Development and its revisions; and (viii) Law 171 dated 7 June 1971 regarding Construction Mortgage Banks.

## **SECTION V: FINANCIAL SYSTEM REGULATION**

The Monetary and Financial Law classifies Financial institutions in the following manner:

### **GENERAL PROVISIONS OF FINANCIAL INSTITUTIONS**

Regarding Financial Institutions the following rules will apply:

#### ***A) Prior Authorization***

Financial Brokerage will be subject to prior administrative authorization. Therefore, Financial Institutions need to have approval from the Monetary Board in order to start operations. This authorization expires after six (6) months if the institution so approved has not begun operations within that period.

The Monetary Board may establish limitations for newly created institutions, regarding opening of branches, organizational expenses, dividends and other aspects that guarantee prudence in the initial expansion. These limitations can only be established for a maximum

of five (5) years and cannot refer to interest rates, fees and surcharges.

Also subject to prior approval are the following operations of Financial Institutions: mergers, acquisitions, changing from one type of institution into another, segregation, separation, sale of shares representing more than thirty per cent (30%) of their paid-in capital, transfer of all or a significant part of assets and liabilities, ceasing of operations, opening of branches and agencies of local banks abroad, as well as foreign representation offices in the country. All these cases will require the prior opinion of the Banking Superintendency and in the case of opening, transfer and closing of branches will require its authorization.

#### ***B) Financial Transparency***

Operations of financial institutions must be documented in the manner set forth in the regulations and must be kept for ten (10) years following cancellation of the corresponding operation, in paper or when possible, through the use of digital means.

In the case of credits and loans, its documentation must allow their supervision at all times when it relates to: (i) proof of debtors' payment capacity; (ii) data on guarantees provided; (iii) risk assessment of the relevant internal body; (iv) relevant information for credit classification; and (v) any other information that the Monetary and Financial Administration may require, under the terms and conditions established under the regulations.

#### ***C) Information to The Public***

Regarding customer service, the following provisions are established:

***Working Hours:*** Financial Institutions must operate within the schedule of hours they

have committed to follow, within the minimum established by the regulations and any changes must be previously authorized by the Banking Superintendency.

**Publication of Information:** Financial Institutions must publish their Financial Statements and keep in their offices in a visible place information related to terms applicable to their loans and deposits, such as interest rates, costs and commissions. They must also have available the price of the various services they provide to their customers.

It is important to point out that the Law prohibits charges for items not expressly negotiated between the parties, as well as the implementation of verbal contracts.

Claims submitted by customers regarding violations to the above must be filed by the Financial Institutions before the Banking Superintendency, which will organize a department to receive such claims and impose relevant sanctions.

#### ***D) Customer Protection***

The Monetary Board will determine through Regulations everything related to the protection of consumers and users of services of Financial Institutions, who could be victims of abusive contracts in their dealings. The Banking Superintendency will provide a claims service to impose the appropriate sanctions.

#### ***E) Accounting, Financial Statements and Audits***

The accounting system to be implemented for the operations of the Financial Institutions (i) will close annually, coinciding with the end of the calendar year and (ii) must be in accordance with the systems and procedures developed by the Banking Superintendency, fol-

lowing international standards on the subject. The Superintendency will also provide the formats to be followed by Financial Institutions to prepare financial statements, establishing the frequency, modality and details in which they should be presented.

Audited annual financial statements and the manager's letter of the external auditors must be submitted to the Central Bank and to the Banking Superintendency within the dates established for said purposes. They must be audited by an auditing firm duly registered at the Banking Superintendency.

#### ***F) Internal Governance***

Financial Institutions must have adequate systems of:

- a)** Up-to-date Administrative Policies, for everything related to granting of credits, investments, sufficiency of provisions and risk management. They must also have internal procedures manual and written policies known by the customer to evaluate credit worthiness and help to comply with money laundering laws.
- b)** Risk Control processes, that include management of various risks to which they may be exposed, as well as adequate information systems of identification, measurement, follow-up, control and prevention of risks and the committees required for its management.
- c)** Internal Control system, adapted to the nature of the activities of the institutions which includes clear and well defined provisions for delegation of powers, responsibility arrangements and separation of roles with the corresponding code of ethics; controls that will be monitored by an Internal Auditor.

Financial Institutions must also have an internal procedures manual, and written policies

known by the customer to evaluate credit worthiness and help to comply with money laundering

***G. Risk Information System, Bank Secrecy and Abandoned Accounts***

***Risk Information System:*** The Superintendency will establish this system with the mandatory participation of all institutions subject to regulation, in order to provide accurate information related to debtors and credits.

***Bank Secrecy:*** In addition to the confidentiality obligation resulting from banking practice, Financial Institutions must maintain confidentiality about the collections received from the public in a segregated way that reveals the identity of the individual. They can only provide personalized background about said operations to its holder or the person expressly authorized by the holder. Exempted from this principle is the information that must be provided by virtue of legal norms to tax authorities and jurisdictional bodies, or in compliance with the regulatory provisions to prevent laundering of assets. The Law sets forth the conditions under which information must be submitted to relevant authorities and violations to provisions related to bank secrecy are sanctioned in accordance with Article 377 and 378 of the Penal Code.

***Abandoned Accounts:*** If after six months of its publication, the funds in Dormant Accounts are not claimed, they will be transferred to the Central Bank where they will remain for ten additional years to the ten years required to declare them Dormant Accounts. The Law determines the procedure to be followed with these accounts that must be transferred to the Central Bank and finally to the Contingency Fund laws.

***H) Supervision***

Financial Institutions are subject to the supervision of the Banking Superintendency. This supervision may consist of:

***Desk Work:*** performed by the Banking Superintendency based on information obtained from Financial Institutions.

***Field Work:*** this type of inspection, which is carried out within the premises of the Financial Institution itself, is intended to evaluate the risks, quality of assets, as well as other operations of the institution.

In addition, the Banking Superintendency will carry out a supervision on a consolidated basis of the Financial Institutions that control, directly or indirectly, Support Services Institutions and Related Services Institution, both national as well as international. The objective of this supervision, without detriment to the individual supervisions implemented, is to evaluate the total risk of the Financial Agent in question to determine the capital needs at an aggregate level. Institutions in which circumstances concur that merit supervision on a consolidated basis, must notify the Banking Superintendency, in the manner established by the Law and the Regulations dictated to that end. Additionally, they are obligated to notify the existence of a probable consolidation, not only when there are direct or indirect ownership relationships, but also when there are family ties similar to those which generate the existence of related parties. The Banking Superintendency will presume the existence of control when the suppositions mentioned above are present.

The Banking Superintendency is empowered to request all information it deems necessary to fulfill its obligations, both from institutions

as well as related parties and the regulating and monitoring bodies.

### *1) Prudential Norms and Asset Evaluation*

All Purpose Banks and Credit Institutions must maintain the level of minimum technical capital required with regards to assets and contingent operations weighted for the various risks.

In addition, the Law establishes new requirements for everything related to attribution of losses, original and secondary capitals, asset weighting and contingencies, current ratio, fixed assets and contingencies and liquid funds reserves.

**Fixed and Contingency Assets:** All Purpose Banks and Credit Institutions may keep or acquire fixed assets necessary for the development of their operations, as may be determined by the regulations, as long as its total net worth does not exceed one hundred per cent (100%) of the Technical Equity Capital. Not included within this limitation are assets these institutions may acquire specifically to perform financial leasing operations financed by the bank. Supplementary assets obtained by banks as a consequence of loan recovery will be governed through the regulations issued by the Monetary Board. All Purpose Banks and Savings and Credit Banks may perform contingent operations based on their levels of capital, as may be determined through Regulations of the Monetary Board.

The Banking Superintendency is empowered to request all information it deems necessary to fulfill its obligation

**Evaluation of Assets and Reserves:** All Purpose Banks and Credit Institutions will classify their assets subject to risk, that is, loan,

investments and accessories portfolio, as well as its contingencies, in order to create the necessary reserves to cover their risks, in accordance with a classification system determined by the Monetary Board on the basis of prevailing international standards.

It will also determine through the regulations the rulings required for the rest of the assets.

**Liquidity Reserves:** All Purpose Banks and Credit Institutions will be subject to a system of legal reserve to be established by the Monetary Board.

## **SPECIAL PROVISIONS FOR FINANCIAL AGENTS: ALL PURPOSE BANKS AND CREDIT INSTITUTIONS**

### *Authorization Requirements*

For the Monetary Board to grant an authorization to operate to All Purpose Banks and Credit Institutions it will require the favorable opinion of the Banking Superintendency, based on the documentation filed by the requesting institution, and after verifying:

That the consolidated patrimony of the shareholders is equal or higher than the amount of minimum capital required for incorporation of the institution.

That founding shareholders prove to have prior experience in financial matters and that they have created a team of executives and officials with expertise in handling the various areas of a financial institution.

That the By-laws and incorporation papers do not contain illegal or abusive agreements or provisions that may seriously hinder in any way the rights of minority shareholders or contain excessive limitations regarding decision making control.

Compliance with requirements provided under the Laws of the Dominican Republic.

**Corporate Regulations**

Below you will find organizational and bylaws regulations that must be followed by All Purpose Banks and Credit Institutions.

**Type of Association:** They must be incorporated as stock companies.

**Purpose:** Its sole corporate purpose must be to carry out Financial Brokerage activities, in accordance with the provisions of the Monetary and Financial Law.

**Corporate Name:** All Purpose Banks and Credit Institutions will include in their corporate name the terms "All Purpose Bank", "Savings and Credit Bank" and "Credit Corporation", as the case may be, and this name cannot be used by any person unless it is duly authorized by the Monetary Board to do so. These institutions cannot use in their name any term that may lead to consider them as institutions that enjoy state or public guarantees. Existing institutions must modify their by-laws to immediately conform to this requirement.

**Paid-in Capital:** The paid-in capital must be paid in full in currency. The Monetary Board will determine through regulations the minimum capital for each type of institution, which can never be lower than RD\$90,000,000.00 in the case of All Purpose Banks; RD\$18,000,000.00 for Savings and Credit Banks; and RD\$5,000,000.00 for Credit Corporations. Paid-in capital cannot be reduced without the previous authorization of the Banking Superintendency.

**Shares:** must all be common and registered. The Monetary Board may allow issue of pre-

ferred stock determining through the regulations the characteristics of the security, conditions and limitations for its issuance.

**Representation before General Meetings:** The By-laws may require a minimum holding of shares to be able to vote in General Shareholders Meetings which cannot be higher than 0.01% of minimum social capital.

**Board of Directors:** it must have a minimum of five individuals. The Board must have all managerial and representation powers of the Financial Institution. At least 40% of the members must be professionals with experience in the financial area or persons with experience in economic, financial or entrepreneurial matters. The Banking Superintendency will keep a record of the members of Board of Directors and other senior officials of said institutions.

The Monetary and Financial Law prevents the following from being members of the Board of Directors and from exercising management or control functions:

Those working for the Monetary and Financial Administration;

**a)** Those who have been directors or managers of a Financial Institution, national or foreign, during the last five (5) years prior to the date in which the institution had the authorization revoked to operate due to a sanction or has repeatedly violated the regulatory norms and recuperation plans or has been subject to a forced dissolution or liquidation process or declared bankruptcy or incurred in procedures of a similar nature;

**b)** Those who have been sanctioned due to a very serious violation of the norms in force with the separation of post and disqualification to perform;

**c)** Those sanctioned due to violation of securities market regulations;

**d)** Those who are insolvent;

**e)** Those who have been members of the board of directors of an institution prior to a salvaging operation on the part of the State;

**f)** Those condemned for a crime of an economic nature or laundering of assets; and those legally disqualified or have been removed from their posts in the Monetary and Financial Administration.

**g)** Payment of Dividends: Financial Institutions will be subject to compliance of requirements established by the regulations.

**Participation:** Any transfer of shares representing more than three per cent (3%) of the paid-in capital, or operations which directly or indirectly determine control of more than three per cent (3%) of the paid-in capital of the institution in question must be notified to the Banking Superintendency.

#### **Operations Subject to Prior Approval**

All Purpose Banks and Savings and Credit Banks need prior approval of the Banking Superintendency to perform the following operations:

**a)** To sell their loan portfolio and assets for an amount in excess of 10% of their paid-in capital, excluding assets received from loan recovery operations and investments in securities;

**b)** Participate in securitization processes as originator, issuer of securities or administrator, or acquire securities originating in securitization of portfolio or bank assets;

**c)** Participate in the capital of Support Services Institutions and Related Services Institutions or in financial institutions abroad, as well

as opening representation offices abroad, in the case of All Purpose Banks.

**d)** Amend the by-laws.

#### **Prohibited Operations**

The law also prohibits the following operations for All Purpose Banks and Credit Institutions:

**a)** To grant financing for subscription of shares, payment of fines, and any other type of securities issued by related entities of the Financial Institution;

**b)** To accept as security or acquire, its own shares, except for authorized transactions to reduce capital stock;

**c)** To acquire real estate not necessary for the use of the Institution, except for those within the established limit or for repossession of loans;

**d)** To grant or transfer through bonds, goods, loans or securities of the institution to its shareholders, officers, and employees or to related individuals, or to enterprises or Institutions controlled by these persons, under conditions lower than those prevailing in the market;

**e)** To participate in other financial agencies in the following proportion: (i) more than 20% of its paid-in capital in financial institutions abroad, branches, agencies or representation offices abroad, (ii) more than 20% of its paid-in capital in Support Services Institutions and Related Services Institutions, and (iii) more than 10% of its paid-in capital in non-financial enterprises, when such an investment is not over 10% of its paid-in capital;

**f)** To participate in the capital of insurance companies, pension fund managers, and investment fund managers;

**g)** To constitute securities or liens on the portfolio, the investments, or the total assets of the institutions, except for guarantees to the Central Bank and guarantees for the issuance of debt bonds;

**h)** To pact triangulation agreements of operations with other institutions and simulate financial and/or service operations violating legal provisions in force.

#### *Risks and Tie Parties*

Regarding risk concentration and loans to related parties, the Monetary and Financial Law provides the following:

**a)** All Purpose Banks and Credit Institutions cannot provide financing in violation of the provisions on loan combination and loans to related parties.

**b)** All Purpose Banks and Credit Institutions cannot carry out operations that imply direct or indirect financing, of any nature and form, nor grant warranties or endorsement which in whole may exceed 10% of the technical assets to a single individual or legal entity or risk group, and such limit could be increased up to 20% depending on the warranties obtained and as prescribed by the Monetary Board;

**c)** All Purpose Banks and Credit Institutions could not grant loans, directly or indirectly, regardless of the granting mechanism, for an amount exceeding 50% of the technical capital, to all of the entity's shareholders, administrators, directors, officers, and employees, as well as their spouses, relatives within the second blood degree, and first of affinity or companies controlled by them, in such a manner as statutorily determined.

Shareholders with less than three per cent of the entity's paid-in capital are exempted.

Provisions of this paragraph will also apply to such companies that, without direct ownership relations, directly or indirectly control the company, as well as those controlled by it directly or indirectly through ownership or managerial relationship.

#### **SPECIFIC PROVISIONS FOR ALL PURPOSE BANKS**

##### *Operations*

All Purpose Banks can implement the following operations:

**a)** Accept on demand deposits in domestic currency and savings or term deposits in local and foreign currencies;

**b)** Issue securities;

**c)** Obtain loans from Financial Institutions;

**d)** Issue bills of exchange, pay orders and drafts against its own offices or correspondent banks, and make collections, payments, and fund transfers;

**e)** Grant loans in local or foreign currencies, with or without collateral, and grant borrowing facilities;

**f)** Discount bills of exchange, orders of payment, promissory notes, and other commercial papers representing money supply;

**g)** Acquire, grant or transfer commercial papers, registered securities, and other liability instruments, as well as holding repurchase contracts on them, in agreement with the regulations of the Monetary Board;

**h)** Issue credit-debit-charge cards according to applicable in-force legal provisions;

**i)** Accept, issue, negotiate and certify letters of credit;

- j)** Adopt currency liabilities, grant guarantees by endorsement and performance bonds for specific liabilities of their clients;
- k)** Accept time drafts that arise from goods or services trade operations;
- l)** Engage in derivate agreements of any type;
- m)** Perform foreign Currency operations;
- n)** Establish correspondent relations with banks abroad;
- o)** Accept securities and properties for safe-keeping, and provide safety deposit boxes;
- p)** Implement financial leasing operations, invoice discounts, automated teller machine management;
- q)** Insure mortgage financing with the Mortgage Development Insurance (FHA), issued by the Banco Nacional de la Vivienda (National Housing Bank) or its judicial continuator, in accordance with the rulings of the Monetary Board;
- r)** Provide or grant securitization to credit-card and mortgage loan portfolios in the process of being securitized;
- s)** Act as managers of securitized portfolios on account of bond issuing agents of national origin;
- t)** Serve as financial agents to third parties;
- u)** Provide consulting services to investment projects;
- v)** Provide technical assistance for economic, management and organization feasibility studies and business administration;
- w)** Perform other operations and services demanded by the new banking practices, as determined by the regulations of the Monetary Board; and,

- x)** Grant loans in local or foreign currencies, with or without collateral, and grant borrowing facilities

#### *Investments*

All Purpose Banks may carry out the following investments:

***At Support Services Institutions and Related Service Institutions:*** they can invest up to 20% of their paid-in capital in Support Services Institutions and Related Service Institutions. The Banking Superintendency must keep a register of such institutions with the necessary information to learn about their risks and possible economic links with Financial Institutions. These Institutions shall be subject to monitoring on the part of the Banking Superintendency only when relevant on a consolidated basis when a Financial Institution controls them directly or indirectly.

***In Non-Financial Companies:*** they can invest up to 10% of their paid-in capital in these companies as long as such an investment does not constitute more than 10% of the paid-in capital of the company receiving the investment.

***In Financial Institutions Abroad:*** they can invest up to 20% of their paid-in capital when opening branches, agencies, or representation offices abroad, as well as making investments in financial Institutions abroad.

#### ***Specific Provisions for Credit Institutions: Savings and Credit Bank Operations***

Savings and Credit Banks are authorized to perform the following operations:

- a)** Accept savings and time deposits in local currency;
- b)** Accept loans of financial institutions;

- c)** Grant loans in local currency, with or without real guarantee, and grant borrowing facilities;
- d)** Issue registered securities;
- e)** Discount exchange bills, orders of payment, promissory notes, and other commercial papers representing money supply;
- f)** Acquire, grant or transfer commercial papers, registered securities, and other liability instruments, as well as holding repurchase contracts on them;
- g)** Issue credit-debit-charge cards according to applicable in-force legal provisions;
- h)** Perform collections, payments, and fund transfers;
- i)** Accept time drafts that arise from goods/ services trade operations in domestic currencies;
- j)** Engage in bonds of by-products of any form in domestic currencies;
- k)** Serve as financial agents to third parties;
- l)** Accept securities and properties for safe-keeping, and provide security-box services
- m)** Perform financial lease operations, invoice discount, automated teller machine management;
- n)** Adopt currency liabilities, grant warranty by endorsement and performance bonds for specific liabilities of their clients in domestic currencies;
- o)** Provide consultancy services to investment projects;
- p)** Provide technical assistance for economic, management and organization feasibility studies and business administration;
- q)** Perform foreign Currency purchase/ sale operations;
- r)** Accept, issue, negotiate and certify credit bills;
- s)** Contract obligations abroad and grant loans in foreign currencies, when authorized by the Monetary Board;
- t)** Insure mortgage financing with the Insured Mortgage Development Insurance (FHA), issued by the Banco Nacional de la Vivienda (National Housing Bank);
- u)** Provide or grant securitization to credit-card/mortgage-loan portfolios in the process of being securitized;
- v)** Act as managers of securitized portfolios on account of bond issuing agents of national origin; and,
- w)** Perform other operations and services demanded by the new banking practices, as determined by the regulations of the Monetary Board.

#### ***Operations of Credit Corporations***

Authorized operations for Credit Corporations are the following:

- a)** Accept savings and term deposits in domestic currency;
- b)** Discount promissory notes, orders of payment, exchange bills, and other commercial papers representing money supply in local currency;
- c)** Obtain loans from financial institutions, in local currency;
- d)** Grant loans without warranties in local currency, with mortgage, collateral or personal joint and several guaranties;

- e) Grant loans in local currency, guaranteed with term deposit certificates or of other financial papers;
- f) Grant loans in domestic currency;
- g) Insure mortgage loans with the Mortgage Development Insurance (FHA), issued by the Banco Nacional de la Vivienda (National Housing Bank);
- h) Implement foreign Currency purchase/sale operations; and,
- i) Implement other operations and services demanded by the new banking practices, as determined by the regulations of the Monetary Board;

#### *Foreign Investment Participation*

Participation of foreign investment in domestic financial activities can be made through one of the following:

- a) Acquiring shares of existing All Purpose Banks and Credit Institutions, subject to approval from the Monetary Board when they amount to more than 30% of the paid-in capital;
- b) By incorporating stock companies for financial brokerage in conformity with the Monetary and Financial Law;
- c) As a subsidiary, establishing All Purpose Banks and Credit Institutions property of foreign banks and other financial Institutions, subject to the approval of the Monetary Board;
- d) Establishing branches of incorporated banks in accordance with other countries' legal systems, subject to the approval of the Monetary Board.
- e) Also, the new law contemplates the establishment of representative offices in conformity with the regulations established to that

end. These representative offices, however, shall not be authorized to perform activities of Financial Intermediation.

## **SECTION VI: SPECIAL CASES: REGULARIZATION AND DISSOLUTION**

### *Regularization*

In the event of any or several of the following circumstances, Financial Institutions will present before the Banking Superintendency for approval, a regularization plan:

- a) When the institution's technical capital or its equivalent is reduced between 10% and 50% over a 12 month period;
- b) When its solvency ratio is lower than the one required by the relevant provisions and higher than the ceiling established by law;
- c) When it has legal reserve deficiencies for the number of periods determined by relevant regulations;
- d) When it requests the credit facilities of the Central Bank facilities as a last resort lender, recurrently in conformity with the Monetary Board's definition;
- e) When it has submitted or provided false financial information or fraudulent documentation to the Banking Superintendency or to the Central Bank, or when it recurrently breaches the Banking Superintendency's or the Central Bank's provisions or the administrative acts dictated by the Monetary and Financial Administration;
- f) When it performs actions that endanger the public's deposits or the entity's liquid assets and financial solvency;
- g) When the external auditors submit an opinion with exceptions regarding the mandatory

solvency of the financial brokerage in question or when such an entity publicizes incomplete financial statements.

When an entity incurs any of the above-mentioned situations, it must inform of such immediately in writing to the Banking Superintendency and within the next 15 working days must present a regularization plan to be revised, approved or rejected by the Banking Superintendency. Failure to present such plan within the given term or its rejection constitutes grounds for the entity's dissolution.

Once under the regulatory plans, the financial brokerage institutions will be subject to rigorous monitoring.

### *Dissolution*

Financial brokerage institutions will be dissolved on the basis of the following causes, subject to the provisions of the law and to the Monetary Board's regulations:

- a)** Incurring a nonpayment situation for non-compliance with liquid, due, or enforceable obligations;
- b)** Insufficiency of the valid solvency ratio is higher than 50%;
- c)** Failure to present the regularization plan or its rejection by the Banking Superintendency;
- d)** Performing operations while executing the plan which could make it unfeasible;
- e)** When the causes that originated the regularization plan have not been corrected at its expiration date; and,
- f)** Revocation of the authorization to operate imposed as sanction.

The dissolution procedures in conformity with the provisions of Article 63 of the Law are implemented by the Banking Superintendency

who should propose to the Monetary Board such dissolution based on the aforementioned causes. Within the next 24 hours following the urgent summoning of a meeting, the Monetary Board should meet and decide on the dissolution, which must be executed by the Banking Superintendency. The Resolution rendered to that effect by the Monetary Board entails the automatic revocation of the entity's operation authorization and is notified to its board of directors. Once the dissolution disposition is issued, the subject entity is thereby in a suspended state of operations.

From this moment on, the Banking Superintendency will occupy all the entity's offices, books, documents, and records, interrupting any prescription or maturity and any other deadline, as well as the procedural terms among the judicial considerations filed to recuperate the loan portfolio and the ordinary procedures that could have arisen from it, being the rights of the dissolved entity's shareholders and other creditors also suspended as well as its directors, managers and internal organs, having no legal force all administrative/normative actions performed. Once the dissolution procedure is complete deadlines will run again.

The Banking Superintendency must then proceed to register the financial statements of the entity being dissolved, penalties, reserves, provisions and further adjustments which being mandatory were pending at the date of the dissolution resolution. Also, the working liabilities of the entity must be established, leaving out its directors, as well as an asset/liability ratio in order to proceed with the exclusion of assets and deposits in accordance with the regulation established thereon.

To this effect, the Banking Superintendency will proceed without delay to exclude privileged obligations of the first and second order, registered in the financial statements of the dissolving entity according to the following criteria:

**(I) First order obligations:**

- a)** Private sector's current-account, on-demand, savings and time deposits, excluding operations with other financial intermediaries and tied deposits;
- b)** Cash orders, including foreign trade prepayments, collections, and tax withholdings, drafts, transfers through contracts;
- c)** Judicial deposits;
- d)** Labor liabilities; and,
- e)** The price owed for the technical assistance that may be hired by the Banking Superintendency charged to the dissolving entity, to exclude privileged obligations.

**(II) Second order obligations:**

- a)** Public sector's current-account, on demand, savings and time deposits;
- b)** Obligations with the Central Bank;
- c)** Obligations with financial brokerage institutions; and,
- d)** Tax liabilities of the dissolving entity.

Together with these obligations there will be also assets separated for an equivalent amount to the privileged obligations of the first and the second order. Obligations of the first order will then be transferred in favor of one or several solvent financial brokerage institutions through competent procedures, together with the relevant assets through a securitization mechanism that would make

these assets into a non-attachable, autonomous capital, subject to the service of the profit-sharing emitted.

On the other hand, the Law considers the Banking Superintendency's faculty to resort to the securitization system considered in the Securities Market Law, to implement the dissolution procedure. Such asset securitization will require structures analogue to the investment funds, which will emit profit-sharing of various categories, providing different rights to its tenors. The profit-sharing bearers could transfer, pledge, and make any act of control of such profit-sharing drawings, only with other financial brokerage institutions and with the Contingency Fund. The issuance and trade of these profit-sharing drawings will be ruled by the legislation ruling the Securities Market.

With regards to the transfer of shares, liabilities, and contingencies of the dissolving entity, the Law establishes that these, in any of their forms, will not require the consent of their debtors, creditors or any security holders, making full and not-claimable transfers for all relevant legal purposes. In effect, there could not be any embargos or precautionary measurement of any kind on a part or the whole of the assets of the dissolving entity. Furthermore, the transfers would be exempt from payment of taxes, and they will be inscribed in the public registries relevant to the presentation of the resolution from the Banking Superintendency.

The Contingency Fund referred to below, will facilitate the direct transfer procedure of assets or their securitization through mechanisms dictated by the Monetary Board, even when the contribution of such fund could not exceed 30% of the privileged obligations of the dissolving entity and could not be higher

than what would be the payment in cash of the deposits warranties of the depositors. The public Institutions bearing such privileged obligations of the second order will assume second order profit-sharing.

Finally, those assets and liabilities not included in the dissolution procedure will constitute a residual balance, subtracting procedural expenses. The residual balance will be delivered by the Banking Superintendency to the Administrative Liquidation Committee, respecting the preference and priority rules of the common Law, and keeping those privileged-obligation holders who had not been fully satisfied during the dissolution procedure, collection preference, subsequent to those workers who have not been transferred to Institutions acquiring assets or profit-sharing.

#### ***Contingency Fund***

The Contingency Fund referred to in the previous paragraph will be created by the Central Bank with a separate capital, and integrated by mandatory contributions of the financial brokerage institutions and other sources established in the Law, for the exclusive use of the dissolution procedure. Contributions are estimated over the total raisings through authorized instruments of each one of the financial brokerage institutions.

The Central Bank will be in charge of its administration and will have the authority to invest the Fund's resources in assets or financial operations analogue to those performed for the international reserve management in conformity with the relevant investment policy dictated by the Monetary Board.

The Contingency Fund will guarantee deposits made by the public in the financial brokerage institutions with a limited amount for

each depositor of under RD\$500,000.00 and up to 30% of the total privileged liabilities of the dissolving entity.

#### ***Liquidation Subsidiary Mechanisms***

The Banking Superintendency, in the event that the abovementioned dissolution mechanism had not been successful, will request to the Monetary Board the designation of an Administrative Liquidation Committee formed by three people of well-known honesty and financial, accounting, and managerial experience. The Committee will order the suspension of the agency's financial brokerage operations, will declare the liquidation, and will notify the shareholders and creditors. The Committee will take possession of the entity's assets, will collect loans, and will exercise every legal right and claim. Furthermore, the Committee will proceed to liquidate all obligations as soon as possible, for which it will dispose of all chattels, real estate, and any other assets the entity may own.

On the other hand, a financial agency could proceed to liquidate on its own free will, only after it has paid back the totality of its deposits and claimable liabilities, and after having received a favorable report from the Banking Superintendency and the relevant approval of the Monetary Board.

## **SECTION VII: VIOLATIONS AND SANCTIONS**

#### ***Extension and Compatibility***

Financial Institutions; those holding administrative or managerial positions in such Institutions, who violate the provisions of the Law or its Regulations, shall incur punishable administrative responsibility according to the Law.

Equal responsibility applies to natural persons or legal institutions holding significant capital participation in Financial Institutions or those holding administrative or managerial positions of such entities, provided that they have compromised their own personal responsibility. This regulation also applies to representation offices, branches and foreign bank affiliates, and to institutions carrying out unauthorized financial brokering activities.

The exercise of the sanctioning authority contemplated by Law shall be separate from the potential existence of criminal or penal infractions, which may apply. However, in such cases the Monetary and Financial Administration shall initiate the judicial process with respect to the penal infractions once it has completed the administrative sanctioning procedure. Administrative sanctions have only a punitive nature, and have no compensatory purposes, obligating the sanctioned party to comply with the sanctions and provisions whose infraction produced the sanction.

### *Classification*

Infractions contemplated in the Law are classified as quantitative and qualitative, depending on whether they involve an excess or lack of an amount with respect to that required legally or statutorily, or representing incompliance of any legal or statutory provisions that involve no amounts whatsoever.

#### *I) Quantitative Infractions*

These are the following infractions, which will prescribe five years from the date of the infraction:

**a) *Infractions for Non Compliance with Capital Adaptation Prudential Norms:*** those Institutions not complying with the restrictions or ratios established in Articles 41;

45, paragraph e); 46, paragraphs c) and e); 47, paragraphs a) and b); and 48, should immediately restore the capital shortage and should be subject to a monetary sanction equivalent to a percentage of such in conformity with the provisions of the Monetary Board, in a range from 5% to 10% of the missing capital.

**b) *Infractions for Non Compliance with the Evaluation Norms on Assets and Risk Reserves:*** those Institutions not complying with the provisions of Article 49 of the Law and its relevant Regulations regarding the establishment of risk reserves must complete immediately the relevant reserve shortage and will be subject to a monetary sanction equivalent to 100% of the shortage, which would be equivalent to the double if the entity does not proceed immediately to complete the reserves missing.

**c) *Infractions for Non Compliance with the Provisions on Reserve Requirements:*** those Institutions not complying with the Provisions on Reserve Requirements in conformity with Article 26 of the Law shall be subject to a fine equivalent to a daily 1% of the shortage on the reserve requirements. The Monetary Board will regulate the progressive sanctioning system for cases of recurring infractions.

#### *II) Qualitative Infractions*

These infractions are in turn qualified as:

**a) *Very serious infractions:*** the following constitute very serious infractions, which prescribe 5 years from the date when they were committed and shall be punished with fines up to RD\$10,000,000.00 or the annulment of the authorization to operate as a financial agency or as a branch, affiliate, or representation office, and in some cases with the closing of the establishment:

- 1) Perform financial brokerage activities without the Monetary Board's authorization or without observing the regulations of the relevant authorization;
  - 2) Carry out merge, take-over, conversion, demerge and segregation operations which affect financial agents without the authorization of the Monetary Board;
  - 3) Resist or refuse inspection by the Monetary and Financial Bureau and demonstrate lack of cooperation in the implementation of the monitoring tasks carried out.
  - 4) Carry out operations prohibited by virtue of the present Law or that are not included as part of the corporate purpose of the institution or receipt of resources in a manner not authorized to the type of such financial agent.
  - 5) Perform deceitful actions or use individuals or companies interposed for the purpose of performing prohibited operations or to evade mandates of the Law or the Regulations or to obtain results whose direct obtainment by the institution would imply as a minimum commitment of a serious violation.
  - 6) Non observance of the regulation established for accounting registration of operations entailing essential irregularities which prevent knowledge of the equity and financial situation of the financial agent.
  - 7) Place at risk the institution's deposits, through inadequate operations according to sound banking practices.
  - 8) Refuse reimbursement of deposits without just legal or contractual cause.
  - 9) Be criminally condemned by final and irrevocable judicial decision due to violation of the Prevention of Asset Laundering Law.
  - 10) Lack of adaptation or appropriateness of financial agents during the transitory period legally established.
  - 11) Non-compliance with the obligation to notify the Banking Superintendency of the existence of cause for supervision on a consolidated basis.
  - 12) Perform disposal and management actions of goods and securities of an institution subject to a dissolution process once it has been initiated.
  - 13) Violate the banking secret obligation in accordance with the terms established under Article 56, literal b) of this Law.
  - 14) Serve as broker for institutions not authorized to carry out financial brokerage operations.
  - 15) Distribute dividends in violation of the present Law, as well as expressed or hidden reserves.
  - 16) Non-compliance with the obligation of submitting its annual operations to an external audit by a firm duly registered at the Banking Superintendency.
  - 17) Lack of notification to the Banking Superintendency the existence of a cause for regularization.
  - 18) Commit two (2) serious violations during a period of three (3) years.
  - 19) Non-compliance with the implementation of a penalty due to serious violation.
- b) Serious Violations:** the following constitute very serious infractions, which prescribe 3 years from the date when they were committed and shall be punished with a admonition from the Banking Superintendency and with a fine of up to RD\$2,500,000.00:

- 1) Violating the duty to inform partners, depositors and other creditors of the institution, when the objective is to hide liquidity or financial stability problems.
  - 2) Actions of abusive banking financial practices with customers and violation of transparency obligation to the public.
  - 3) Lack of notification to the Banking Superintendency or the Central Bank when it is legally established as mandatory, except when it constitutes a very serious violation.
  - 4) Exercising of influence over the institution by a holder of a significant share of by whomsoever directly or indirectly has the effective control which may endanger sound management of same.
  - 5) To modify the By-laws without prior authorization from the Banking Superintendency.
  - 6) Violation of the norms governing laundering of assets.
  - 7) Use of deceitful advertising to attract customers or unfair competition.
  - 8) Non-compliance with the publication or submission of audited financial statements.
  - 9) Violation of minimum requirements to be established by the Regulations for development of provisions established under Article 55 of this Law.
  - 10) Violation of the rules governing minimum business hours to serve the public.
  - 11) Non-compliance of a penalty due to slight violation.
  - 12) Commitment of three (3) or more slight violations within a period of two (2) years.
  - 13) Provision of mortgage loans for housing without obtaining the "Seguro de Fomento de Hipotecas Aseguradas" (FHA) [Insured Mortgage Development Insurance] required by the Banco Nacional de la Vivienda [National Housing Bank] or its legal continuer.
  - 14) Delays in the payment of the premium of the "Seguro de Fomento de Hipotecas Aseguradas" (FHA) and the Cost of the Study of Guarantee Configuration (CECG).
- c) Slight Violations:** Slight violations are the following:
- 1) Non-authorized modification of the business hours to serve the public when it does not constitute a serious violation.
  - 2) Non-compliance of the duty to provide truthful information to its partners, depositors and other creditors, when it does not constitute a serious violation.
  - 3) Present delays in the submission of documents and information that must be submitted on a periodic or occasional basis to bodies of the Monetary and Financial Bureau.
  - 4) Those violations of precepts which must be observed which do not constitute serious or very serious violations or quantitative violations in accordance with the provisions of previous literals of this Article.
- Implementation of monetary penalties will be done through charges, when applicable, to accounts opened by the institution in the Central Bank. If this is not possible, the compulsory process established by the Tax Code will be used.
- Finally, the administrative application of penalties is implemented through the established provisions, and the performed procedure must be implemented by an instructor designated by the Banking Superintendency or by the Central Bank.