



Financial Action Task Force



Financial Action Task Force on  
Money Laundering In South America

## Mutual Evaluation Report - Annexes

### Anti-Money Laundering and Combating the Financing of Terrorism

17 October 2008

MEXICO

Mexico is a member of the Financial Action Task Force (FATF) and of the Financial Action Task Force on Money Laundering In South America (GAFISUD). This evaluation was conducted by the International Monetary Fund and was then discussed and adopted in Plenary as a mutual evaluation as follows:

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## **ANNEX 1. DETAILS OF ALL BODIES MET DURING THE ON-SITE VISIT**

### **List of ministries, other government authorities or bodies, private sector representatives and others**

#### **Ministries, Government Authorities or Bodies, and Others**

1. Secretaría de Hacienda y Crédito Público
2. Procuraduría Fiscal de la Federación
3. Procuraduría General de la República
4. Procuraduría General de la República – Dirección General de Cooperación Internacional.
5. Unidad de Inteligencia Financiera
6. Comisión Nacional Bancaria y de Valores (CNBV)
7. Comisión Nacional de Seguros y Fianzas
8. Comisión Nacional del Sistema de Ahorro para el Retiro
9. Unidad de Banca y Ahorro y Unidad de Valores, Seguros y Pensiones (CNBV)
10. Servicio de Administración Tributaria
11. Servicio de Administración Tributaria – Administración General Jurídica
12. Administración General de Aduanas
13. Public Registry of Commerce (Registro Público de la Propiedad)
14. Consejo de la Judicatura Federal
15. Dirección General de Asuntos Internacionales de la Secretaría de Seguridad Pública
16. Policía Federal Preventiva de la Secretaría de Seguridad Pública
17. Secretaría de Relaciones Exteriores
18. Servicio de Administración y Enajenación de Bienes
19. Secretaría de la Función Pública –Unidad de Vinculación para la Transparencia
20. Instituto Nacional de Ciencias Penales (INACIPE)

## Private Sector Representatives and Others

### Financial Sector

1. Citibank/Banamex
2. Bancomer/BBVA Group
3. American Express Bank SA
4. Banco Azteca SA
5. Bank of Mexico
6. Banco Inbursa
7. Asociación De Bancos De México (banking association)
8. Consultoría Internacional Casa de Cambio
9. Masari Casa de Cambio
10. Asesoría Cambiaria Casa de Cambio
11. Grupo Dinámico Empresarial. Servicio Integral de Envíos (Western Union)
12. Tecno Dispensores, S.A. de C.V. ( money remitter)
13. Asociación Mexicana De Casas De Cambio (association of licensed foreign money exchange houses)
14. Asociación Nacional De Centros Cambiarios y Transmisores de Dinero (unlicensed/registered association of foreign money exchange centers and money remitters)
15. Grupo Nacional Provincial S.A.B (insurance)
16. Seguros Atlas, S.A.
17. Marsh Brockman y Schuh Agente de Seguros y de Fianzas, S.A. de C.V
18. Asociación Mexicana de Instituciones de Seguros (association of insurance companies)
19. GBM Casa de Bolsa (securities broker)
20. Intercam Fondos (mutual/investment fund company)
21. Scotia Fondos

22. Asociación Mexicana de Intermediarios Bursátiles (association of securities intermediaries)
23. Arrendadora Banorte (leasing)
24. Factor Banorte (factoring)
25. Asociación Mexicana de Entidades Financieras Especializadas (association of specialized financial institutions *e.g.* factoring, leasing and Sofoles)

**Designated Non-Financial Businesses and Professions and NPOs**

26. Grupo Caliente – Centro de Apuestas Remotas y Sala de Sorteos
27. Secretaría de Gobernación – Dirección General Adjunta de Juegos y Sorteos
28. Barra Mexicana, Colegio de Abogados, A.C.
29. Dirección de Profesiones de la Secretaría de Educación Pública
30. Cámara Nacional de la Industria y Promoción de Vivienda
31. Centro Mexicano de la Filantropía

**ANNEX 2. LIST OF KEY LAWS, REGULATIONS AND OTHER RELATED MATERIAL USED  
IN THE ASSESSMENT**

<b>Financial Preventive Sector and FIU</b>	
1.	Ley General de Instituciones y Sociedades Mutualistas de Seguros (Insurance Companies Law)
2.	Ley General de Organizaciones y Actividades Auxiliares del Crédito (Law of Auxiliary Credit Organizations and Activities.)
3.	Ley de Instituciones de Crédito (Credit Institutions Law)
4.	Ley para Regular las Agrupaciones Financieras (Law to Regulate Financial Groups)
5.	Ley de Ahorro y Crédito Popular (Popular Savings and Loans Law)
6.	Ley de la Comisión Nacional Bancaria y de Valores (Law of the National Banking and Securities Commission)
7.	Ley Federal de Instituciones de Fianzas (Federal Law of Bonding Institutions)
8.	Ley de los Sistemas de Ahorro para el Retiro (Law for Retirement Savings Systems)
9.	Ley de Sociedades de Inversión (Law of Investment Companies)
10.	Ley del Mercado de Valores (Securities Markets Law)
11.	Ley General de Sociedades Cooperativas (General Law of Credit Unions)
12.	Ley del Banco de México (Bank of Mexico Law (Central Bank))
13.	Ley General de Títulos y Operaciones de Crédito (General Law of Credit Instruments and Operations)
14.	Ley Para La Transparencia Y Ordenamiento De Los Servicios Financieros (Law for Transparency and Regulation of Financial Services)
15.	Modificaciones al Artículo 52-Bis 4 de la Ley del Mercado de Valores, actualmente Artículo 212 (Revision to Art 52 Bis 4 of the Securities Market Law, currently Art 212)
16.	Disposiciones de carácter general a que se refiere el artículo 95 de la Ley General de Organizaciones y Actividades Auxiliares del Crédito aplicables a Casas de Cambio (AML/CFT Regulations for Casas de Cambio)
17.	Disposiciones de Carácter General a que se refiere el artículo 115 de la Ley de Instituciones de Crédito (AML/CFT Regulations for Credit Institutions –banks and Sofoles)
18.	Disposiciones De Carácter General A Que Se Refiere el artículo 140 De La Ley General De Instituciones Y Sociedades Mutualistas De Seguros (AML/CFT Regulations for Insurance Institutions)
19.	Disposiciones de carácter general a que se refiere el artículo 52 Bis-4 de la Ley del Mercado de Valores (AML/CFT Regulations for Securities Brokers)
20.	Disposiciones de carácter general a que se refiere el artículo 95 Bis de la Ley General de Organizaciones y Actividades Auxiliares del Crédito aplicables a los denominados transmisores de dinero por dicho ordenamiento (AML/CFT Regulations for Money Remitters)
21.	Disposiciones de carácter general a que se refieren los artículos 108 Bis de la Ley General de los Sistemas de Ahorro para el Retiro y Actividades Auxiliares del Crédito aplicables a las Organizaciones Auxiliares del Crédito (AML/CFT Regulations for Retirement Savings Systems)

<b>Financial Preventive Sector and FIU</b>
22. Disposiciones de carácter general a que se refieren los artículos 91 de la Ley de Sociedades de Inversión (AML/CFT Regulations for Mutual Fund/Investment Companies)
23. Disposiciones de carácter general a que se refiere el artículo 112 de la Ley Federal de Instituciones de Fianzas (AML/CFT Regulations for Bonding Institutions)
24. Disposiciones de carácter general a que se refiere el artículo 124 de la Ley de Ahorro y Crédito Popular (AML/CFT Regulations for Popular Savings and Loans)
25. Disposiciones De Carácter General A Que Se Refiere El Artículo 95 Bis De La Ley General De Organizaciones Y Actividades Auxiliares Del Crédito Aplicables A Las Personas Que Realicen Las Operaciones A Que Se Refiere El Artículo 81-A Del Mismo Ordenamiento (AML/CFT Regulations for Foreign Exchange Centers-Centros Cambiarios)
26. Resolución por la que se expide el formato oficial para el reporte de operaciones relevantes, inusuales y preocupantes contemplado en las disposiciones de carácter general que se indican, así como el instructivo para su llenado (Resolution issuing the STR reporting format and instructions)
27. Resolución Que Modifica Las Reglas Generales Para La Integración De Expedientes Que Contengan La Información Que acredite El Cumplimiento De Los Requisitos Que Deben Satisfacer Las Personas Que Desempeñen Empleos, Cargos O Comisiones En Entidades Financieras (Resolution amending the requirements for persons working for financial institutions)
28. Resolución por la que se reforma, deroga y adiciona la diversa que expide el formato oficial para el reporte de operaciones relevantes, inusuales y preocupantes contemplado en las Disposiciones de carácter general que se indican, así como el instructivo para su llenado (Resolution amending the format for STRs and instructions)
29. Reglamento de Agentes de Seguros y de Fianzas (Regulation for Insurance and Bonding Agents)
30. Reglamento de Inspección y Vigilancia de la Comisión Nacional de Seguros y Fianzas. (Regulation for Supervision by the National Insurance and Bonding Commission)
31. Reglamento Interior de la Comisión Nacional de Seguros y Fianzas (Internal Regulation for the National Commission for Insurance and Bonding Institutions)
32. Reglamento Interior del Servicio de Administración Tributaria (Internal Regulation for the Tax Administration Service)
33. Reglamento de Supervisión de la Comisión Nacional Bancaria y de Valores (Regulation for Supervision by the National Banking and Securities Commission)
34. Reglamento Interior de la Comisión Nacional Bancaria y de Valores (Internal Regulation for the National Banking and Securities Commission)
35. Reglamento Interior de la Secretaría de Hacienda y Crédito Público (Internal Regulation for the Finance Ministry-Secretariat for Finance and Public Credit)
36. Reglas A Las Que Deberán Sujetarse Las Casas De Cambio En Sus Operaciones (Rules for the operations of foreign exchange houses-Casas de Cambio)
37. Reglas Generales Para La Integración De Expedientes Que Contengan La Información Que acredite El Cumplimiento De Los Requisitos Que Deben Satisfacer Las Personas Que Desempeñen Empleos, Cargos O Comisiones En Entidades Financieras (Rules for requirements for persons working for financial institutions)
38. Decreto por el que se reforman, adicionan y derogan diversos artículos del Reglamento Interior de la Secretaría de Hacienda y Crédito Público. (Decree amending the Internal Regulation of the Finance Ministry-Secretariat for Finance and Public Credit)
39. Acuerdo por el que el Presidente de la Comisión Nacional Bancaria y de Valores Delega Facultades en los Vicepresidentes, Directores Generales, Supervisores en Jefe y Gerentes de la Misma Comisión (Agreement by which the President of the CNBV delegates authority to its officers)

<b>Financial Preventive Sector and FIU</b>
40. Acuerdo Por El Que Se Adscriben Orgánicamente Las Unidades Administrativas De La Comisión Nacional Bancaria Y De Valores (Agreement by which the Administrative Units of the CNBV established)
41. Metodología De Supervisión De Procesos Preventivos De Lavado De Dinero Y Financiamiento Al Terrorismo Aplicable A Las Personas Que Realicen Las Operaciones A Que Se Refiere El Artículo 81-A De La Ley General De Organizaciones Y Actividades Auxiliares Del Crédito (AML/CFT supervisión Methodology for foreign exchange centres)
42. Metodología De Supervisión De Procesos Preventivos De Lavado De Dinero Y Financiamiento Al Terrorismo Aplicable A Los Denominados Transmisores De Dinero Dispensados Por El Artículo 95 Bis De La Ley General De Organizaciones Y Actividades Auxiliares Del Crédito (AML/CFT supervisión Methodology for Money Remittance businesses)
43. Metodologías para la Supervisión de los Procesos Preventivos de Lavado de Dinero y Financiamiento de la Comisión Nacional Bancaria y de Valores aplicables a : Instituciones de Crédito y Entidades de Ahorro y Crédito (AML/CFT supervisión Methodology for Credit and Savings and Loan Institutions)
44. Metodologías para la Supervisión de los Procesos Preventivos de Lavado de Dinero y Financiamiento de la Comisión Nacional Bancaria y de Valores aplicables a : Casas de Bolsa y Sociedades de Inversión (AML/CFT supervisión Methodology for Securities Brokers and Mutual Fund/Investment Companies)
45. Metodologías para la Supervisión de los Procesos Preventivos de Lavado de Dinero y Financiamiento de la Comisión Nacional Bancaria y de Valores aplicables a : Casas de Cambio, Sociedades Financieras de Objeto Limitado y Organizaciones Auxiliares del Crédito (AML/CFT supervisión Methodology for casas de cambio, Sofoles and Auxiliary Credit Organizations (e.g. leasing and factoring)
46. Políticas de Seguridad de la Unidad de Inteligencia Financiera (Security policy for the FIU)
47. CIRCULAR 1/2005 emitida por el Banco de México en materia de Fideicomisos (Circular issued by the Bank of Mexico with respect to Trusts)
48. Inter-institutional Agreements Signed By The National Commission For Banking And Securities of Mexico
49. Best practices documents (FIU) for reporting suspicious transactions by: (1) casas de cambio and (2) banks ("banca multiple")
50. FIU Typologies report May 2004-Dec. 2005
51. Statistic information of the Tax Administration Service ( <i>Servicio de Administración Tributaria</i> ), AML/CFT supervisory authority for money remitters and unlicensed foreign exchange centers.

<b>Legal/ Law Enforcement</b>
52. Código Fiscal de la Federación (Prosecutions Code)
53. Constitución Política de los Estados Unidos Mexicanos (Political Constitution of Mexico)
54. Código Penal Federal (Federal Penal Code)
55. Código Federal de Procedimientos Penales (Federal Penal Procedures Code)
56. Código Civil Federal (Federal Civil Code)
57. Ley Orgánica de la Administración Pública Federal (Organic Law for Federal Public Administration)
58. Ley de Seguridad Nacional (National Securities Law)
59. Ley del Servicio Profesional de Carrera en la Administración Pública Federal (Law for Professional Career Service in Federal Public Administration)
60. Ley Federal de Responsabilidades Administrativas de los Servidores Públicos (Federal law of Administrative Responsibilities of Public Servants)

<b>Legal/ Law Enforcement</b>
61. Ley Reglamentaria del Artículo 5o. Constitucional, dministr al Ejercicio de las Profesiones en el Distrito Federal (Regulatory Law of Art. 5º. Constitucional, related to the Professions in the Federal Distric)
62. Ley de Extradición Internacional (Law on International Extradition)
63. Ley Federal Contra la Delincuencia Organizada (Federal Law Against Organizad Crime)
64. Ley Federal de Armas de Fuego y Explosivos (Federal Law on Firearms and Explosives)
65. Ley Aduanera (Customs Law)
66. Ley Orgánica de la Procuraduría General de la República (Organic Law of the PGR-attorney general)
67. Ley Federal para la Administración y Enajenación de Bienes del Sector Público (Federal Law on the Administration and Disposition of Property of the Public Sector)
68. Ley del Impuesto sobre la Renta (Tax Law)
69. Reglamento de la Ley Orgánica de la Procuraduría General de la República (Regulation of the Organic Law of the Attorney General's Office-PGR)
70. Reglamento de la Ley del Servicio Profesional de Carrera en la Administración Pública Federal (Regulation of the Law of Professional Servec Careers in Federal Public Aministration)
71. Tipo Penal de Financiamiento al Terrorismo Internacional (Type of criminalization of the Financing of International Terrorism)
72. Plan Estratégico Bilateral entre la Administración General de Aduanas de México, la Administración de Aduanas y Protección Fronteriza de los EE.UU.A. y el Servicio de Aplicación de las Leyes de Inmigración y Aduanas de la EE.UU.A. (Bilateral Strategic Plan between the US and Mexican Customs for border administration and protection, y the application of US Immigration and Customs Laws)
73. <i>Estrategia Integral de Prevención del Delito y Combate a la Delincuencia.</i> (Integral strategy to prevent crime and counteract delinquency), issued by the Presidency of the Republic and the Ministry of Public Security. In Spanish.
74. <i>Criterios Judiciales en Materia de Operaciones con Recursos de Procedencia Ilícita</i> (Judicial Criteria as regards to Money Laundering) Legal Study elaborated by the Financial Intelligence Unit in 2006 (in Spanish)
75. Code of Conduct of the Attorney General's Office and original version in the Spanish language.
76. Customs declaration form for passengers leaving the country
77. <i>Formato de Internación de Valores</i> (Customs declaration form for incoming money or value) in Spanish.
78. Customs declaration form for travelers arriving from abroad
79. Overview of the Powers and Activities of the <i>Secretaría de la Función Pública</i> (Ministry of the Public Function) in Spanish.
80. <i>Perfil de puesto de Fiscal Ejecutivo titular de la Procuraduría General de la República</i> (general profile required for Executive Prosecutors at the General Attorney's Office) In Spanish.
81. <i>Perfil de puesto de Fiscal Ejecutivo asistente de la Procuraduría General de la República</i> (general profile required for Deputy Executive Prosecutors at the General Attorney's Office) In Spanish.
82. List of Bilateral Treaties for Mutual Assistance in Criminal Matters signed by Mexico.
83. List of Treaties to combat Drug Traffic ratified by Mexico.
84. Bilateral Extradition Treaties ratified by Mexico.

<b>Preventive–DNFBPs, Legal Persons and Arrangements, and NPOs</b>	
85.	Ley Federal de Juegos y Sorteos (Federal Law on Gambling and Lotteries)
86.	Regulations of the Federal Gambling and Drawings Law / Reglamento de la Ley Federal de Juegos y Sorteos
87.	Ley Federal de Correduría Pública (Federal Law on Public Brokerage (e.g. real estate))
88.	Ley del Notariado en el Distrito Federal (Notaries Law for the Federal District)
89.	Ley de Instituciones de Asistencia Privada para el Distrito Federal (Law for Private Charitable Institutions)
90.	Ley de Asistencia Social (Law on Social Assistance)
91.	Reglamento de la Ley Federal de Juegos y Sorteos (Regulation for the Federal Law of Gambling and Lotteries)
92.	Ley General de Sociedades Mercantiles (General Law of Commercial Companies)

<b>Other</b>	
93.	Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental (Federal Law on Transparency and Public Access to Governmental Information)
94.	Ley de Concursos Mercantiles (Law on Commercial Bidding)
95.	Ley de Inversión Extranjera (Foreign Investments Law)
96.	Ley Federal de Protección al Consumidor (Federal Law on Consumer Protection)
97.	Ley General de Población (General Population Law)
98.	Ley General de Salud (General Health Law)
99.	Reglas de Carácter General en Materia de Comercio Exterior para 2007 (General Rules on Foreign Trade 2007)
100.	Mutual Evaluation Report of the United Mexican States (27 February 2004)
101.	Mutual Evaluation Follow up Report of the United Mexican States (2 July 2004)

**ANNEX 3. COPIES OF KEY LAWS, REGULATIONS, AND OTHER MEASURES**

**UNOFFICIAL TRANSLATION OF MEXICAN LEGISLATION RELEVANT TO THE DETAILED ASSESSMENT QUESTIONNAIRE**

<b>SUPREME LAW</b>	
<b>POLITICAL CONSTITUTION OF THE UNITED MEXICAN STATES</b> ( <i>Constitución Política de los Estados Unidos Mexicanos</i> )	5; 14; 15; 16; 17; 18; 19; 20; 21; 22; 25; 26; 28; 49; 50; 65; 66; 67; 70; 71; 72; 74; 76; 80; 81; 82; 89; 90; 94; 102; 121; 133;
<p><b>Title One</b> <b>Chapter I</b> <b>Individual Guarantees</b></p> <p><b>Article 5.</b> No person may be prevented from engaging in the profession, industry, business or work of his choice, provided it is lawful. The exercise of this freedom may only be banned by judicial resolution, when the rights of third parties are infringed or by government order, issued under the terms set forth by the Law, when the rights of society are offended. No one may be deprived from the product of his work, save by judicial resolution.</p> <p>In each State, the Law shall establish the professions which require a license for their practice, the qualifications to be met in order to obtain it and the authorities who shall issue it.</p> <p>No one can be compelled to render personal services without fair compensation and without his full consent, unless the work has been imposed as a penalty by a judicial authority; in which case, working conditions shall abide by the provisions in sections I and II of Article 123. Regarding public services, only the following shall be mandatory, subject to the terms established in the respective laws: military and jury services, service as municipal councilman and the discharge of official duties attained through direct or indirect elections.</p> <p>Electoral and census duties shall be mandatory and gratuitous, but a remuneration shall be paid for professional services rendered as provided by this Constitution and any applicable laws. Professional services if a social nature shall be mandatory and remunerated as provided by the Law, with the exceptions set forth therein.</p> <p>The State cannot permit the execution of any contract, compound or agreement which purpose is the demerit, loss or irrevocable sacrifice of a person’s liberty for whatever cause. Nor is any agreement admissible whereby the person agrees to his own proscription or exile or by which he temporarily or permanently waives his right to exercise a certain profession, industry or business.</p> <p>A labor contract shall only oblige to render the service agreed upon during the term set forth by the Law, which may not exceed one year to the detriment of the worker, and in no case may it include the waiver, loss or impairment of any</p>	

political or civil right.

Failure to perform said contract, by the worker, shall only render him answerable for applicable civil liability, but never may be exerted any coercion against his person.

**Article 14.** No law shall be enforced *ex post facto* in the detriment of any person. No person may be deprived of life, liberty, property, possessions or rights, unless the matter involved has been tried before previously established courts, in accordance with laws enacted before the facts and subject to due process of law.

In criminal trials it is forbidden to impose, by mere analogy or reasonable belief, any penalty which is not expressly set forth in a law applicable in every respect to the crime in question. In civil trials, final judgment must be rendered in accordance with the letter of the law, or with legal interpretation and in the absence thereof, in accordance with general principles of law.

**Article 15.** The celebration of treaties to extradite political convicts, or ordinary criminals considered slaves in the country where they committed the crime, or the agreements or treaties altering the rights established by this Constitution for the people and the citizen shall not be authorized.

**Article 16.** No one may be disturbed in his person, family, home, papers or possessions, except by written order of a competent authority, duly grounded in law and fact which sets forth the legal cause of the proceeding. No arrest warrant may be issued except by the judicial authority upon previous accusation or complaint for the commission or omission of an act which is described as a crime by the law, punishable with imprisonment, and unless there is evidence to prove that a crime has been committed and that there are sufficient elements to believe that the suspect is criminally liable.

The authority executing an arrest warrant issued by a court shall bring the suspect before the judge without any delay and under its sole responsibility. Any contravention to the foregoing shall be punished by criminal law.

In cases of *flagrante delicto*,<sup>1</sup> any person may detain the suspect bringing him without delay under custody of the nearest authority and the latter, without delay, shall bring him before the Public Prosecutor.<sup>2</sup> Only in urgent cases, when dealing with a felony qualified as such by the law and under reasonable risk that the suspect could evade the action of justice, should there not be a judicial authority available because of the hour, place or circumstance, the Public Prosecutor may, under his responsibility, order his detention, stating the grounds of law and fact and the circumstantial evidence underlying such decision.

In cases of urgency or *flagrante delicto*, the judge before whom the person in custody is presented shall immediately confirm the arrest or order his release, subject to the conditions established in the Law.

No one charged with a crime may be detained by the Public Prosecutor for more than forty eight hours, term whereupon his release shall be ordered or he shall be brought before a judicial authority. Such term may be duplicated in cases established by the law as organized crime. Any abuse in respect to what has hereinbefore been provided shall be punished by criminal law.

Only a judicial authority may issue a search warrant which must be in writing. Every search warrant must describe the place to be searched, the person or persons to be detained and the objects to be seized, to which this act shall be exclusively restricted, preparing in site, upon the conclusion of the search, a fact finding report, before two witnesses proposed by the occupant of the place searched or in his absence or refusal, by the acting authority.

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<sup>1</sup> *Flagrante delicto* is a crime discovered while in progress.

<sup>2</sup> Means *Ministerio Público* depending on the context.

Private communications are secret. The law shall punish according to criminal law any action against the liberty and privacy of such communications. Only a federal judicial authority may authorize the intervention of any private communication, upon request by the federal authority empowered by the law or by the Public Prosecutor of the corresponding State, wherefore the competent authority shall, in writing, ground in law and fact the legal causes of the request describing therein the class of intervention required, the subjects and the term thereof. The federal judicial authority may not grant these authorizations when the matters involved are of electoral, fiscal, commercial, civil, labor or administrative nature, nor in the case of communications of the defendant with its attorney.

Authorized interventions shall be subject to the requirements and limitations set forth in the laws. The results of interventions which do not comply with the aforesaid requirements shall not be admitted as evidence.

Administrative authorities may carry out inspections to private facilities only for ascertaining whether sanitary and police regulations have been complied with; and to require to be shown such books and papers which are indispensable to corroborate that fiscal provisions have been complied with, in which cases such authorities shall be subject to the provisions of the respective laws and to the formalities for search warrants.

The sealed correspondence circulating through the mail shall be exempt from any search and the violation thereof shall be punishable by the Law.

No member of the Army shall in times of peace be quartered in a private house against the will of the owner nor impose any requirements. In times of war the military can demand lodging, baggage, food and other requirements in the terms set forth by the applicable martial law.

**Article 17.** No one may take the law unto his own hands, nor resort to violence to enforce his rights. Every person has the right to petition justice before courts of law which shall be ready to provide it under the terms and conditions set forth by the laws, and shall issue their judgments in a prompt, complete and impartial manner. Their services shall be free and consequently, judicial fees are prohibited.

Federal and local laws shall provide the necessary means to guarantee the independence of the courts and the full enforcement of their judgments.

No one may be imprisoned by debts solely of a civil nature.

**Article 18.** Pretrial detention may only be applied for crimes punishable by imprisonment. The place of confinement shall be different and shall be separate from the one used for convicted persons.

The governments of the States and of the Federation shall organize the prison system in their respective jurisdictions, under basis of labour, training for work, and education, as a means of social readjustment of the offender. Women shall serve their imprisonment penalties in places separated from those intended for the confinement of men.

State Governors may under the provisions established by their respective local laws, celebrate agreements of a general nature with the Federation, by which offenders convicted for crimes pertaining to State or local jurisdiction may serve their imprisonment penalties in facilities subordinated to the President of the Republic.

The Federation and State governments shall establish special institutions to deal with juvenile offenders.

Convicts of Mexican nationality who are serving imprisonment penalties in foreign countries may be brought to the Republic to serve their sentences under the grounds of the social readjustment systems provided in this Article, and convicts of foreign nationality convicted for federal crimes throughout the Republic or for crimes under the local jurisdiction of the Federal District, may be transferred to their countries of origin or of residence, provided that international treaties have been signed for that purpose. State governors may request from the President of the Republic,

under the grounds of their respective local laws, the inclusion in said treaties of convicts for crimes under State jurisdiction.

In the cases and conditions provided by the Law, convicts may serve their penalties in the penitentiaries closer to their home, in order to encourage their reintegration to the community as a means of readjustment to society.

**Article 19.** No detention before a judicial authority may exceed a term of seventy two hours from the time the defendant is brought under its custody, without a formal order for commitment in writing, which must set forth the crime he is charged with, the place, time and circumstances of the crime; as well as the evidence furnished by the preliminary criminal inquiry, which must be sufficient to establish that a crime has been committed and the probable liability of the suspect.

Said term may be extended only upon petition by the defendant in the form established by the Law. The extension of the term of detention to his detriment shall be punished by criminal law. If within the term hereinbefore set forth, any authority in charge of the facilities where the defendant is confined, should not receive an authorized copy of the order to stand trial in confinement or a request for an extension of the aforesaid term, said authority shall bring the matter to the attention of the judge immediately upon the end of the term. If said authority should not receive the aforesaid order within the next three hours, it shall release the defendant.

Every proceeding shall be compulsorily instituted only for the crime or crimes charged in the order to stand trial in commitment or in the order to stand trial. If within the course of proceedings it should appear that another crime has been committed which is different from the one pursued, it shall be charged on a separate count, notwithstanding that a joinder of both proceedings could thereafter be ordered, if appropriate.

Any ill treatment when detaining a person or during confinement, any annoyance without legal justification, any exaction or contribution laid in jails, constitute an abuse which the laws shall correct and the authorities shall repress.

**Article 20.** In all criminal proceedings, the defendant, the victim or the offended party shall have the following constitutional rights.

A. The defendant:

I. Immediately upon request by the defendant, the judge must set him at liberty on bail, provided the crime he is charged with is not a felony where the Law explicitly prohibits granting it. In case of crimes which are not felonies, the judge may deny liberty on bail, upon request by the Public Prosecutor, when the defendant has been previously convicted for a felony according to the Law or whenever the Public Prosecutor should submit to the judge, evidence establishing that freeing the accused represents, on account of his preceding behavior or of the circumstances and nature of the crime committed, a risk for the offended party or for society.

The amount and form of the bail fixed must be accessible for the accused. In certain circumstances set forth by the Law, the judicial authority may modify the amount of the bail. To determine the amount and form of the bail, the judge must consider the nature, particularities and circumstances of the crime, the character of the defendant and the possibilities of complying with his duties in respect to trial; the losses and damages caused to the offended party; as well as the fine which, if applicable, may be imposed upon the accused.

The Law shall determine the serious cases where the judge may revoke liberty on bail;

II. He cannot be forced to declare. Any denial of communication, intimidation or torture is prohibited and shall be punished by criminal law. Any confession made before any authority other than the Public Prosecutor or the judge or even before any of them without the assistance of his counselor shall have no weight as evidence;

III. He shall be informed in a hearing in open court, and within the next forty eight hours immediately following the filing

of charges, the name of his accuser and the cause and nature of the accusation, so that in such hearing, the defendant may know the criminal conduct attributed to him and so that he may respond to the charges against him, in his preliminary statement;

IV. At his request he shall be confronted with the witnesses against him before the judge, except as provided under subsections V of Section B of this Article;

V. All witnesses and any other evidence submitted on his own behalf shall be admitted within the term the Law deems necessary to that end and he shall be assisted in securing the presence of those witnesses whose testimony he may request, provided they are to be found in the place where the trial is held;

VI. He shall be judged in open court by a judge or by a jury composed of citizens who can read and write and who reside in the place and district where the crime was committed, provided such crime is punishable with more than one year of imprisonment. In any case, crimes committed through the press against public order or against the Nation's foreign or domestic security, shall be tried by a jury;

VII. He shall be furnished with all the information on record in the proceedings that he shall request for his defense;

VIII. He shall be tried within a term of four months in the case of crimes punishable with a maximum penalty not exceeding two years of imprisonment; and within a term of one year if the crime is punishable with a penalty exceeding such term, unless he shall request a longer term for his defense;

IX. From the commencement of proceedings, he shall be informed of the rights provided to his benefit by this Constitution and of his right to an adequate defense, either by himself, by counsel or by a trusted person. Should he not wish or should he have no one to appoint as counsel for his defense, upon being required to do so, the judge shall appoint him a public defender. He shall also be entitled to have his attorney present in all actions during the proceedings and he shall have the duty to appear as often as required by the court; and

X. Prison or detention may never be extended for failure to pay attorneys' fees nor any other monetary obligation, on account of civil liability or for any other similar cause. Nor can pretrial detention be extended beyond the maximum imprisonment term established by the Law as penalty for the crime charged.

Whenever a conviction sentence imposes imprisonment the term thereof shall start running from the moment the defendant is arrested.

The constitutional rights set forth in subsections I, V, VII and IX herein shall also be respected during the preliminary criminal inquiry, subject to the terms and under the requirements and restrictions established by the laws. The provision in subsection II shall not be subject to any condition.

B. The victim or the offended party:

I. To receive legal counsel; to be informed of the rights that the Constitution establishes to his benefit and whenever he should so require it, to be informed of the developments of the criminal proceedings;

II. To assist the Public Prosecutor; to be received all the information and evidence that he furnishes, during the preliminary criminal inquiry as well as during proceedings, and for appropriate proceedings to be carried out. Whenever the Public Prosecutor does not consider necessary to carry out the proceeding, he must state the grounds of law and fact justifying his refusal.

III. To receive urgent medical and psychological attention, from the moment the crime was committed.

IV. To recover damages. Whenever it should be legally admissible, the Public Prosecutor is obliged to require restitution

of damages and the judge shall not acquit the convict from making restitution if he shall have imposed on him a conviction sentence. The Law shall set forth swift and speedy procedures to enforce judgments in matters of recovery of damages.

V. Should the victim or the offended party be minors, he shall not be required to confront the defendant face to face, when the crime dealt with is rape or kidnapping. In such cases, the depositions shall be taken in the conditions established by the Law; and

VI. To require the injunctions and measures provided by the Law for his security and assistance.

**Article 21.** Imposition of penalties is exclusively incumbent upon the judicial authority. Investigation and prosecution of crimes is incumbent upon the Office of the Public Prosecutor, which will be aided by a police force under its authority and immediate command. The administrative authority is responsible for the application of sanctions for violations of governmental and police regulations, which will only consist of a fine or arrest and detention for a maximum of thirty-six hours; however, if the offender does not pay the fine imposed on him, this will be substituted by the corresponding period of detention, which will in no event exceed thirty-six hours.

If the offender is a day laborer or manual worker, he may not be sanctioned with a fine greater than his total daily wage or salary.

For workers not receiving a salary or wage, the fine will not exceed the equivalent of one day's earnings.

Decisions of the Office of the Public Prosecutor to not file charges or to withdrawal the criminal case may be challenged through the court system pursuant to the terms established by law.

The Federal Executive may, with the approval of the Senate in all cases, recognize the jurisdiction of the International Criminal Court.

Public security is a function incumbent upon the Federation, the Federal District, the States and Municipalities, in the respective competences established by this Constitution. The actions of police institutions will be governed by the principles of legality, efficiency, professionalism and honesty.

The Federation, the Federal District, the States and the Municipalities, will be coordinated in the terms specified by law, to establish a national system of public security.

**Article 22.** Mutilation and infamous penalties, as well as branding, flogging, beating with sticks, and torture of any kind, the imposition of excessive fines, confiscation of property and any other cruel, unusual and transcendental punishments are prohibited.

The attachment of all or of a portion of a person's property made under judicial authority to make payment of civil liability resulting from the commission of a crime or for the payment of taxes or fines, shall not be deemed confiscation of property. Nor shall the seizure of property ordered by the judicial authority under the terms provided by Article 109 in case of illicit enrichment, shall be deemed confiscation; nor the seizure of goods owned by a convict for felonies typified as organized crime, or for those goods in respect to which the convict acts like an owner, unless the licit origin of these goods is proven.

The appropriations made in favor of the State of goods it has secured, which are thereafter deemed abandoned, in accordance with the terms of applicable provisions, shall not be deemed confiscation. The judiciary shall decide to take the property in favor of the State those goods secured by cause of an investigation or proceedings for organized crime, when such investigation or proceedings conclude without any resolution in regards to the goods secured. The judicial decision shall be issued upon previous proceedings where third parties are heard and there is enough evidence to fully establish that a felony typified as organized crime has been committed.

Provided, however, that the defendant in such investigation or proceedings possessed, owned or acted as possessor or

owner of such goods, even if said goods were transferred to third parties, unless the latter prove to be possessors or owners in good faith.

The death penalty is forbidden for political crimes. In respect to other crimes, the death penalty may only be imposed on the traitor of the country during a foreign war, on the parricide, on the murder when using perfidy, premeditation or undue advantage, on the arsonist, on the kidnapper, on the highway robber, on the pirate, and on convicts guilty of serious military crimes.

**Article 25.** The State is in charge of directing national development and must guarantee that such development is comprehensive and sustainable, that it strengthens<sup>3</sup> national sovereignty and its democratic regime, and that it enables full exercise of the liberties and dignity of the individuals, groups and social classes, whose safety is protected by this Constitution, by promoting economic growth and employment, and a more just distribution of income and wealth.

The State shall plan, conduct, coordinate and direct national economic activity and shall carry out the regulation and promotion of the activities required by public interest within the framework of liberties granted by this Constitution.

The public, social and private sectors shall concur, with social responsibility, in the economic development of the Nation, without detriment to other forms of economic activity that contribute to the development of the country.

The public sector shall be in charge, in an exclusive manner, of those strategic areas established in Article 28, paragraph fourth of the Constitution, and the Federal Government shall at all times maintain ownership and control over the entities which may be established, as appropriate.

Likewise, the State may participate by itself or along with the social and private sectors, in accordance with the Law, to foster and organize such areas which are a priority for development. Enterprises from the social and private sector of the economy shall be supported and encouraged under criteria of social equity and productivity, subject to the particularities required by public interest and to the use, for general benefit, of the productive resources, taking care of their preservation and of the environment.

The Law shall establish mechanisms to facilitate the organization and expansion of economic activity of the social sector: *ejidos*,<sup>4</sup> workers' organizations, cooperatives, rural communities, enterprises which are majority or exclusively owned by workers and, in general, of all manners of social organization for production, distribution and consumption of such goods and services which are necessary for society.

The Law shall encourage and protect economic activities carried out by private persons and shall provide the conditions required so that the private sector's development contributes to national economic development, according to the terms set forth by this Constitution.

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<sup>3</sup> In Mexican law, when the evidence was inconclusive, the matter could be disposed of by an order of *absolución de la instancia*, which operated as a dismissal but not as a judgment for or against either party in a civil case, or as an acquittal or conviction in a criminal case. Hence, upon discovery of more evidence the case might be revived. Similar to the Scotch verdict of not proved, and to the Roman *non liquet*.

<sup>4</sup> *Ejido* it is a concept that does not have translation. *Ejido* is a class of rural land tenure in the Mexican system, constituted by land communally held in common by the ejidatarios (who are the community of peasants who work it), village and cultivation lands that combine collective ownership by the ejido (a rural community) with individual use, to be exploited by the ejidatarios or individual members of the *ejido*. The disposal and transfer of *ejido* lands is subject to complex restrictions imposed by the Law. It cannot be disposed of by the *ejidatario*, except upon compliance with certain procedures, involving several *ejido* and government authorities. It was instituted after the Mexican Revolution, which was the cornerstone of the Mexican land reform.

**Article 26.** The State shall organize a system of democratic planning for national development that gives solidity, dynamism, permanence and equity to the growth of the economy pursuant to the political, social and cultural independence and democratization of the nation.

The goals of the national project contained in this Constitution shall determine the objectives that guide planning. Planning shall be democratic. The aspirations and requirements of society shall be collected with the participation of diverse social sectors, and shall be incorporated into the development programs and to the plan. There shall be a national plan for development to which the programs of Federal Public Administration shall compulsorily be subject.

The Law shall empower the President of the Republic to establish the participation and popular consultation procedures in respect to the national democratic planning system, and the criteria to prepare, implement, control and assess the development programs and the resulting plan. The Law shall also establish the agencies that shall be responsible for the planning process and the bases under which the President of the Republic shall coordinate, through agreements with State governments, and shall induce and arrange with private persons the actions to be undertaken to prepare and to carry out the planning process.

The Law shall establish the intervention of the Congress of the Union in the democratic planning system.

**Article 28.** In the United Mexican States monopolies, monopoly practices, state monopolies and tax exemptions are prohibited under the terms and conditions set forth by the laws. The same treatment shall be given to prohibitions on account of protections to industry.

Consequently, the Law shall severely punish and the authorities shall efficiently prosecute, any concentration or hoarding, in one or in few hands, of essential consumer products for the purpose of raising prices; any agreement, procedure or combinations, in whatever manner they may be made, of producers, manufacturers, merchants or service providing entrepreneurs, to prevent free market or competition among themselves, in order to force consumers to pay exaggerated prices, and in general, anything constituting an exclusive and undue advantage in favor of one or more specific persons in detriment to the public in general or to any social class.

The laws shall set forth the bases to establish maximum prices for Articles, commodities or products considered essential for the country's economy or for popular consumers, as well as to impose the particularities to organize the distribution of said Articles, commodities or products, in order to prevent unnecessary or excessive intermediation from causing insufficiencies in supply, as well as price increases.

The Law shall protect consumers and encourage them to organize themselves to better protect their interests. The functions performed in an exclusive manner by the State in the following strategic areas shall not constitute monopolies: postal service, telegraphs and radiotelegraphy; petroleum and any other hydrocarbons; basic petrochemical; radioactive minerals and generation of nuclear energy; electricity and any other activities explicitly established by the laws enacted by the Congress of the Union. Satellite communications and railways are priority areas for national development under the terms provided in Article 25 of this Constitution.

The State, by exercising its direction over them, shall protect the security and sovereignty of the Nation, and when granting concessions or permits, it shall maintain or establish its domain over the respective means of communications and transportation in accordance with relevant statutory laws.

The State shall have the agencies and companies required to efficiently manage the strategic areas are entrusted to it and in those prioritized activities where, according to the laws, it shall participate by itself or along with the private and social sectors.

The State shall have a central bank vested with autonomy in the exercise of its duties and management. Its main objective shall be to foster stability in domestic currency's purchasing power, thus strengthening the guidance of the State in respect

to national development.

No authority may order the bank to provide financing. The functions performed in an exclusive manner by the State, through the central bank, in the strategic areas of coining money and issuance of bills, do not constitute a monopoly. The central bank, under the terms provided by the laws and with the participation of other authorities with competent jurisdiction thereon, shall regulate exchange rates, as well as banking and financial services, and shall have the powers and authority required to carry out such regulating actions and to enforce their compliance. The management of the bank shall be entrusted to the persons appointed by the President of the Republic with approval by the Senate or the Permanent Commission, when applicable.

They shall hold office for terms which duration and sequences are best suited to the autonomous exercise of their duties; they may only be removed for a serious cause and may not hold any other employments, offices or commissions, except for those in which they act in the name of the bank, and pro bono activities in teaching, scientific, cultural or charitable organizations.

The persons in charge of the central bank may be subject to impeachment trials in accordance with the provisions set forth under Article 110 of this Constitution. The associations of workers constituted to protect their own interests, and producers' cooperatives or associations that, in defense of their interests or of general interest, sell directly in foreign markets, any domestic or industrial products which are the main source of wealth in the region where they are produced and which are not essential consumer products, shall not constitute a monopoly, provided such associations are under the supervision or protection of Federal or State governments and that they have been previously authorized theretofor by their respective State legislature in each case. Such Legislatures, by themselves or at the proposal of the President of the Republic or the Governor, as appropriate, may repeal when public welfare should so require it, any authorizations granted to constitute the associations in question.

The privileges granted for a certain time to authors and artists for the production of their works and those granted to inventors for the exclusive use of their inventions and improvements, shall not constitute monopoly.

The State may, in accordance with the law and in case of general interest, grant concessions for the provision of public services or for the exploitation, use and profit of property owned by the Federation, save for the exceptions established by the laws. The laws shall set forth the requisites and conditions required to guarantee the efficiency of the services rendered and the social use given to such property, and shall prevent occurrences of hoarding which contravene public interest.

The subjection to a public service regime shall abide by the provisions of the Constitution and may only be carried out through a law.

Subsidies may be granted to economic priority activities, when such subsidies are of a general and temporary nature and do not impact substantially the Nation's finances. The State shall supervise their application and appraise their results.

**Title Three**  
**Chapter One**  
**The Division of Powers**

**Article 49.** The Supreme Power of the Federation is divided for its exercise into the Legislative, Executive and Judicial branches. Two or more of these Powers may not be united in one single person or corporation, nor shall the Legislative Power be vested in one single person, except for the case where extraordinary powers are granted to the President of the Republic as provided in Article 29. In no other case, except as provided under the second paragraph of Article 131, shall extraordinary powers be granted to legislate.

**Chapter Two**

## **The Legislative Power**

**Article 50.** The Legislative Power of the United Mexican States is vested in a General Congress which shall be divided into two Houses one of deputies and the other one of senators.

**Article 65.** The Congress shall assemble from September 1st of each year, for a first term of regular sessions and from 33999February 1st of each year for a second term of regular sessions.

In both session terms the Congress shall be devoted to study, discuss and vote the bills submitted thereto and to decide any other affairs pertaining to it according to this Constitution.

In each regular session term the Congress shall preferably devote itself to the issues established by its Organic Law.

**Article 66.** Each period of regular sessions shall continue for the time necessary to deal with the matters mentioned in the foregoing Article. The first period of sessions may not be extended beyond December 15th of the same year, except when the President of the Republic takes office, in the date provided by Article 83, in which case, the sessions may be extended until December 31st of such year. The second period of session may not be extended beyond April 30th of said year.

Should both Houses not agree on closing the sessions before the dates specified, the President of the Republic shall decide.

**Article 67.** The Congress or just one of the Houses, when dealing with an issue under its exclusive jurisdiction, shall assemble in extraordinary session each time the Permanent Commission summons them for such purpose; but in both cases, they shall only devote themselves to the issue or issues submitted by the Permanent Commission. These matters shall be set forth in the respective summons.

**Article 70.** Every resolution by the Congress shall have the nature of a law or a decree. Laws or decrees shall be communicated to the President of the Republic signed by the speakers of both Houses and by a secretary of each of them, and shall be promulgated in the following manner: "The Congress of the United Mexican States decrees: (text of the law or decree)".

The Congress shall enact the law that shall govern its internal operations and structure.

The Law shall establish the manners and procedures to group deputies according to their political party affiliation, in order to guarantee free speech to all ideological positions represented in the House of Deputies.

This Law cannot be vetoed nor shall it require promulgation by the President of the Republic to be in force.

**Article 71.** The right to initiate laws or decrees corresponds to:

- I. The President of the Republic;
- II. The deputies and senators to the Congress of the Union; and
- III. The States Legislatures.

The bills initiated by the President of the Republic, by the States Legislatures or by the delegations thereof, shall be referred to a committee; those introduced by deputies or senators shall be subject to the procedures set forth by the Rules of Procedure.

**Article 72.** Bills whose approval into law or decree is not the exclusive right of one of the Houses, shall be discussed successively by both, abiding by the Rules of Procedure in respect to form, intervals and manner to act in debates and casting of votes.

A. After a bill is approved in the House where it originates, it shall pass to the other House for discussion and if approved, it shall be forwarded to the President of the Republic; and if he has no objections, he shall immediately publish it.

B. A bill forwarded to the President of the Republic which is not returned with his objections to the House where it originated within ten business days after it was presented to him, shall be deemed approved; unless during the said term, the Congress shall have closed or adjourned its sessions, whereupon the return shall be made the first business day that Congress next assembles.

C. Any bill rejected in whole or in part by the President of the Republic shall be returned with his objections to the House where it originated, which shall again reconsider it, and if confirmed by two thirds of the total number of votes, it shall pass again to the other House for review; and if approved by the same majority it shall become a law or decree and return

to the President of the Republic for promulgation. Votes on laws and decrees shall be cast by roll call.

D. Should any bill be rejected in whole by the reviewing House it, it shall be returned to the House where it originated with the objections made thereto. It shall be again discussed in said House and if approved by an absolute majority of its members present, it shall return again to the House that rejected it, which shall reconsider it and should it be approved by the same majority, it shall pass to the President of the Republic for the purposes of section A. Otherwise, it shall not be reintroduced in the same period of sessions.

E. If a bill is partially rejected, or amended, or added to, by the reviewing House, the House where it originated shall only debate the portion rejected, or the additions, or the amendments thereto, and the Articles which were previously approved shall not be altered in any manner. Should the additions or amendments by the reviewing House be approved by the House where it originated through absolute majority of votes of its members present, the bill in whole shall pass to the President of the Republic for the purpose of section A. Should the additions or amendments by the reviewing House not be approved by a majority of votes cast in the House where it originated, the bill in whole shall return to the reviewing House, so that the latter may consider the reasons of the other House. In this second review if the amendments or additions are again rejected by an absolute majority of the reviewing House's members present at the session, the bill, only in the portion approved by both Houses, shall pass to the President of the Republic for the purposes of section A. Should the reviewing House insist in such additions or amendments by an absolute majority of votes of its members present, the bill in whole shall not be reintroduced until the next period of sessions, unless both Houses agree, by absolute majority of votes of their present members, that the law or decree be issued only with the Articles approved, and that the Articles added to or amended, be reserved to be examined and voted in the next sessions.

F. The same procedure established to enact laws and decrees shall be followed in the interpretation, amendment or repeal thereof.

G. Bills rejected in the House where they originated may not be reentered in the sessions of the same year.

H. The process for the enactment of laws and decrees may be indistinctively initiated in any of the two Houses, except for those bills dealing with loans, imposts or taxes, or recruitment of troops, which shall all be discussed first in the House of Deputies.

I. Bills shall be preferably discussed in the House where they are introduced, unless one month elapses after having been passed to the Reporting Committee, without resolution by the latter, whereupon the bill may be presented and discussed in the other House.

J. The President of the Republic may not make any observations to the resolutions of the Congress or any of the Houses when they act as election body or jury, or whenever the House of Deputies declares there are grounds to impeach a high ranking public officer of the Federation. Neither may he object the decree summoning to extraordinary sessions issued by the Permanent Commission.

**Article 74.** The exclusive powers of the House of Deputies are:

I. To solemnly announce throughout the Republic that the Electoral Court of the Judicial Power of the Federation has issued a declaration stating that a President has been elected;

II. To coordinate and asses, without detriment to its technical and operational autonomy, the performance of the Federation's Superior Supervising Entity, in accordance with the terms provided by the Law;

III. (Repealed).

IV. To annually approve the Federation's Expenditure Budget, upon previous examination, discussion and amendment, if applicable, of the respective bill sent by the President of the Republic, having first approved the taxes and government excises that under its judgment, must be authorized to cover the expenditures, and also to examine the General Public Accounts of the former year.

The President of the Republic shall send to the House of Deputies, the Federation's Income Bill and Expenditure Budget no later than on September 8th. The appropriate State Secretary shall appear thereat to account for said bills. The House of Deputies shall approve the Federation's Expenditure Budget no later than November 15th. Whenever the President of the Republic takes office in the date set forth in Article 83, he shall send the Federation's Income and Expenditure Budget Bills to the House of Deputies no later than on December 15th.

There shall be no other secret items than those deemed necessary and secret in said Budget; which shall be exercised by the Secretaries upon written authorization by the President of the Republic.

The purpose of reviewing the General Public Accounts is to know the results of financial performance, and to verify

compliance with the criteria set forth in the Budget and the attainment of the objectives established in the programs. To review the General Public Accounts, the House of Deputies shall rely on the Federation's Superior Supervising Entity. If, from the review made by the latter, it shall appear that there are discrepancies between the amounts pertaining to income or to expenditures, in relation to the respective items and entries, or if there were no good cause or no precision in regards to the income obtained or the expenditures made, the resulting liabilities shall be determined in accordance with the Law.

The General Public Accounts from the former year must be submitted to the House of Deputies of the Congress of the Union within the first ten days of the month of June.

The term to submit the Income Bill, the Expenditures Budget Draft, and the General Public Accounts may only be extended upon request by the President of the Republic, which request must be sufficiently justifiable at the judgment of the Houses or the Permanent Commission.

The corresponding State Secretary shall appear thereat, in any case, to inform on the causes underlying such request;

V. To declare if it is lawful to file criminal action against those public officers who have committed a crime as provided under Article 111 of this Constitution. To know of the charges against the public officers referred un

der Article 110 of this Constitution and to act as a prosecuting body in the impeachment trials brought forth against them;

VI. (Repealed).

VII. (Repealed).

VIII. Any other powers explicitly vested upon it by this Constitution.

**Article 76.** The exclusive powers of the Senate are:

I. To analyze the foreign policy applied by the President of the Republic on the grounds of the annual Information on the State of the country submitted to the Congress by the President of the Republic and the corresponding State Secretary; as well as to approve international treaties and diplomatic conventions celebrated by the President of the Republic;

II. To ratify the appointments of the General Attorney of the Republic, Justices, diplomatic agents, general consuls, high ranking employees of the Treasury,<sup>5</sup> colonels and other superior chiefs of the Army, Navy and Air Force, made by the President of the Republic, under the terms provided by the Law;

III. To authorize the President of the Republic to allow the deployment of national troops beyond the borders of the country, the passage of foreign troops through national land territory, and the sojourn of vessels of other countries for over one month in Mexican waters;

IV. To give its consent, so that the President of the Republic may dispose of the National Guard outside its respective States, and to determine the necessary forces;

V. Whenever the constitutional powers of a State disappear, to declare that it is necessary to appoint a Provisional Governor, who shall summon to elections in accordance with the constitutional laws of said State. The Senate shall appoint such governor chosen from a list of three candidates proposed by the President of the Republic, with the approval of two thirds of its members present in the session, and in the adjournments thereof, by the Permanent Commission according to the same rules. The officer thus appointed cannot be elected Constitutional Governor in the elections held pursuant to the summons he shall have issued. This provision shall govern whenever the constitutions of the States do not provide otherwise;

VI. To settle political issues arising between the powers of a State, whenever any of them shall apply to the Senate theretofore, or when by reason of such issues, the constitutional order has been interrupted through an armed conflict. In such event, the Senate shall issue its resolution subject to provisions establish in the Constitution of the Republic and the constitution of the State involved. The Law shall regulate the exercise of the two foregoing powers;

VII. To erect itself as a grand jury to take cognizance of impeachment trials for faults or omissions committed by public officers and which result in detriment to fundamental public interests and to their good performance in office, according to the terms established by Article 110 of this Constitution;

VIII. To appoint the Justices of the Nation's Supreme Court of Justice, selecting them from the group of three candidates submitted by the President of the Republic, as well as to grant or deny its approval to the request for leave of absence or

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<sup>5</sup> Treasury refers to the Ministry of Finance and Public Credit.

resignation of such Justices submitted by the President of the Republic;  
IX. To appoint and to remove the Chief of Government of the Federal District in the cases provided by this Constitution;  
X. Any other powers vested upon it by this Constitution;

### **CHAPTER THREE** **The Federal Executive Power**

**Article 80.** The exercise of the Supreme Executive Power of the Union is vested in a single individual who shall be called the "President of the United Mexican States."

**Article 81.** The election of the President shall be direct and in accordance with the terms set forth by the electoral law.

**Article 82.** The following qualifications are required to be President of the Republic:

- I. To be a Mexican citizen by birth, with legal capacity to exercise his rights, born of Mexican father or mother and to have resided in the country for at least twenty years;
- II. To be thirty five years old at the time of the election;
- III. To have resided in the country during the entire year prior to the day of the election. Absence from the country for up to thirty days does not interrupt the term of residence;
- IV. Not to be neither a member of the clergy nor a minister of any creed;
- V. Not to be in active service, in case of being a member of the army, for a period of six months before the day of the election;
- VI. Not to be a State Secretary or Undersecretary, chief or Secretary General of an Administrative Department, Attorney General of the Republic, or Governor of any State, unless having resigned to such office six months prior to the day of the election; and
- VII. Not to be subject to any disqualifications set forth under Article 83.

**Article 83.** The President shall begin his term in office on December 1<sup>st</sup> and shall remain in charge for a term of six years. Any citizen, who has held the office of President of the Republic, through popular election or as interim, provisional or substitute, shall never, under any circumstance, hold such office again.

**Article 89.** The powers and duties of the President of the Republic are as follows:

- I. To promulgate and enforce the laws enacted by the Congress of the Union providing the means required, within his administrative jurisdiction, for their faithful execution;
- II. To appoint and remove State Secretaries at his sole discretion, to remove diplomatic agents and the high ranking employees of the Treasury, and to unrestrictedly appoint and remove all the other employees of the Union, whose appointment or removal is not otherwise provided for in the Constitution or the laws;
- III. To appoint Justices, diplomatic agents and general consuls, with the approval of the Senate;
- IV. To appoint the colonels and other superior chiefs of the Army, Navy and Air Force and high ranking employees of the Treasury, with the approval of the Senate;
- V. To appoint all other officers of the Army, Navy and Air Force, as provided by the laws;
- VI. To maintain national security, under the terms of the respective law, and to dispose of all permanent military forces of the Army, Navy and Air Force, for the Federation's interior security and defense;
- VII. To dispose of the National Guard for the same purposes mentioned hereinbefore, in accordance with the terms set forth in Section IV of Article 76;
- VIII. To declare war in the name of the United Mexican States pursuant to a law previously enacted by the Congress of the Union to that end;
- IX. To appoint the General Attorney of the Republic with the ratification by the Senate;
- X. To direct foreign policy and to celebrate international treaties, subject to approval by the Senate. In conducting foreign

policy, the President of the Republic shall abide by the following guiding principles: self-determination of peoples; nonintervention; pacific settlement of disputes; to refrain in their international relations from threats or use of force; of equal rights of States; international cooperation for development; and to maintain international peace and security;

XI. To summon the Congress to extraordinary sessions, in accordance with the respective resolution of the Permanent Commission;

XII. To give the Judicial Power the assistance it requires for the prompt discharge of its duties;

XIII. To enable all sorts of ports, establish maritime and frontier customhouses, and to determine their location;

XIV. To grant, according to the laws, pardons to criminals convicted for crimes under the jurisdiction of federal courts, and to individuals convicted for crimes under the local jurisdiction of the Federal District;

XV. To grant exclusive privileges for a limited time, in accordance with the respective law, to discoverers, inventors, or improvers in any branch of industry;

XVI. When the Senate is not in session, the President of the Republic may make the appointments provided in sections III, IV and IX, with the approval of the Permanent Commission;

XVII. (Repealed);

XVIII. To submit to the Senate's approval, a proposal of three candidates to make the appointment of Justices of the Supreme Court of Justice, and to also submit thereto the requests for leaves of absence and resignations of said Justices;

XIX. (Repealed);

XX. Any others powers explicitly vested upon him by this Constitution.

**Article 90.** Federal Public Administration shall be centralized and decentralized<sup>6,27</sup> in accordance with the provisions of the Organic Law to be enacted by the Congress. Said Law shall distribute the administrative affairs of the Federation that shall be entrusted to the Secretariats of State and Administrative Departments.

It will also establish the general principles for constituting decentralized agencies and Government controlled corporations and the intervention of the President of the Republic in their operation.

The laws shall set forth the relation between decentralized agencies and Government controlled corporations, and the President of the Republic or between such entities and the Secretariats and Administrative Departments.

#### **CHAPTER FOUR The Judicial Power**

**Article 94.** The exercise of the Judicial Power of the Federation is vested on the Nation's Supreme Court of Justice, in an Electoral Court, in Collegiate and Unitary Circuit Courts, and in District Courts. Management, supervision and discipline of the Judicial Power of the Federation, with the exception of the Nation's Supreme Court of Justice, shall be entrusted to the Council of the Federal Judiciary, under the terms established by the Law, in accordance with the bases set forth in this Constitution.

The Nation's Supreme Court of Justice shall be composed with eleven Justices and shall function in full court or in chambers.

In accordance with the terms provided by the Law, the sessions in full court and in chambers shall be public, and by exception, when public interest or public morals should so require it, the sessions shall be secret.

The jurisdiction of the Supreme Court, its operation in full court or in chambers, the jurisdiction of Circuit Courts, District Courts and of the Electoral Court, as well as the liabilities in which the public officers of the Judicial Power of the Federation may incur, shall be governed by the provisions set forth in the laws, in accordance with the bases established in this Constitution.

The Council of the Federal Judiciary shall establish the number, circuit division, territorial jurisdiction and, as appropriate, the specialization by subject matter of Collegiate Courts, Unitary Circuit Courts and District Courts.

The Supreme Court of Justice in full court shall have powers to issue general decrees, with the aim of attaining an

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<sup>6</sup> The text in Spanish uses the term *paraestatal*. This term refers to several public agencies and corporations, which are under diverse levels of government control. Some dictionaries translate it as quasi-public corporations.

adequate distribution among the chambers, of the affairs under the jurisdiction of the Court, as well as to remit to Collegiate Circuit Courts those cases where it shall have established binding judicial precedents<sup>7</sup> for their prompt dispatch, or such cases which the Court decides to forward, in accordance with such decrees, for a better dispensation of justice. Said decrees shall be in force upon their publication.

The Law shall determine the terms under which binding judicial precedents established by the courts of the Judicial Power of the Federation shall be mandatory in respect to the interpretation of the Constitution, federal or local laws and regulations, and international treaties celebrated by the Mexican State, as well as the requirements for its interruption and amendment.

The remuneration received by the Justices of the Supreme Court, Circuit Magistrates,<sup>29</sup> District Judges and Councillors of the Council of the Federal Judiciary, as well as the Electoral Magistrates, may not be reduced during their term in office.

The Justices of the Supreme Court of Justice shall hold their office for a term of fifteen years, and may only be removed therefrom in accordance with the terms set forth by Title Fourth of this Constitution. Justices shall be entitled to a retirement payment at the end of their term.

No individual who has been a Justice may be appointed for a new term, unless he has held the office in a provisional or interim character.

#### **Chapter IV The Judiciary**

##### **Article 102.**

**A.** The law will organize the Office of the Public Prosecutor of the Federation, officials of which will be named and removed by the Executive, in accordance with respective law. The Office of the Federal Public Prosecutor will be presided over by the Attorney General of the Republic, appointed by the Chief of the Federal Executive and ratified by the Senate, or, during recesses thereof, by the Permanent Commission of Federal Congress. The Attorney General must: be a Mexican citizen by birth; be at least thirty-five years of age as of the date of appointment; hold the degree of licentiate in law, having obtained said degree at least ten years prior to appointment; possess a reputation as an upstanding citizen, and not have been convicted for any willful crime. The Attorney General may be removed at the discretion of the Executive.

The Office of the Public Prosecutor of the Federation is responsible for prosecution, before all courts, of all federal crimes; and, by the same token, it is incumbent upon this Office to request arrest warrants for suspects; search for and submit evidence that demonstrates the guilt of these; ensure that trials proceed regularly so that the administration of justice may be quick and expeditious; request the imposition of penalties and participate in all business as determined by law.

The Attorney General of the Republic will personally participate in the controversies and actions referred to by Article 105 of this Constitution.

In all business involving the Federation, in the cases involving diplomats and consul generals, and in other business calling for the participation of the Public Prosecutor of the Federation, the Attorney General may intervene personally or through his deputy attorney generals.

The Attorney General of the Republic and his deputy attorney generals will be responsible for any offense, omission or violation of the law they commit in the discharge of their functions.

The function of legal advisor to the Government will be incumbent upon the agency of the Federal Executive established

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<sup>7</sup> The text in Spanish uses the term *Jurisprudencia*. This term does not refer to any judicial resolution but only to those that constitute a binding judicial precedent. Articles 94 and 107 of this Constitution regulate the way in which it is created, as well as statutes governing federal procedures. *Jurisprudencia* or mandatory judicial precedent is created when the Supreme Court of Justice or Collegiate Circuit Courts (Appeal courts of the Federal Judiciary) rule in the same way in five consecutive occasions, in which case all lower federal courts must abide by such holdings. The Federal Electoral Court is also able to produce *jurisprudencia*.

by the law for such a purpose.

**Article 121.** Complete faith and credit shall be given in each State to the public acts, records and judicial proceedings of all the other States. The Congress of the Union, through general laws, shall establish the manner for proving such acts, records and proceedings and their effect, subject to the following bases:

I. The laws of a State shall have effect only within its own territory and consequently are not binding outside of that State;

II. Real and personal property shall be governed by the laws of the place of their location;

III. Judgments pronounced by the Courts of one State in respect to rights in rem or real estate property located in another State, may only be enforced in the other State when its own laws so provide it. Judgments in respect to rights in personam shall only be enforced in another State when the defendant who has lost has explicitly or by reason of domicile, submitted himself to the jurisdiction of the courts that issued such judgment and provided that he was summoned to appear in court by notice served in person;

IV. Acts pertaining to marital status according to the laws of one State shall be valid in the other States;

V. Professional degree certificates issued by the authorities of one State, subject to its laws, shall be respected in all other States.

**Article 133.** This Constitution, the laws of the Congress of the Union which shall be enacted in pursuance thereof and all treaties in accordance therewith, celebrated or which shall be celebrated by the President of the Republic with the approval of the Senate, shall be a supreme law of the Union. The judges of the Federal District and of the States shall be bound thereby, notwithstanding any provision to the contrary in the local constitutions or local laws.

**FEDERAL CODES**

**FEDERAL CRIMINAL CODE** (*Código Penal Federal*)

1; 2; 3; 4; 11; 12; 13; 24; 40; 41; 139; 139 Bis; 139 Ter; 141; 142; 145; 148 Bis; 148 Ter; 148 Quarter; 167; 400; 400 Bis;

**BOOK ONE  
PRELIMINARY TITLE**

**Article 1.** This Code will apply throughout the Mexican Republic to federal crimes.

**Article 2.** Moreover, it will apply to:

**I.** Crimes that are initiated, prepared or committed abroad, when these produce or are intended to produce effects in Mexican territory; or crimes that are initiated, prepared or committed abroad, where, in the case where a binding treaty to which Mexico is party stipulates the obligation of extradition or trial, the requirements stipulated in Article Four of this code are met, and the probable offender is not extradited to any country that has so required, and

**II.** Crimes committed in Mexican consulates or against Mexican consulate personnel, where such crimes have not been tried in the country in which they are committed.

**Article 3.** Continuing offenses committed abroad that are continued in the Mexican Republic, will be prosecuted pursuant to Mexican law, whether the perpetrators be Mexicans or foreigners.

The same rule will apply in the case of ongoing crimes consisting of multiple offenses.

**Article 4.** Crimes committed in foreign territory by a Mexican against Mexicans or against foreigners, or by a foreigner against Mexicans, will be penalized in the Mexican Republic, pursuant to federal laws, provided the following requirements are met:

- I.** The accused party is physically present in the Mexican Republic;
- II.** A final judgement has not been rendered with regard to the accused party in the country in which the offense was committed, and
- III.** The violation of which the offender is accused is considered a crime in the country in which it was committed, and in the Mexican Republic.

**TITLE ONE  
Criminal Liability  
CHAPTER I**

**General Rules on Crimes and Liability**

**Article 11.** When any member or representative of a legal entity, or of an association, company or corporation of any kind, except governmental institutions, commits a crime with the means provided by the foregoing entities for the purpose of committing such a crime, in such a way that the offense is committed on behalf of the entity represented or in benefit thereof, the judge may, exclusively in those cases specified by law, order, as part of the sentence, the suspension or dissolution of the grouping, when he considers it necessary for public security.

**CHAPTER II  
Criminal Attempt**

**Article 12.** Punishable criminal attempt exists when the resolution to commit a crime is demonstrated through total or partial realization or the actions that would produce the result, or failure to perform those actions that would prevent the result, where consummation of the crime is impeded by causes outside of the will of the agent. Regarding the imposition of the penalty for criminal attempt, the judge will consider, in addition to the provisions of Article 52, the degree of closeness of the attempt to the actual consummation of the crime.

If the subject, at his own initiative, desists from the execution of the crime or impedes the consummation thereof, no penalty or security measure whatsoever will be imposed with relation thereto, without prejudice to application of those penalties or public security measures that may correspond to actions executed or omissions that constitute crimes in and of themselves.

**CHAPTER III  
Persons Liable for Crimes**

**Article 13.** The following persons are considered perpetrators or accessories to crimes:

- I.** Those who plan or prepare the commission of a crime.
- II.** Those who commit a crime individually;
- III.** Those who commit a crime jointly;
- IV.** Those who commit a crime through another person;
- V.** Those who intentionally lead another person to commit a crime;
- VI.** Those who intentionally provide aid or assist another person in the commission of a crime;
- VII.** Those who, after commission of the crime, assist the offender in fulfillment of a promise made before the crime, and
- VIII.** Those who, with no prior agreement, participate with others in the commission of a crime, where the specific results

of the individual actions of each person cannot be determined.

The liability of a perpetrator or accessory to a crime as referred to in this article will be determined in accordance with the individual culpability of said perpetrator or accessory.

The punishability stipulated by Article 64 bis of this code will be applied to the subjects referred to in sections VI, VII and VIII.

**TITLE TWO**  
**CHAPTER I**  
**Penalties and Security Measures**

**Article 24.** Penalties and public security measures are:

1. Imprisonment.
  2. Probation, prison furloughs and community service.
  3. Internment or probation for persons incompetent to stand trial or with addictions to narcotics or mind-altering drugs.
  4. Confinement.
  5. Stay-away order.
  6. Monetary sanction.
  7. (Derogated).
  8. Confiscation of instruments, objects and proceeds of the crime.
  9. Admonition.
  10. Warning.
  11. Good behavior bond.
  12. Suspension or deprivation of rights.
  13. Disqualification, dismissal or suspension of functions or employment.
  14. Public notice of court ruling.
  15. Supervision of the authority.
  16. Suspension or dissolution of companies or associations.
  17. Juvenile wardship measures.
  18. Confiscation of assets corresponding to illicit enrichment.
- And others as established by law.

**CHAPTER VI**  
**Confiscation of Instruments, Objects and Products of the Crime**

**Article 40.** The instruments of the crime, as well as the objects and products thereof, will be confiscated if their use is illegal. If their use is lawful, they will be confiscated if the crime was intentional. If they belong to a third party, they will only be confiscated if the third party that has them in its power or has acquired them by any means, falls under any of the categories referred to in Article 400 of this code, independently of the legal character of said third party owning or possessing the foregoing items, or of the relationship of the third party with the offender, if any. The competent authorities will immediately seize the assets subject to confiscation, during the investigation or trial. The terms set forth in this paragraph will be observed regardless of the nature of the instruments, objects or proceeds of the crime.

If the confiscated instruments or items are harmful or hazardous substances, they will be destroyed at the discretion of the authority hearing the case, as per the terms set forth by the Code of Criminal Procedures; however, said authority, upon deeming it appropriate, may order the preservation of the foregoing items for purposes of education or investigation. With

respect to the instruments of the crime, or the items that are object or product thereof, the competent authority will determine their disposition, according to their usefulness for the administration of justice, or their destruction, as the case may be, pursuant to applicable law.

**Article 41.** Those objects or assets at the disposal of the investigating or judicial authorities that have not been confiscated, and that are not claimed by whomever has right thereto, in a period of ninety calendar days counted from the date notification is made to the interested party, will be sold at public auction, and the proceeds of the sale will be applied to whomever is entitled to receive them. If the foregoing party does not appear within the six months following the date of notification, the proceeds of the sale will go towards improvement in the administration of justice, after deductions of expenses caused.

Goods that are at the disposal of the authority and that should not be destroyed and cannot be preserved, or are costly to preserve, will be sold immediately at public auction, and the proceeds will be at the disposition of whomever is entitled to them for a period of six months from the date of notification; after said period, proceeds will be applied to improvement of the administration of justice.

**Article 139<sup>8</sup>.**- Imprisonment of six to forty years and a fine of up to one thousand two hundred days<sup>9</sup>, notwithstanding any punishments applicable to the offences that may result, shall be imposed to anyone who carries out acts utilizing toxic substances, chemical, biological or similar weapons, radioactive material or instruments that emit radiations, explosives or firearms, or through fire, flood or any other violent means against people, goods or public services that produce alarm, fear or terror in the population or in a group or sector of the population, to attempt against the national security, or to pressure the authority to make a determination.

The same punishment shall be imposed to anyone who directly or indirectly finances, contributes, or collects economic funds or resources of any nature, with knowledge that such funds or resources will be used, in whole or in part, as support of individuals or organizations that manage or carry out terrorist acts in the national territory.

**Article 139 Bis.**- Imprisonment of one to nine years and a fine of one hundred to three hundred days shall be imposed to anyone that hides a terrorist, having knowledge of its activities or identity.

**Article 139 Ter.**- Imprisonment of five to fifteen years and a fine from two hundred to six hundred days shall be imposed to anyone that threatens to commit the offence of terrorism referred to in the first paragraph of article 139 above.

## **CHAPTER VIII**

### **Conspiracy**

**Article 141.** A penalty of one to nine years of prison and a fine of up to ten thousand pesos will be imposed on those who conspire to commit one or several of the crimes of this title and plot the means to carry out such conspiracy.

**Article 142.**- Anyone that instigates, incites, or invites to commit the offences referred to in this Title shall be punished with the same penalties foreseen for said offences, except for articles 130, second paragraph, 131, second paragraph, and 135, fraction I, that maintain their specific penalties.

Imprisonment of five to forty years shall be imposed to anyone that instigates, incites, or invites active military personnel to commit any of the offences referred to in this Title, except for the offence of terrorism which punishment shall be of

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<sup>8</sup> This article is included in the Second Book, First Title (“Offences Against the Security of the Nation”), Chapter VI (“Terrorism”), of the Federal Penal Code.

<sup>9</sup> Under the Federal Penal Code, a fine of one day is equivalent to the net daily income of the convict at the moment the crime was committed considering all income of such convict.

eight to forty years of imprisonment and a fine of five hundred to one thousand one hundred and fifty days.

**Article 145.-** Imprisonment of five to forty years and a fine of one hundred twenty to one thousand one hundred and fifty days shall be imposed to the officer or employee of federal or state governments or of municipalities, decentralized public organisms, companies with state participation or public services that commits any of the offences foreseen in this Title, except for the offence of terrorism which punishment shall be of nine to forty five years imprisonment and a fine of five hundred to one thousand one hundred and fifty days.

## Second Title

### “Crimes Against International Law” Chapter III “International Terrorism”

**Article 148 Bis.-** Imprisonment of fifteen to forty years and a fine of four hundred to one thousand two hundred days, notwithstanding any punishments applicable to other offences that may result, shall be imposed to:

I) Anyone who carries out in Mexican territory acts utilizing toxic substances, chemical, biological or similar weapons, radioactive material or instruments that emit radiations, explosives or firearms, or through fire, flood or any other violent means against goods or people of a foreign state, or of any international organization, that produce alarm, fear or terror in the population or in a group or sector of the population, to try to undermine the authority of that foreign state, or force that state or an international organization to take a determination;

II) Anyone who directly or indirectly finances, contributes, or collects economic funds or resources of any nature, with knowledge that such funds or resources will be used, in whole or in part, to carry out international terrorist acts, or as support of terrorist persons or organizations that operate abroad, and

III) Anyone who agrees or prepares in Mexican territory a terrorist act that intends to be or has been carried out abroad.

**Article 148 Ter. -** Imprisonment of five to ten years and a fine from one hundred to three hundred days shall be imposed to anyone that hides a terrorist, having knowledge of its identity or that such person carries out any of the activities foreseen in this chapter.

**Article 148 Quáter. -** Imprisonment of six to twelve years and a fine of two hundred to six hundred days shall be imposed to anyone that threatens to commit the offence of terrorism referred to in fraction I of article 148 Bis.

**Article 167.-** Imprisonment of one to five years and a fine of one hundred to ten thousand days shall be imposed to:

I. The mere fact of pulling out or altering without authorization train rails, nails, screws, plates or other similar objects used to hold or support railroads of public use;

II. Anyone that destroys or splits up posts, insulators, wires, machines or equipment used for telegraphic systems, any component of the public network of telecommunications, telephone services, commutation, or radio communication, or any component of an installation of magnetic or electromagnetic energy or its means of transmission;

III. Anyone that in order to stop vehicles in a public pathway or to hamper the march of a locomotive or derail it, clears or destroys any of the objects referred in fraction I above or places obstacles;

IV. The fire caused in a railway wagon or any other cargo vehicle that does not transport people;

V. Anyone that floods entirely or partially a public pathway or throws water so as to cause severe damage;

VI. Anyone with intent or a purpose to obtain a profit disrupts or interferes wire, wireless, or optical fiber communications, either telegraphic, telephonic or satellite, by means of which audio, video, or data signals are

transmitted;

VII. Anyone that destroys entirely or partially or paralyzes through any means referred in the preceding fractions, equipment used in an iron pathway or a boat or destroys or deteriorates a bridge, dock, road or route;

VIII. Anyone with a purpose to damage or complicate communications, who modifies or alters the internal mechanism of a vehicle causing it to loose power, speed or security, and

IX. Anyone that spreads or transmits false information that may damage the security of an airplane, ship or any other vehicle used in federal public services.

## **Title Twenty Three Concealment and Transactions With Resources From Illicit Origin**

### **Chapter I Concealment**

**Article 400.** Imprisonment of three months to three years and a fine proportional to the income of the offender over fifteen to sixty days, will be applied to any person who:

**I.-** - With the intention of profit, after the execution of the crime and without having participated therein, acquires, receives or conceals the product thereof while aware of this circumstance.

If the person that received the item through sale, pledge or any other means, had no knowledge of the illicit origin of said item, as a result of not having taken the necessary precautions to ensure that the person from whom the item was received was entitled to dispose of said item, the penalty will be reduced by up to half;

**II.-** - Assists or collaborates in any way with the perpetrator of a crime, with knowledge of these circumstances, through agreement made after the execution of said crime;

**III.-** Conceals or aids in the concealment of the perpetrator of a crime, the effects, objects or instruments thereof, or impedes investigation thereof;

**IV.-** Does not provide assistance for the investigation of the crimes or prosecution of the offenders when so required by the authorities; and

**V.-** Does not undertake to prevent the consummation of crimes that he knows will be committed or that are being committed by all lawful means available to him and without risk to his person, except when under obligation to confront the foregoing risk, in which case the provisions of this article or other applicable regulations will apply.

The penalty set forth in this article will not apply in the cases of Section III, with regard to the concealment of the offender, and Section IV, in the specific cases of:

**a)** Ascendants and descendants by consanguinity or affinity.

**b)** Spouse, domestic partner, or collateral relative within the fourth degree of consanguinity, or the second degree of affinity; and

**c)** Those persons connected to the offender by love, respect, gratitude or close friendship for noble reasons.

The judge, considering the nature of the action, the personal circumstances of the defendant and others specified by Article 52, may impose, in the cases of concealment referred to in Section I, first paragraph, and sections II to IV of this article, instead of the sanctions specified, up to two thirds of the penalty that would correspond to the perpetrator of the crime, and the grounds for the application of the sanction authorized by this paragraph must be provided in the sentence.

### **Chapter II Transactions with resources from illicit origin**

**Article 400 Bis.-** A five to fifteen years penalty and a fine from one up to five thousand days of the minimum wage, shall be imposed on any individual that by himself or through a third party, carries out any of the following behaviors: purchase, management, sale, custody, warranty, investment, transportation or transfer, within national territory; from Mexico to abroad or inversely, knowing that resources, rights or assets of any nature originated from or represent the product of an illicit activity, with the purpose of, concealing or attempting to conceal, disguising or attempting to disguise, the origin, nature ownership, destination or location of the referred money or assets as well as promoting any illicit activity.

The same penalties shall be imposed on the employees and institutions' officers that integrate the financial system, that willfully assist or cooperate with a third party to carry out the behaviors mentioned in the herein above paragraph, in accordance with that foreseen in the provisions in effect that regulate the financial system.

The penalty provided in the first paragraph shall be increased to a half, in the event that a government ofcial in charge of the prevention, prosecution, investigation of said offenses, carries out an illicit behavior. Furthermore, in such case, government officials will not be able to serve or have a position at any public institution for a period equal to the length of imprisonment.

In the event that behaviors provided by this article, were carried out through services rendered by institutions that are part of the financial system, a formal accusation previously filed by the Secretariat of Finance and Public Credit shall be necessary in order to take criminal action.

In the event, that through its verifying powers, the Secretariat of Finance and Public Credit finds elements to prove the alleged commission of offenses provided in the preceding paragraph, it shall exercise the verifying powers legally conferred to it, in order to file a formal accusation on said offenses.

For the purposes of this article, products originated from any illicit activity are defined as the resources, rights or assets of any nature which are assumed to be directly or indirectly obtained from the commission of any offense, or that represent the asset value or any other profit thereof, in the event that its legitimate origin cannot be proven.

For the same purpose, the financial system is integrated by credit, bonds and insurance institutions, bonded warehouse, leasing institutions, loan and savings corporations, limited liability financial corporations, credit unions, financial factorage enterprises, stock exchange brokers, money exchange offices, retirement fund corporations, and any other financial or exchange mediator.

<b>FEDERAL CODE OF CRIMINAL PROCEDURES</b> <i>(Código Federal de Procedimientos Penales)</i>	1; 2; 180; 181; 182; 182 C; 182 E; 182 R; 194
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**PRELIMINARY TITLE**

**Article 1.** This code consists of the following procedures:

- I.** Pretrial investigation before filing of charges, which establishes the procedures legally necessary so that the Public Prosecutor can decide whether to file charges;
- II.** Pre-trial, in which proceedings are carried out to determine the facts pertaining to the process, the classification of these according to the applicable type of criminal offense and the probable guilt of the defendant, or, where appropriate, release of the defendant due to lack of grounds for trial;
- III.** Trial, which includes proceedings before and by the courts in order to ascertain and prove the existence of the crime, the circumstances in which it was committed and the particular circumstances of the defendant, as well as said defendant's criminal liability or absence thereof;

**IV.** First instance, during which the Public Prosecutor presents its case, the defendant presents his defense before the court, and the court evaluates the evidence and renders a final verdict.

**V.** Second instance, before the appeals court, in which proceedings and actions are carried out to adjudicate appeals;

**VI.** Execution, which runs from the moment the sentence ordered by the courts becomes final and conclusive until the extinction of the sanctions applied;

**VII.** Those procedures pertaining to persons incompetent to stand trial, juveniles and those persons addicted to narcotics or mind-altering drugs.

If, in any of the foregoing proceedings, any juvenile or person incompetent to stand trial is observed to have a connection to the events to which said proceedings pertain, whether as perpetrator, accessory, witness, victim or aggrieved party, or in any other way, the Public Prosecutor or the respective court will compensate for the absence or deficiency of arguments and grounds that lead to protection of the rights that may legally correspond to them.

**Article 2.** It is incumbent on the Federal Public Prosecutor's Office to carry out the investigation and, where appropriate, file charges before the courts.

In the investigation, the Public Prosecutor must:

**I.** Hear the accusations or complaints presented verbally or in writing on events that may constitute crimes;

**II.** Carry out and order the performance of all actions conducive to proof of corpus delicti and probable guilt of the defendant, as well as restitution.

**III.** Request, from judicial authority, precautionary measures of preventive detention, seizure or attachment necessary for the pretrial investigation, as well as search warrants, as appropriate;

**IV.** Authorize the detention or custody of suspects where appropriate;

**V.** Order all necessary measures to provide safety and aid to victims;

**VI.** Protect or provide restitution of aggrieved party's rights pursuant to Article 38;

**VII.** Decide whether to reserve or file charges;

**VIII.** Authorize and personally notify the aggrieved party if an indictment will not be filed, and, where appropriate, settle objections articulated by them;

**IX.** Grant or revoke, as appropriate, provisional release of the suspect;

**X.** Where appropriate, promote conciliation of the parties; and

**XI.** Others pursuant to law.

## **TITLE FIVE**

### **Regulations Common to Pretrial Investigation and Trial**

#### **CHAPTER I**

##### **Proof of Corpus Delicti and Probable Guilt of Defendant**

**Article 180.** To prove corpus delicti and probable guilt of the suspect, the Public Prosecutor and the courts will enjoy the broadest right of action to employ the means of investigation they deem appropriate, even where these methods are not defined by law, provided they do not violate the law.

The requests made by the Attorney General of the Republic or the public servant to whom he delegates this authority, or the judicial authority, as the case may be, for information or documents regarding the financial system will be made through the National Banking and Securities Commission, the National Insurance and Finance Commission, as well as the National Savings Commission and the Tax Administration Service, in their respective areas. Requests for information or

documents of a fiscal nature will be made through the unit of the Department of Treasury and Public Credit determined by the head of said department.

The information and documents thus obtained may only be used in the investigation and for purposes of the criminal proceedings, and must be handled with the strictest confidentiality. Any public servant who violates the confidentiality of court proceedings or provides copies thereof or of pretrial investigation documents will be subject to criminal and administrative liability proceedings, as appropriate.

## **CHAPTER II**

### **Traces of the Crime. Seizure of Instruments and Objects of the Crime.**

**Article 181.** The instruments, objects or products of the crime, as well as the property on which traces may be found, or which may be related to said crime, will be seized to ensure they do not disappear nor are altered nor destroyed. The management of seized assets will be carried out pursuant to the law on the subject.

Authorities acting in assistance of the Public Prosecutor will immediately hand over the assets to which the previous paragraph refers. The Public Prosecutor, upon receiving the assets, will make a decision regarding their seizure.

In the case of fields of marijuana, opium poppies or other narcotics, the Public Prosecutor, the Judicial Police or the authorities acting in assistance thereof, will proceed to destroy these fields, preparing a report to certify: the field area, amount or volume of the narcotic, and samples of the narcotic will be collected, to be used in the pretrial investigation begun to the effect.

When narcotics or mind-altering drugs are seized, the Public Prosecutor will authorize and oversee their destruction, if appropriate, after inspection of the substances through which their nature, weight and other characteristics will be determined. A representative sample will be kept for the preparation of expert opinions that are to be obtained in the investigation or the trial, as the case may be.

**Article 182.** Upon the seizure, the federal prosecutors, with the aid of the Federal Agency of Investigations, or the court clerks and other officials designated by the judicial authority to carry out the procedure, as appropriate, must:

- I.** Prepare a report of the inventory of seized assets including their description and condition;
- II.** Identify the seized assets with seals, marks, stamps, brands, signs or other appropriate means;
- III.** Provide appropriate and immediate measures to prevent seized assets from being destroyed, altered, or from disappearing;
- IV.** Request that the seizure be recorded in the corresponding public registries pursuant to Article 182-D of this code, and
- V.** Once the foregoing requirements have been satisfied, turn the assets over to the competent authority for their management within seventy-two hours, on the date and at the sites agreed upon prior with said authority, in accordance with applicable law.

The authority that initiates the action of seizure is obligated to complete it pursuant to the terms of this chapter.

Assets seized during the pretrial investigation or trial that may be elements of evidence, will be managed by the Asset Management and Disposal Service, in accordance with applicable legislation.

**Article 182-C.** If the assets seized have previously been attached, taken under management of judicial authorities, embargoed or seized, notification of the new seizure will be made to the authorities who have ordered these actions. The assets will continue under custody of whomever has been designated for that purpose, and at the disposal of the judicial authority or of the Federal Public Prosecutor for the purposes of the criminal proceedings.

In the event prior embargo, intervention, attachment or seizure is lifted, whomever has custody of the assets will deliver them to the competent authority for effects of their management.

The seized goods may not be conveyed or pledged by their owners, custodians, government managers or administrators during the period of the seizure for the criminal proceedings, except in those cases expressly specified by the applicable

regulations.

Seizure does not imply any modification whatsoever to existing pledges on assets.

**Article 182-E.** Proceeds or yields of the assets generated during the period of seizure will be treated in the same fashion as the seized assets that generate them.

**Article 182-R.** Funds obtained through disposal of assets confiscated in federal criminal proceedings, as referred to in Section I of Article 1 of the Federal Law for Management and Disposition of Public Sector Assets, as well as the disposal of yields and proceeds thereof, will be shared equally between the Federal Judiciary, the Office of the Attorney General of the Republic and the Health Department, in accordance with the provisions of Article 89.

The funds corresponding to the Health Department must go towards programs of drug addiction prevention and rehabilitation.

#### **CHAPTER IV Detention of Accused Party**

**Article 194.-** The offences foreseen in the following laws are deemed serious, for all legal effects, considering that they severely impinge on fundamental values of the society:

I. From the Federal Penal Code, the following offences:

- 1) Homicide by serious culpability, foreseen in article 60, third paragraph;
- 2) Treason to the Nation, foreseen in articles 123, 124, 125 and 126;
- 3) Espionage, foreseen in articles 127 and 128;
- 4) Terrorism, foreseen in articles 139 to 139 Ter and international terrorism foreseen in articles 148 Bis to 148 Quater;
- 5) Clandestine import of firearms that are reserved for exclusive use of the Army, Navy or Air force services, foreseen in article 84 Bis, first paragraph.
- 6) Felonies foreseen in articles 142, second paragraph and 145;
- 7) Piracy, foreseen in articles 146 and 147;
- 8) Genocide, foreseen in article 149 Bis;
- 9) Prisoners' evasion, foreseen in articles 150 and 152;
- 10) Attacks to communication means, foreseen in articles 168 and 170;
- 11) Illicit use of facilities destined to air traffic, foreseen in article 172 Bis third paragraph;
- 12) Drug related offences, foreseen in articles 194, 195, first paragraph, 195 Bis, excepting cases related to the first two rows of the table contained in appendix I, 196 Bis, 196 Ter, 197, first paragraph and 198, first part of third paragraph;
- 13) Corruption of minors or disabled people, foreseen in article 201; Pornography of minors or disabled people, foreseen in article 202; Sexual tourism against minors or disabled people, stated in articles 203 and 203 BIS; pimping minors or disabled people, stated in article 204; sexual abuse against minors or disabled people, established in article 205; human trafficking stated in article 207;
- 14) Offences foreseen in article 205, second paragraph;
- 15) Sexual exploitation of minors, foreseen in article 208;
- 16) Falsification and alteration of currency, foreseen in articles 234, 236 and 237;
- 17) Falsification and undue utilization of credit instruments, foreseen in article 240 Bis, excepting for fraction III;

- 18) Against consume and national wealth, foreseen in article 254, fraction VII, second paragraph;
  - 19) Rape, foreseen in articles 265, 266 and 266 Bis;
  - 20) Assault in roads or highways, foreseen in article 286, second paragraph;
  - 21) Physical damage, foreseen in articles 291, 292 and 293, when it is committed in any of the circumstances foreseen in articles 315 and 315 Bis;
  - 22) Homicide, foreseen in articles 302 in relation to 307, 313, 315, 315 Bis, 320 and 323;
  - 23) Abduction, foreseen in article 366, excepting for the last two paragraphs and trafficking of minors, established in article 366 ter;
  - 24) Aggravated robbery, foreseen in article 367 when it is committed in any of the circumstances mentioned in articles 372 and 381, fractions VII, VIII, IX, X, XI, XIII, XV and XVI;
  - 25) Aggravated robbery, foreseen in article 367 in relation with article 370 second and third paragraphs, when it is committed in any of the circumstances mentioned in article 381 Bis;
  - 26) Customary commercialization of robbed objects, foreseen in article 368 Ter;
  - 27) Subtraction or illegal exploitation of hydrocarbon or its derivatives, foreseen in article 368 Quater, second paragraph;
  - 28) Robbery, foreseen in article 371, last paragraph;
  - 29) Vehicles' robbery, foreseen in article 376 Bis;
  - 30) Felonies foreseen in article 377;
  - 31) Extortion, foreseen in article 390;
  - 32) Money laundering, foreseen in article 400 Bis, and
  - 32 Bis) Intentional felonies against the environment, foreseen in articles 414, first and third paragraphs, 415, last paragraph, 416, last paragraph and 418, fraction II, when the volume of the damage exceeds 2 cubic meters of timber or it is related to the conduct foreseen in articles 419, last paragraph and 420, last paragraph;
  - 33) Felonies related to property or author rights, foreseen in article 424 Bis;
  - 34) Compelled disappearance of persons, foreseen in article 215-A;
  - 35) Felonies against the environment, foreseen in article 420, fraction II Bis;
- II. From the Federal Law against Organized Crime, the offence foreseen in article 2.
- III. From the Federal Law of Firearms and Explosives, the following offences:
- 1) Transportation of firearms that are reserved for the exclusive use of the Army, Navy and Air force services, foreseen in article 83, fraction III;
  - 2) Offences foreseen in article 83 Bis, except for the case stated in article 11, subsection i);
  - 3) Possession of firearms that are reserved for the exclusive use of the Army, Navy and Air force services, foreseen in article 83 Ter, fraction III;
  - 4) Felonies foreseen in article 84, and
- IV. From the Federal Law to Prevent and Sanction Torture, the torture offence foreseen in articles 3 and 5.
- V. From the General Law of Population, trafficking with illegal migrants, foreseen in article 138.
- VI. From the Federal Fiscal Code, the following offences:
- 1) Smuggling and its equivalents, foreseen in articles 102 and 105, fractions I to IV, when they deserve the sanctions

foreseen in fractions II or III of article 104, second paragraph, and

2) Tax fraud and its equivalents, foreseen in articles 108 and 109, when the defrauded amount ranks the thresholds stated in fractions II or III of article 108, exclusively when they are aggravated.

VII. From the Law of Intellectual Property, the offences foreseen in article 223, fractions II and III.

VIII. From the Law of Credit Institutions, the offences foreseen in articles 111; 112, regarding the case foreseen in the fourth paragraph, excepting fraction V and 113 Bis, in the case described in the fourth paragraph of article 112;

IX. From the General Law of Auxiliary Credit Organizations and Activities, the offences foreseen in articles 98, in the case described in the fourth paragraph, excepting fractions IV and V, and 101;

X. From the Federal Law of Sureties Institutions, the felonies established in articles 112 Bis; 112 Bis 2, in the case described in the fourth paragraph; 112 Bis 3, fractions I and IV, in the case described in the fourth paragraph; 112 Bis 4, fraction I, in the case described in the fourth paragraph of article 112 Bis 3, and 112 Bis 6, fractions II, IV and VII, in the case described in the fourth paragraph;

XI. From the Federal Law of Insurance Institutions and Mutual Entities, the felonies established in articles 141, fraction I; 145, in the case described in the fourth paragraph, excepting fractions II, IV and V; 146 fractions II, IV and VII, in the case described in the fourth paragraph, and 147, fraction II subsection b), in the case described in the fourth paragraph of article 146;

XII. From the Law of the Securities Market, the offences foreseen in articles 52 and 52 Bis when the disposed amounts of the securities, titles of credit or documents mentioned in article 3 of said Act exceed the equivalent of 350 thousand “wage days”;

XIII. From the Law of the Saving for Retirement Systems, the felonies foreseen in articles 103, and 104 when the disposed amounts of the funds, securities or documents manager by the workers exceed 350 thousand “wage days”, and

XIV. From the Law of Bankruptcies and Suspension of Payments, the felonies established in article 96.

The punishable attempt of the felonies mentioned herein above, would also constitute a serious offence.

XV. From the General Law of Health, the offences foreseen in article 464 Ter, fractions I, II, and III.

<b>FISCAL CODE OF THE FEDERATION</b> ( <i>Código Fiscal de la Federación</i> )	105; 156 Bis
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**Article 105.** The same penalties that apply to smuggling will apply to:

I.... XVII

Persons who, when entering or leaving the country, fail to make customs declarations of cash, checks drawn on Mexican or foreign banks, payment orders or any other documents for collection, or a combination of these, over the equivalent, in currency or currencies as the case may be, of thirty thousand dollars of the United States of America will be sanctioned with a prison sentence of three months to six years. In the event a sentence against the defendant is issued by the competent authority with respect to the commission of the crime to which this paragraph makes reference, the amount in excess of the limit specified above will become property of the federal tax authorities, unless the person in question demonstrates the lawful origin of these funds.

**Article 156-bis.** In the event of attachment of bank deposits per the terms of Article 155, Section I hereof, the authority that has ordered the attachment will issue an official notice to the manager of the bank branch of the account, instructing the bank to freeze and hold the deposited funds.

The banking institution must inform the foregoing authority of any increase in amounts of bank deposits due to interests generated, and such information must be provided with the same frequency as normally provided to the account holder.

Funds may only be transferred to the federal tax authorities once the related tax liability becomes final, and up to the amount necessary to cover said obligation.

Until the secured tax liability becomes final, the account holder of the attached accounts may offer another form of guarantee pursuant to Article 141 of this code, in place of attachment of accounts. The authority must come to a decision and notify the taxpayer with regard to acceptance or rejection of the guarantee offered, or with regard to additional requirements, within a maximum of 10 days. The authority must communicate its resolution to the banking institution by sending this institution a copy of said resolution within 15 days following the notification of this resolution to the taxpayer; if not made within the specified period, the bank will lift the attachment on the account.

<b>FEDERAL CIVIL CODE</b> ( <i>Código Civil Federal</i> )	2180; 2181; 2182; 2183; 2184
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**CHAPTER II  
Simulation of Legal Acts**

**Article 2180.** A simulated act is that in which the parties falsely represent or affirm that which in reality has not occurred or been agreed between them.

**Article 2181.** Simulation is absolute when no part of the simulated act is real; it is relative when the true character of a legal act is concealed by a false appearance.

**Article 2182.** Absolute simulation does not produce legal effects. Upon discovery of the real act concealed by a relative simulation, said real act will not be nullified if no law exists that so nullifies it.

**Article 2183.** The annulment of simulated acts may be requested by third parties harmed by such a simulation, or the Public Prosecutor, when said simulation was committed in violation of the law or in prejudice to Public Treasury.

**Article 2184.** Upon annulment of a simulated act, restitution will be made of the thing or claim to whom it belongs, with proceeds and interests, if any; but if the thing or claim has been conveyed, for valuable consideration, to a third party of good faith, restitution may not be made.

Moreover, the pledges imposed in favor of the third party of good faith will survive.

**FEDERAL LAWS**

<b>FEDERAL LAW AGAINST ORGANIZED CRIME</b> ( <i>Ley Federal contra la Delincuencia Organizada</i> )	2; 8; 9; 10; 11; 16; 29; 30; 34; 35;
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**TITLE ONE  
GENERAL PROVISIONS**

**SOLE CHAPTER  
NATURE, OBJECT AND APPLICATION OF THE LAW**

**Article 2.-** When three or more persons agree to organize themselves or get organized to commit in a permanent or reiterated form conducts that individually or joined with others, have as a purpose or result the commission of any of the

following offenses, those persons shall be punished for that sole fact as members of organized crime:

I. Terrorism, foreseen in articles 139 to 139 Ter and international terrorism established in articles 148 Bis to 148 Quáter; drug related felonies, established in articles 194 and 195, first paragraph; falsification and alteration of currency, established in articles 234, 236 and 237; money laundering, established in article 400 Bis; and the offence established in article 424 Bis, all those articles from the Federal Penal Code;

II. Firearms gathering and trafficking, foreseen in articles 83 bis and 84 of the Federal Law of Firearms and Explosives;

III. Trafficking with illegal migrants, foreseen in article 138 of the General Law of Population;

IV. Human organs trafficking, established in articles 461, 462 and 462 bis of the General Law of Health, and

V. Corruption of persons of age less than eighteen years or persons that lack capacity to understand the meaning of the fact or persons that do not have capacity to resist it, foreseen in article 201; Pornography of persons of age less than eighteen years or persons that lack capacity to understand the meaning of the fact or persons that do not have capacity to resist it, foreseen in article 202; Sexual tourism against of persons of age less than eighteen years or persons that lack capacity to understand the meaning of the fact or persons that do not have capacity to resist it, foreseen in articles 203 and 203 BIS; Pandering persons of age less than eighteen years or persons that lack capacity to understand the meaning of the fact or persons that do not have capacity to resist it, foreseen in article 204; Sexual exploitation of persons of age less than eighteen years or persons that lack capacity to understand the meaning of the fact or persons that do not have capacity to resist it, foreseen in article 205; Sexual exploitation, foreseen in article 207; assault, foreseen in articles 286 and 297; abduction, foreseen in article 366; trafficking of minors or persons that lack capacity to understand the meaning of the fact, foreseen in article 366 Ter, and robbery of vehicles, foreseen in article 381 Bis, of the Federal Penal Code or corresponding provisions of state penal law.

**Article 8.** The Office of the Attorney General of the Republic must have a unit specialized in the investigation and prosecution of crimes committed by members of organized crime, made up of federal prosecutors, assisted by federal judicial police officers and experts.

The specialized unit will have a technical control body, that in interception of private communications will verify the authenticity of their results; establish guidelines on the characteristics of devices, equipment and systems to be authorized; as well as on the safekeeping, preservation, maintenance and use thereof.

The regulations set forth by the Organic Law of the Office of the Attorney General of the Republic will establish the profiles and requirements to be satisfied by public servants belonging to the specialized unit, to ensure a high professional level in accordance with the powers conferred upon them by this law.

Whenever mention is made in this law to the Federal Public Prosecutor's Office, it will be understood that this refers to the members of the specialized unit established by this article.

Where necessary, the head of this unit may request the collaboration of other federal public administration agencies.

**Article 9.** When the Federal Public Prosecutor's Office investigates activities of members of organized crime related to the crime of transactions with funds of illicit origin, it must perform said investigation in coordination with the Department of Treasury and Public Credit.

Requests from the Federal Public Prosecutor's Office, or the federal judicial authority, for information or documents regarding the banking and financial system will be made through the National Banking and Securities Commission, the National Retirement Savings Commission, and the National Insurance and Finance Commission, as appropriate; those of a fiscal nature, through the Department of Treasury and Public Credit.

The information that is obtained in accordance with the previous paragraph, may only be used in the investigation or corresponding criminal proceedings, and the strictest level of confidentiality must be kept.

Any public servant who violates the confidentiality of the court proceedings or provides copies thereof or of other documents will be subject to criminal or administrative liability proceedings, as appropriate.

**Article 10.** - At the request of the Federal Public Prosecutor's Office, the Department of Treasury and Public Credit may carry out audits on individuals and legal entities, when sufficient evidence exists to found the suspicion that they are members of organized crime.

**Article 11.** In pretrial investigations on crimes referred to by this law, the investigation must also include acquiring knowledge on organizational structures, and forms and areas of operation. For such purposes, the Office of the Attorney General of the Republic may authorize infiltration of agents.

In these cases, investigation will be performed on not only the individuals who belong to the organization in question, but also the legal entities they use to carry out their criminal aims.

**Article 16.** When, in the pretrial investigation of any of the crimes to which this law refers, or during the respective procedures, the Attorney General of the Republic or the head of the specialized unit referred to in Article 8 above consider it necessary to intercept private communications, they will make a request in writing to the district judge, expressing the objective and necessity of the interception, and the evidence founding the suspicion that a member of organized crime participates in the crimes investigated; as well as the events, circumstances, information and other elements that are attempted to be proven.

In addition, the requests for interception of communications must specify the person or people who will be investigated; the place or places where it will be performed; the type of private communication to be intercepted; length; the procedure and equipment for the interception and, where appropriate, the identification of the individual managing the services through which the communication to be intercepted is made.

The following types of private communication may be intercepted: verbal, written, by signs, signals or by means of electric, electronic, mechanical, wired or wireless devices, computer systems or equipment, or any other means or form that allows communication between one or various emitters and one or various receivers.

#### **CHAPTER FIVE SEIZURE OF CONFISCATABLE ASSETS**

**Article 29.** When sufficient evidence exists to found the suspicion that any person is a member of organized crime, the Federal Public Prosecutor's Office may order, upon judicial authorization, the seizure of assets of said person, as well as of those which said person purports to own, and it will be the responsibility of the owners to demonstrate the legitimate origin of said assets, in which case an order must be issued to lift the seizure.

**Article 30.** When sufficient evidence exists to found the suspicion that there are assets that belong to a member of organized crime, or assets which such a member of organized crime purports to own, these assets may be seized with prior judicial authorization. In the event the legitimate origin of the assets in question is demonstrated, an order must be issued to lift the seizure.

#### **CHAPTER SIX PROTECTION OF INDIVIDUALS**

**Article 34.** The Office of the Attorney General of the Republic will provide sufficient support and protection to judges, experts, witnesses, victims and other individuals, when so required due to participation in a criminal proceedings on offenses referred to by this law.

#### **CHAPTER SEVEN COLLABORATION IN THE PROSECUTION OF ORGANIZED CRIME**

**Article 35.** Any member of organized crime who provides effective assistance for the investigation and prosecution of

other members of organized crime may receive the following benefits:

**I.** When no pretrial investigation exists against him, the elements of proof he provides or which are derived through the pretrial investigation initiated due to his cooperation will not be used against him. This benefit may only be granted on a single occasion for any one person;

**II.** When a pretrial investigation exists in which the collaborator is implicated, and he provides evidence for the prosecution of other members of organized crime, the penalty that would correspond to him for the crimes he has committed may be reduced by up to two thirds;

**III.** When, during criminal proceedings, the suspect provides conclusive evidence that is sufficient to produce guilty verdicts on other members of organized crime with administration, management or supervisory functions, the penalty that would correspond to him for the crimes for which he is tried may be reduced by up to half, and

**IV.** When a convicted felon provides conclusive evidence that is sufficient to produce guilty verdicts on other members of organized crime with administration, management or supervisory functions, he may be granted a partial pardon of up to two thirds of the imposed custodial measure or prison sentence.

In imposing penalties, as well as in granting the benefits referred to by this article, the judge will consider, in addition to the provisions of articles 51 and 52 of the Criminal Code for the Federal District in Matters of Local Jurisdiction, and for the entire Republic in Matters of Federal Jurisdiction, the gravity of the crimes committed by the collaborator. In the cases of Section IV of this article, the competent authority will consider the gravity of the crimes committed by the collaborator and the rules established by law on execution of penalties and security measures.

**FEDERAL LAW FOR MANAGEMENT AND DISPOSITION OF PUBLIC SECTOR ASSETS** (*Ley Federal para la Administración y Enajenación de Bienes del Sector Público*)

1; 12; 17; 34; 89

**TITLE ONE  
General Provisions**

**Article 1.** This law is of public order, to be observed throughout the entire Mexican Republic, with the objective of regulating, through the Asset Management and Disposal Service (SAE), management and disposition of the following assets:

I. Assets seized and confiscated in federal criminal proceedings;

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**Article 12.** Proceeds or yields of assets generated during the period of management will be treated in the same fashion as the seized assets that generate them.

In all cases, the resources obtained from asset management will go towards compensating the cost of maintenance and management thereof and any remainder will be deposited in the fund referred to by Article 89 and will be delivered to whomever demonstrates a right to said assets pursuant to the terms of applicable law.

**Article 17.** Custodians, liquidators, inspectors and administrators designated by the Asset Management and Disposal Service (SAE) may not dispose of nor pledge real property under their supervision. In all cases, the rights of third parties will be respected.

**CHAPTER II  
ALLOCATION AND DONATION**

**Article 34.** In exceptional cases, in accordance with the provisions set forth in applicable law, and after fulfilling any requirements set forth therein, as the case may be, such as those relating to amount, term and type of assets, assets may be donated or allocated, as appropriate, to the government controlled agencies and entities of the federal public administration, as well as to state and municipal governments, to be used in local public services, education and social aid, or to institutions authorized to receive deductible donations pursuant to the terms of the Income Tax Law, and for whom said funds are necessary in order for them to carry out their activities.

With regard to assets originating in foreign trade, donation may only be made of items which are flammable, explosive, polluting, radioactive, corrosive, perishable, quickly decomposing or deteriorating, flora, live animals, those items used for prevention of or response to the effects of natural disasters, and those items that will go to specific zones determined to exhibit high degrees of marginalization.

**TITLE SIX**

**The Asset Management and Disposal Service (SAE)**

**Article 89.** The funds obtained through the proceeds of sale referred to in Article 38 of this law, as well as the proceeds generated by the assets managed by the Asset Management and Disposal Service (SAE), will be subject to deductions for the costs of management, maintenance and asset preservation expenses, fees of special non-public servant appointees in charge of the foregoing procedures, as well as payments of successful claims filed by buyers or third parties for hidden or tax liabilities, or other liabilities, nonexistent assets, matters in litigation, and other expenditures analogous to the foregoing, or those determined by the Internal Revenue Law of the Federation or any other applicable regulation.

The proceeds of sales together with yields generated by the assets managed by the Asset Management and Disposal Service (SAE), will be placed in a fund, which will have two general subaccounts, one for yields and the other for sales.

Each general subaccount will have specific subaccounts corresponding to each asset or group of assets taken under management, or to each of the indicated sale procedures specified in the preceding paragraph; thus, transfer of funds obtained can be made from the general subaccount to the various specific subaccounts.

The funds of the specific subaccounts will be delivered by the Asset Management and Disposal Service (SAE) to whomever is entitled to receive them, within the periods agreed upon with the transferring entity or the Federal Treasury, and in accordance with applicable law. Once said funds are delivered, the Asset Management and Disposal Service (SAE) will have no liability whatsoever in the event of claims.

**ORGANIC LAW OF THE OFFICE OF THE ATTORNEY GENERAL OF THE REPUBLIC** (*Ley Orgánica de la Procuraduría General de la República*)

4; 11; 30; 31; 34; 35; 36; 37; 38; 39; 40; 47; 48; 49; 50; 51; 53; 54; 55; 56; 57; 58; 60; 61; 62; 63; 64; 65; 66;

**CHAPTER I  
General Provisions**

**Article 4**

It is incumbent upon the Federal Public Prosecutor's Office to:

**I.** Investigate and prosecute federal crimes. This includes the authority to:

**A)** In the pretrial investigation:

a) Hear accusations or complaints regarding actions or omissions that may constitute crimes;

- b) Investigate federal crimes, as well as crimes corresponding to local or state jurisdiction which may be brought under federal jurisdiction, pursuant to applicable regulations, with the aid of assisting agencies and parties referred to by Article 20 of this law, and other authorities, both federal and from the Federal District and the states of the Federation, pursuant to the terms of applicable law, and collaboration agreements and instruments executed to this effect;
- c) Carry out the necessary actions to prove corpus delicti and the probable guilt of the suspect, as well as for restitution of damages and lost profits;
- d) Order the arrest of and, where appropriate, detain probable offenders pursuant to the terms set forth by Article 16 of the Political Constitution of the United Mexican States; carry out seizure of assets in accordance with applicable law;
- f) Provide provisional restitution to the aggrieved party with regard to enjoyment of rights, pursuant to the terms of the Federal Code of Criminal Procedures and other applicable regulations;
- g) Grant pre-trial release to suspects pursuant to the terms set forth in Article 20, Clause A, Section I and final paragraph, of the Political Constitution of the United Mexican States;
- h) Request, from judicial authority, search warrants, precautionary measures of preventive detention, seizure or attachment of assets necessary for the purposes of the pretrial investigation, as well as, as appropriate, for the due performance of the sentence rendered;
- i) In those cases in which the law so permits, the Federal Public Prosecutor's Office will foster conciliation of the interests in conflict, proposing possible solutions to achieve resolution;
- j) Determine incompetence to stand trial and submit the matter to the authority that should hear the case, along with all information from pretrial investigations, as appropriate;
- k) Determine reservation of pretrial investigation, pursuant to applicable law;
- l) Determine not to file charges, when:
  1. The events known do not constitute a crime;
  2. After exhausting all measures and means of evidence, corpus delicti and probable guilt of the suspect are not demonstrated;
  3. Abatement of the criminal proceedings would result pursuant to the terms of applicable regulations;
  4. Investigations clearly show the existence of cause for exclusion from criminal liability, pursuant to the terms established by applicable regulations;
  5. Demonstration of the existence of the events constituting the offense is impossible due to an insurmountable material obstacle, and
  6. Other cases as determined by applicable regulations.
- m) Turn juveniles who have committed actions or omissions corresponding to crimes classified under federal criminal law over to the competent authorities.
- n) Turn adults incompetent to stand trial over to the judicial authority when security measures must be applied, carrying out the corresponding actions pursuant to the terms set forth in applicable regulations.
- ñ) Others as determined by applicable regulations.

When the Federal Public Prosecutor's Office becomes aware, through its own actions and observations or through the actions of assistants, of the probable commission of a crime for which prosecution requires aggrieved party to file complaint, or any other equivalent action to be made by an authority, it will immediately communicate this situation in writing to the competent authority, for adjudication with due knowledge of the events, as corresponds to its powers and duties. The authorities will notify the Federal Public Prosecutor's Office in writing of their decision.

In the event of flagrante delicto, in which a pretrial investigation is initiated with the arrested individual, the federal prosecutor will immediately request, in writing, that the competent authority file a complaint or comply with the

equivalent requirement, within the period of detention established by Article 16, seventh paragraph, of the Political Constitution of the United Mexican States.

**B) Before the judicial authority:**

- a) Carry out prosecution before the competent judicial authority for federal crimes where accusation or complaint has been filed, corpus delicti and the probable guilt of the suspect(s) has been proven; and, request arrest warrants or citations, as appropriate;
- b) Request, from the judicial authority, search warrants, precautionary measures of preventive detention, seizure or attachment of assets, letters rogatory, or posting of bonds for purposes of restitution for damages and lost profits, except where the defendant has previously made such guarantees;
- c) Turn arrested and detained persons over to the judicial authority within the periods established by law;
- d) Present evidence to promote steps conducive to the due demonstration of the existence of the crime, the circumstances in which it was committed and those corresponding to the defendant, criminal liability, the existence of the damages and lost profits, as well as to establish the amount of restitution;
- e) Formulate conclusions pursuant the terms specified by law, and request imposition of corresponding penalties and security measures and payment of restitution for damages and lost profits, or, where appropriate, establish the causes for exclusion from criminal liability or those which result in abatement of the criminal proceedings;
- f) Raise objections to court rulings, pursuant to the terms set forth by law;
- g) In general, promote that which is conducive to the proper course of processes, and perform all other duties specified by applicable regulations.

**C) On the subject of attention to the victim or aggrieved party of a crime:**

Provide legal advice to the victim or aggrieved party and inform him of the rights to which he is entitled as established by the Political Constitution of the United Mexican States, and, upon his request, on the course of the criminal proceedings;

- b) Receive all elements of evidence that the victim or aggrieved party provides while exercising his right of participation, to prove corpus delicti and the probable guilt of the defendant, as well as to determine, where appropriate, the amount of restitution of damages. When the Federal Public Prosecutor's Office considers that introduction of evidence is unnecessary, it must provide grounds for such a decision;
- c) Facilitate the identification of the probable offender and, in the cases of crimes against personal freedom and normal psychosexual development, illegal detention, or when otherwise considered appropriate, order all necessary measures to prevent danger to the physical and psychological integrity of the victim or aggrieved party;
- d) Inform the victim or aggrieved party who wishes to pardon the offender, where this is possible, of the legal meaning and significance of this act;
- e) Order necessary and possible measures so that the victim or aggrieved party receives emergency medical and psychological care. When the Federal Public Prosecutor's Office considers it to be necessary, it will carry out measures to provide medical and psychological attention to other individuals;
- f) Request, from the judicial authority, where appropriate, restitution of damage, and
- g) Inform the victim or aggrieved party, when this person is a minor, that he is not obliged to confront the defendant for identification purposes in crimes of rape or kidnapping.

In these cases, the respective declarations will be made as established by applicable regulations.

**II. Oversee the observance of constitutionality and legality in the scope of competence, without prejudice to the authority that legally corresponds to other judicial or administrative authorities. In carrying out this function the Federal Public Prosecutor's Office must:**

- a) Participate as party to writs of amparo, pursuant to the terms of constitutional Article 107 and in any other cases in

which the Writ of Amparo Law, implementing articles 103 and 107 of the Political Constitution of the United Mexican States, dictates or authorizes such participation;

b) Participate as representative of the Federation in all business to which the Federation is party or in which it has legal interest. This function includes the activities necessary for the exercise of the powers conferred upon the Attorney General of the Republic by Section III, Article 105 of the Political Constitution of the United Mexican States.

With regard to matters of interest and significance for the Federation, the Attorney General of the Republic will keep the President of the Republic informed of all relevant cases, and will require his agreement in writing for discontinuance;

c) Participate in a collaborative capacity in the business to which parastatal entities of the federal public administration are party or have legal interest, at the request of the corresponding sector coordinator. The Attorney General of the Republic will make decisions considering the importance of the matter for the public interest.

Sector coordinators and, by agreement of these, parastatal entities, pursuant to the provisions of the respective law, through the bodies determined by their administrative regime, must inform the Institution of those cases which said entities are party to or in which they intervene, or of any other way in which their functions or assets are involved before foreign bodies with adjudicatory authority. In these cases the Institution will stay abreast of the respective procedures and will request corresponding information. If, in the opinion of the Attorney General of the Republic, the matter has significance for the public interest, he will formulate the observations or suggestions considered appropriate, and

d) Intervene in disputes involving diplomats and consul-generals, precisely by virtue of this fact. With regard to criminal proceedings without immunities that must be respected, the Federal Public Prosecutor's Office will act in strict compliance with legal obligations, observing the regulations established by international treaties to which the United Mexican States is party.

**III.** Participate in the extradition or handing over of suspects, defendants and convicted felons, pursuant to the terms of applicable regulations, as well as in fulfillment of international treaties to which the United Mexican States is party;

**IV.** Request reports, documents, opinions and evidence in general, from agencies and institutions of the federal public administration, from those corresponding to the Federal District and from the states of the Federation, and from other authorities and individuals who can provide elements for the proper performance of these functions.

It is obligatory to provide the reports requested by the Federal Public Prosecutor's Office in the performance of functions. Failure to comply with the requests made by the Federal Public Prosecutor's Office will be cause for liability pursuant to the terms of applicable legislation;

**V.** Promote the efficient, expeditious and proper administration of justice, and

**VI.** Others as determined by law.

## **CHAPTER II**

### **System of Organization**

**Article 11.** For the realization of the functions of the Office of the Attorney General of the Republic and the Federal Public Prosecutor's Office, a system of territorial and functional specialization and decentralization will be in place, according to the following systems:

**I.** System of specialization:

a) The Attorney General of the Republic will have administrative units specialized in the investigation and prosecution of certain types of crimes, responding to the manifestations of organized crime, as well as to the nature, complexity and incidence of federal crimes;

b) The specialized administrative units will act throughout the entire country in coordination with the decentralized agencies and units, and

c) The specialized administrative units, according to their organic, functional and budgetary levels, may have management offices, departments and other units as established by applicable law.

**II.** System of decentralization:

a) Precincts will be decentralized bodies of the Office of the Attorney General of the Republic in each state. Heading each

precinct will be a deputy, who will exercise command and supervisory authority over federal prosecutors, the federal investigative police, professional and technical experts, as well as other personal assigned to the decentralized agency;

b) Precinct locations will be established taking into account: incidence of crime, population density, geographic characteristics of each state, and proper distribution of workloads;

The Office of the Attorney General may have administrative units responsible for the coordination, supervision and evaluation of precincts. Where appropriate, the Attorney General will determine, by way of formal agreement, the number of administrative units and precincts assigned to them;

d) Federal Public Prosecutor's Office precincts will have subprecinct offices and federal prosecutor's offices, which will carry out functions within the political boundaries established by the Attorney General by way of formal agreement, as well as the regional offices and other administrative units established by applicable law;

e) Precincts will attend to matters with regard to pretrial investigation, prosecution, reservation of charges, incompetence to stand trial, joint trials, decision to not file charges, control of processes, writ of amparo, crime prevention, services to the community, administrative and other services, in accordance with the powers granted by the provisions of this law and by the Attorney General by way of formal agreement;

f) Precincts will supply measures to attend to matters incumbent upon the Federal Public Prosecutor's Office in the areas where no permanent office exists;

g) The Attorney General will issue the regulations necessary for coordination and cooperation of the precincts with central agencies and specialized units, in order to guarantee coordinated action and proper chain of command with regard to the Federal Public Prosecutor's Office.

h) There will be an information system to provide the responsible unit, as determined by the provisions of this law, with timely knowledge of state or Federal District legislation, so that, where appropriate, the Attorney General of the Republic can apply the action specified by Section II, Paragraph c) of Article 105 of the Political Constitution of the United Mexican States, as well as act in the corresponding capacity in the disputes specified in Section I of said article.

The foregoing information system will also include information enabling this unit to have timely knowledge of contradictory court opinions rendered by the Federal Judiciary, so that the head of the Institution may exercise the right to report said contradictory opinions as specified by Section XIII of Article 107 of the Political Constitution of the United Mexican States.

## **CHAPTER V FEDERAL JUSTICE ADMINISTRATION CAREER SERVICE**

**Article 30.** The Federal Justice Administration Career Service includes the careers of federal prosecutors, federal investigative police and technical and professional experts, and will be subject to the following:

**I.** It will consist of the stages of start of service, development, and termination of service:

- a) Start of service will include the requirements and procedures of selection, education, training, and initial assignment;
- b) Development will include the requirements and procedures of continuous education and training, specialization, awards and bonuses, changes of assignment, personal development, performance, medical and character evaluations, promotions and sanctions, and
- c) Termination includes the causes and procedures of separation from service, in accordance with the provisions of this law and the regulations pertaining to the Federal Justice Administration Career Service

**II.** It will be organized pursuant to the provisions of the General Law Establishing Rules for Coordination of the National System of Public Security and other applicable regulations, as well as collaboration agreements, and other agreements and resolutions, as appropriate, made between the governments of the Federal District, the states of the Federation, municipalities and other competent authorities, in accordance with the corresponding regulations;

**III.** It will be of a compulsory and permanent nature, and will include the programs, courses, examinations and competitions corresponding to the various stages of the fields of public prosecution, police and professional and technical expert, which will be carried out by the units and agencies specified by applicable regulations, without prejudice to the establishment of cooperation mechanisms with public and private institutions;

**IV.** It will be governed by the principles of legality, efficiency, professionalism, honesty, loyalty, impartiality and respect for human rights. The theoretical and practical content of training, continuing education and specialization programs will enable federal prosecutors and their assistants to carry out their functions in accordance with the foregoing principles, and will promote effective learning and comprehensive development of the knowledge and abilities necessary for performance of services;

**V.** There will be a system of rotation of federal prosecutors, federal investigative police and professional and technical experts within the Institution, and

**VI.** It will determine the profiles, categories and functions of federal prosecutors, the federal investigative police and professional and technical experts.

**Article 31.** To be hired and remain a federal public prosecutor, the following is necessary:

**I.** To be hired:

- a) Be a Mexican citizen by birth, in full exercise of rights, and not have acquired another nationality;
- b) Hold the degree of Licentiate in Law, legally issued and registered, and the corresponding professional license;
- c) Have at least three years of professional experience counted from the issuance of the degree to the date of appointment;
- d) Where necessary, have completed compulsory national military service;
- e) Successfully complete the initial medical and character evaluation;
- f) Satisfactorily fulfill the requirements and complete the entrance procedures specified in this law and in applicable regulations;
- g) Not be subject to criminal proceedings;
- h) Not be suspended nor have been dismissed nor disqualified by final resolution as a public servant, pursuant to the terms of applicable regulations;
- i) Have a reputation of good conduct and not have been convicted by final verdict as guilty of a willful crime;
- j) Not use, in an unlawful fashion, mind-altering drugs, narcotics, or other drugs of similar effect, nor suffer from alcoholism, and
- k) Other requirements as established by applicable law.

**II.** To remain in the post:

- a) Comply with continuing education and professional development requirements established by applicable regulations;
- b) Pass continuous, periodical and compulsory medical, character and performance evaluations, established by this law and other applicable regulations;
- c) Not be absent from service without justified cause for a period of three consecutive days, or five days within a period of thirty days;
- d) Participate in opportunities for promotion that are announced pursuant to applicable regulations;
- e) Satisfy the entrance requirements during service,
- f) Other requirements as established by applicable regulations.

**Article 34.** The Federal Public Prosecutor's Office will employ career prosecutors, as well as special or visiting prosecutors.

For the purposes of this law, special prosecutors are those that, not being permanently employed by the Federal Public Prosecutor's Office, are named by the Attorney General of the Republic to attend to matters as necessary due to special circumstances of these matters.

...

**Article 35.** With regard to individuals with broad professional experience, the Attorney General of the Republic, pursuant to this law and the regulations regarding the Federal Justice Administration Career Service may, in exceptional cases, name special or visiting federal prosecutors as well as federal investigative police officers or special experts, waiving competitive hiring requirements. The foregoing individuals must be in full exercise of their rights and fulfill the following requirements:

- For prosecutors in the Federal Public Prosecutor's Office, those specified in Article 31, Section I, paragraphs a), b), c), d), e), g), h), i) and j);

**Article 36.** Prior to acceptance as a federal prosecutor, a federal investigative police officer or a professional or technical expert, including in those cases referred to by the foregoing article, the Institution must review the background of the individual in question in the National Registry of Public Security Personnel, pursuant to the terms established by the General Law Establishing Rules for Coordination of the National System of Public Security.

**Article 37.** With regard to basic-level hiring for positions of federal prosecutor, federal investigative police or professional and technical expert, internal and external competitive hiring will be carried out.

All things being equal, in competitive hiring for federal prosecutors and federal investigative police officers, preference will be given to secretarial officers of the Federal Public Prosecutor's office, subject to the conditions and requirements established by the Council of Professionalization.

**Article 38.** Federal prosecutors, federal investigative police officers and professional and technical experts will be assigned by the Attorney General or by other public servants of the Institution to whom this this function is delegated, to the various administrative units of the Office of the Attorney General of the Republic, in accordance with applicable law.

Moreover, they may be assigned to study, review or actions required in special cases in accordance with their level and specialty.

**Article 39.** Promotions to the higher levels of the Federal Public Prosecutor's Office, the federal investigative police, and for professional and technical experts, will be awarded after an internal competition, in accordance with the regulations of the Federal Justice Administration Career Service and the agreements of Council of Professionalization.

**Article 40.** The Council of Professionalization will act as a regulatory body, and will also be responsible for development and evaluation of the Federal Justice Administration Career Service.

## **CHAPTER VI PUBLIC SERVANT EVALUATION PROCESSES**

**Article 47.** Members of the Federal Justice Administration Career Service and other public servants, as determined by the Attorney General by way of formal agreement, must submit to and successful pass medical and character evaluation and performance evaluation processes, which will be of a compulsory nature, and applied on hire and periodically throughout the career of the public servant, pursuant to applicable law.

Performance evaluations and medical and character evaluations will consist of the following tests:

- I.** Pertaining to assets and social environment;
- II.** Psychometric and psychological;
- III.** Drug testing.

Others considered necessary for the evaluation of personnel.

The evaluation processes will seek to verify that the public servants referred to in the first paragraph duly fulfill the requirements of the principles of legality, effectiveness, professionalism, honesty, loyalty, impartiality, and respect of human rights.

**Article 48.** The provisions of this law will establish the tests to be included in the evaluation processes, which must include drug testing, as well as the procedures to be used in the testing.

The tests will be evaluated as a group, except for the drug test which will be applied and evaluated separately.

**Article 49.** Public servants will be notified to appear for their respective tests. Failure to appear without justified cause will result in being declared unfit.

**Article 50.** The results of the evaluation processes will be confidential except as established by applicable law, and in those cases where they must be presented in administrative or judicial proceedings.

**Article 51.** Members of the Federal Justice Administration Career Service declared unfit through the processes of evaluation to which this chapter refers, will no longer provide services to the Office of the Attorney General of the Republic, after completion of the procedure established by Article 44 of this law.

In the event that other public servants of the Institution, which the Attorney General of the Republic has determined to be subject to the evaluation processes, are determined to be unfit, they will no longer render services to the Institution, in accordance with applicable law.

## **CHAPTER VIII**

### **CAUSES OF LIABILITY OF FEDERAL PROSECUTORS, FEDERAL INVESTIGATIVE POLICE OFFICERS AND PROFESSIONAL AND TECHNICAL EXPERTS.**

**Article 53.** The following are causes of liability of federal prosecutors and, as appropriate, federal investigative police officers and professional and technical experts:

**I.** Failure to comply with, delaying or prejudicing through negligence of the due action of the Federal Public Prosecutor's Office;

**II.** Engaging in or concealing acts against the autonomy of the Federal Public Prosecutor's Office, such as accepting or exercising orders, pressure, assignments, commissions or any other action generating or involving improper subordination with respect to any person or authority.

**III.** Making improper use of the material items or goods under personal or institutional custody, or facilitating such use by third parties;

**IV.** Failure to request necessary expert opinions;

**V.** Failure to seize upon process of attachment assets, objects, instruments, proceeds of crimes and, where applicable, failure to confiscate assets when appropriate pursuant to the terms established by criminal law;

**VI.** Failure to perform the necessary procedures in any matter;

**VII.** Failure to comply with any of the obligations specified in the following article, and

**VIII.** Other requirements as established by applicable law.

**Article 54.** The following are obligations of federal prosecutors, federal investigative police officers and professional and technical experts, to safeguard legality, efficiency, professionalism, honesty, loyalty, impartiality and respect of human rights in the performance of functions:

**I.** Adhere to the rule of law and respect human rights in all actions;

**II.** Render assistance to victims of crimes, and provide protection to their assets and rights, as appropriate. Actions must be consistent, timely and in proportion to events;

**III.** Carry out functions with absolute impartiality, without discriminating against any person for reasons of race, religion, gender, economic or social condition, sexual preference, political ideology or any other reason;

- IV.** Prevent, by any means available and as corresponds to functions, the perpetration, tolerance or allowance of acts of physical or psychological torture or other cruel, inhuman or degrading treatments or punishments. Public servants with any knowledge of acts of the foregoing nature must report them immediately to the competent authority;
- V.** Abstain from engaging in any job, post or commission or other activity specified in the following article of this law;
- VI.** Treat all persons respectfully, abstaining from any arbitrary act or from improperly limiting actions or demonstrations carried out by the public in the exercise of constitutional rights and in a peaceful manner;
- VII.** Carry out functions without soliciting nor accepting compensation, payment or rewards other than those dictated by law. Specifically, oppose any act of corruption;
- VIII.** Abstain from ordering or carrying out the apprehension or detention of any person without fulfilling the requirements set forth in the Political Constitution of the United Mexican States and in applicable regulations;
- IX.** Protect the life and physical and psychological safety of persons detained or under custody;
- X.** Participate in actions with other authorities or police agencies, and provide these with, as appropriate, the necessary support pursuant to law;
- XI.** Obey orders from superiors and fulfill all obligations, provided these are in accordance with the law;
- XII.** Preserve confidentiality of matters known and discovered during the performance of functions, with the exception of those determined by law;
- XIII.** Abstain, in the performance of functions, from obtaining assistance from persons not authorized by law;
- XIV.** Use the equipment under one's responsibility with the proper care and good judgment in carrying out functions, and properly maintain said equipment;
- XV.** Abstain from withdrawing from or failing to perform functions, commissions or services assigned without justified cause;
- XVI.** Submit to the processes of medical, character and performance evaluation in accordance with applicable regulations, and
- XVII.** Other requirements as established by applicable law.

Failure to comply with these obligations will give rise to the corresponding sanctions pursuant to the terms of this chapter.

**Article 55.** Federal prosecutors, federal investigative police and professional and technical experts may not:

- I.** Perform jobs, posts or commissions of any nature in the federal public administration, in the governments of the Federal District or the states or municipalities of the Federation, nor jobs or services in private institutions, except for those of an educational nature and those authorized by the Institution, provided that they are not incompatible with one's functions;
- II.** Practice law personally or through an intermediary, except on behalf of oneself or one's spouse, domestic partner, ascendants or descendants, siblings or direct relatives through adoption;
- III.** Act in the capacity of legal guardian, administrator or executor, except in the capacity of heir or legatee, or when the situation involves ascendants or descendants by consanguinity or adoption, or siblings.
- IV.** Practice or perform the functions of custodian or attorney-in-fact, receiver, administrator, inspector in bankruptcy or insolvency, notary, broker, commission agent, referee or arbitrator.

## **CHAPTER IX**

### **SANCTIONS APPLICABLE TO FEDERAL PROSECUTORS, FEDERAL INVESTIGATIVE POLICE OFFICERS AND PROFESSIONAL AND TECHNICAL EXPERTS**

**Article 56.** The sanctions for violations or failure to comply with the obligations specified in articles 53 and 54 of this

law, respectively, will be:

- I.** Public or private admonition;
- II.** Suspension, or
- III.** Dismissal.

In addition to the sanctions set forth in the foregoing sections, federal investigative police officers may be subject to disciplinary measures that may consist of arrest or denial of permission to leave premises.

**Article 57.** Admonition is the act by means of which the public servant is disciplined for minor violation(s) committed in the performance of his functions, compelling rectification of conduct.

Admonition may be public or private depending on the specific circumstances of the violation and, in either case, it will be made in writing to the offender, in whose personal record a copy of said communication will be filed.

**Article 58.** Suspension is the temporary interruption in the performance of functions, which may be applied for up to fifteen days in accordance with the decision of the superior, in the event that the violation does not merit dismissal.

**Article 60.** An appeal for reconsideration may be filed with the Council of Professionalization against the disciplinary measures referred to in the previous articles, within five working days following the notification of the imposition of the disciplinary measure. The foregoing appeal will express grievances and supply proof deemed to be pertinent. The appeal will be adjudicated in the following session of the Council of Professionalization.

Filing an appeal will not suspend the effects of disciplinary measure, but rather seeks to prevent these from appearing in the file or service record of the public servant in question.

**Article 61.** Dismissal of members of the Federal Justice Administration Career Service will proceed in cases of serious violations, in the opinion of the Council of Professionalization. In all cases, dismissal will proceed in the event of violation of the obligations set forth in Sections IV, V, VII, VIII, XII, XIII, XV and XVI of Article 54 of this law.

**Article 62.** The sanctions set forth in Article 56, sections I and II herein may be imposed by:

- I.** The Attorney General of the Republic;
- II.** Deputy attorney generals;
- III.** The Chief of Staff;
- IV.** The General Inspector;
- V.** Coordinators;
- VI.** Director Generals;
- VII.** Prosecutors;
- VIII.** Delegates, and
- IX.** Heads of equivalent administrative units.

The Council of Professionalization, at the request of the public servants referred to in this article, may order dismissal.

**Article 63.** Sanctions will be imposed considering the following:

- I.** The seriousness of the violation;
- II.** The need to eliminate practices that prejudice the operation of the Institution;
- III.** Recurrence of violations by offender;
- IV.** Rank, level of education and seniority;
- V.** Circumstances and means of execution;
- VI.** Socio-economic condition of the public servant, and
- VII.** Where appropriate, the monetary amount corresponding to gain or damages resulting from failure to comply with obligations.

**Article 64.** The decision for dismissal will be made in accordance with the following procedure:

**I.** The procedure will be initiated by the agency or upon complaint filed by public servants as referred to in Article 62 of this law to the Council of Professionalization in charge of the examination of the facts of the case;

**II.** Complaints filed must be supported by documentary evidence or probative elements sufficient to demonstrate responsibility of the accused public servant;

**III.** A copy of the complaint and its attachments will be sent to the public servant, so that within a period of fifteen working days he may prepare a report of the events and supply corresponding evidence. The report must treat each and every one of the events included in the complaint, accepting them, denying them, expressing uncertainty with regard to those not his own, or describing them as he believes they took place. Events not explicitly disputed by the accused public servant will be presumed accepted, except in the presence evidence to the contrary.

**IV.** The public servant will be summoned to a hearing in which the respective evidence will be presented, if any, and his arguments will be heard, presented pro se or through an attorney.

**V.** Once the hearing has been carried out and the evidence presented, the Council of Professionalization will hold session to determine the existence or inexistence of responsibility, imposing the sanction of dismissal in the former case. The interested party will be notified of the decision.

**VI.** If the report or the hearing provides insufficient elements to adjudicate, or where other elements come to attention that indicate new responsibility of the accused or of other persons, investigations may be carried out, and, where appropriate, a new hearing or hearings may be scheduled.

**VII.** At any time, prior or subsequent to the hearing, the public servants referred to in Article 62 of this law may order the temporary suspension of the accused, provided that, in their opinion, such a course of action is appropriate for carrying out or continuation of investigations, which will end if the Council of Professionalization so decides, independently of the start, continuation or conclusion of the procedure referred to in this article. The suspension does not prejudice the responsibility alleged, and this will be expressly stated in the suspension order.

If the suspended public servant, pursuant to this section, is determined to not be responsible, his rights will be restored.

**Article 65.** An appeal for reconsideration may be filed with the Council of Professionalization against the decisions to impose any of the sanctions set forth in sections I and II of Article 56 herein, within five working days following notification of the decision.

The foregoing appeal will express grievances and supply proof deemed to be pertinent.

The appeal will be adjudicated in the following session of the Council of Professionalization, and the decision will be added to the corresponding file or service record.

If the suspended public servant is determined to not be responsible of the sanctions set forth in sections I and II of Article 56 herein, his rights will be restored.

**Article 66.** The other penalties set forth in this chapter will be imposed by the public servants referred to in Article 62 of this law, who must observe, as appropriate, the procedure established in Article 64.

**LAW OF CREDIT INSTITUTIONS** (*Ley de Instituciones de Crédito*)

1; 2; 3; 46; 46 Bis; 47; 103; 106; 115; 117

**TITLE ONE**  
**Preliminary Provisions**

**Article 1.** This law aims to regulate banking and credit services; the organization and operation of financial institutions; the activities and operations that these institutions may perform; their healthy and balanced development; protection of public interests; and the terms in which the State will exercise financial governance over the Mexican banking system.

**Article 2.** Banking and credit services may only be provided by financial institutions, which may be:

- I.** Full-service banking institutions, and
- II.** Development banking institutions.

For the purposes of the provisions of this law, banking and credit services are considered to be the securing of funds from the general public on the national market for public placement, through actions causing direct or contingent liability, where the intermediary is obliged to cover principal and, where appropriate, interest on the secured funds.

Banking and credit operations will not be considered to include those carried out by financial intermediaries other than the financial institutions duly authorized pursuant to applicable regulations. In no event may these intermediaries receive irregular checking account deposits.

Neither will Banking and credit operations include securing of funds from the general public through issuance of instruments registered in the National Securities Registry, placed through public offer, even when these funds are used for granting financing of any nature.

For the purposes of this article and of Article 103, it will be understood that securing of funds from the public exists upon:  
a) Solicitation, offering or promotion of the securing of funds from the general public or by mass media, or b) securing or solicitation of funds in a customary or professional manner.

**Article 3.** The Mexican banking system will be made up of the Bank of Mexico, full-service banking institutions, development banking institutions, the National Savings Council (PAHNAL) and the public trusts established by the federal government for economic development, as well as those established for performance of the functions entrusted by law to the Bank of Mexico.

**TITLE THREE**  
**Transactions**  
**CHAPTER I**  
**General Rules**

**Article 46.** Financial institutions may only perform the following transactions:

- I.** Receive bank deposits of funds:
  - a)** Sight;
  - b)** Fixed (pre-established withdrawal dates);
  - c)** Savings, and
  - d)** Term and notice;
- II.** Accept loans and credits;
- III.** Issue bank bonds;
- IV.** Issue subordinated debentures;
- V.** Establish deposits in foreign financial institutions and financial entities;
- VI.** Make deductions and extend loans or credits;
- VII.** Issue credit cards based on current account line of credit agreements;
- VIII.** Assume obligations on behalf of third parties, based on credit extended, through granting acceptances, endorsements or third party guarantees for credit instruments, as well as issuance of letters of credit;
- IX.** Conduct securities transactions pursuant to the provisions of this law and of the Securities Market Law;
- X.** Promote the organization and transformation of all types of companies and business entities, and subscribe and maintain shares or interests in these, pursuant to the terms of this law;
- XI.** Conduct transactions with commercial documents on own behalf;
- XII.** Conduct, on own behalf or on that of third parties, transactions with gold, silver and foreign currencies, including securities repurchase agreements with regard to the latter;
- XIII.** Provide safe-deposit box service;
- XIV.** Issue letters of credit contingent on payment, collect debts and make payments on behalf of customers;
- XV.** Conduct trust transactions as set forth in the General Law of Negotiable Instruments and Credit Operations, and carry out mandates and commissions;

- XVI.** Receive deposits as depository or custodian, or in escrow on behalf of third parties, of negotiable instruments or securities, and of commercial documents in general;
- XVII.** Act as common representative of credit instrument holders;
- XVIII.** Provide cash and treasury management services with respect to credit instruments on behalf of issuers;
- XIX.** Conduct accounting and keep minute books and records for companies and business entities;
- XX.** Act as executor;
- XXI.** Carry out receivership or judicial or extrajudicial liquidation of business concerns, establishments, bankruptcies or inheritances;
- XXII.** Conduct appraisals that will have the same probatory force that the law confers upon acts by public commercial attestors or experts;
- XXIII.** Acquire personal property and real estate necessary for the accomplishment of objectives, and dispose of these as appropriate, and
- XXIV.** Enter into financial lease agreements and acquire the assets that are subject matter of such agreements.
- XXV.** Conduct financial transactions known as derivatives, subject to all regulations issued by the Bank of Mexico pursuant to the decisions of the Department of Treasury and Public Credit and of the National Banking and Securities Commission;
- XXVI.** Conduct factoring transactions, and
- XXVII.** Analogous or related operations authorized by the Department of Treasury and Public Credit, pursuant to the decisions of the Bank of Mexico and the National Banking and Securities Commission.

The performance of the transactions specified in Sections XXIV and XXVI of this article, as well as fulfillment of the obligations of the parties, will be subject to the provisions of this law, and, without prejudice thereto, the General Law of Negotiable Instruments and Credit Operations.

**Article 46 bis.** Credit institutions, pursuant to all general regulations issued with regard thereto by the National Banking and Securities Commission, may engage third parties, including other financial institutions, in the rendering of services necessary for their operation. Those who render the foregoing services will be subject to applicable law in relation to privileged information set forth in articles 117 and 118 of the foregoing law.

**Article 47.** Development banking institutions will perform, in addition to those operations specified in Article 46 of this law, the operations necessary for providing an appropriate level of service to the corresponding sector of the national economy, and for fulfillment of the functions and objectives that are particular to them, pursuant to the conditions and exceptions determined by their organic laws with respect to the provisions in this or other laws. With regard to record keeping and accounting systems of banking transactions, Section VIII of the Organic Law of the Federal Public Administration will not be applicable.

The operations referred to in Sections I and II of Article 46 of this law will be carried out by development banking institutions in order to provide the beneficiaries of their activities with access to banking and credit services, and encourage the habit of savings and the use of the services provided by the Mexican banking system, in such a way as to avoid disturbances in the systems of securing funds from the general public.

The bank bonds issued by development banking institutions must foster the development of the capital and institutional investment market.

The Department of Treasury and Public Credit will dictate guidelines and establish measures and mechanisms towards the most appropriate use and channeling of the resources of development banking institutions, considering coordinated financing plans between this type of institution, national auxiliary financial institutions, public funds and trusts established by the federal government for economic development, and full-service banking institutions.

## **TITLE FIVE**

### **Prohibitions, Administrative Sanctions and Crimes**

**CHAPTER I**  
**Prohibitions**

**Article 103.** No individual or legal entity may directly or indirectly secure public funds in Mexican territory through engaging in transactions of deposits, loans, credit, mutuum or any other act causing direct or contingent liability, being obliged to cover principal and, where appropriate, interests of the funds secured.

The following are exceptions to the rule stated in the foregoing paragraph:

**I.** Regulated financial institutions pursuant to this law, as well as other financial intermediaries duly authorized in accordance with applicable law;

**II.** Issuers of instruments registered in the National Securities Registry, placed by means of public offer, with respect to the funds originating from this placement, and

**III.** Derogated.

**IV.** Derogated.

Issuers referred to in Section II using funds originating from placement for extension of credit, must adhere to the general regulations issued, as appropriate, by the National Banking and Securities Commission on the subject of financial, administrative, economic, accounting and legal information, which they must make public pursuant to the terms of the Securities Market Law.

Derogated, penultimate paragraph

Derogated, final paragraph

Text of Section IV and the penultimate and final paragraphs of Article 103 of this law, that will continue in effect until July 18, 2013:

**Article 103.** .....

.....

**I to III.** .....

**IV.** Special-purpose financial institutions authorized by the Department of Treasury and Public Credit that secure funds originating in the placement of instruments registered in the National Registry of Securities and Intermediaries, and which extend credit for a certain activity or sector.

.....

Legal entities referred to by Section IV of this article must, at all times, have a Mexican majority of equity ownership, and will be subject, in all cases, to the rules issued by the foregoing Department for this purpose, and the provisions regarding operations issued by the Bank of Mexico, as well as the oversight and monitoring of the National Banking Commission.

Articles of incorporation of special-purpose financial institutions, and any amendments to these, must be submitted for prior approval by the Department of Treasury and Public Credit. Once the articles of incorporation or amendments are approved, they must be registered by the Public Registry of Commerce.

**Article 106.** Financial institutions are prohibited from:

**I.** Giving their property as collateral;

**II.** Giving as collateral, including as pledge, securities bonds or guarantee trusts, cash assets, accounts receivable or negotiable instruments in portfolio, except in the case of transactions with the Bank of Mexico, development banking institutions, the Institute for the Protection of Bank Savings, or the public trusts established by the federal government for economic development;

**III.** Giving as collateral credit instruments issued, accepted or maintained in treasury;

**IV.** Conducting transactions directly or indirectly with the negotiable instruments representing the entity's capital, except in the case of the provisions of the final paragraph of articles 19 and 38 of this law and Chapter IV, Title Two of the Savings Protection Law, as well as extending credit for the acquisition of such negotiable instruments;

**V.** Conducting transactions and providing services to customers where conditions and terms are agreed to which

significantly depart from the prevailing market conditions at the moment they are granted, or from general institutional policies or good banking practices.

**VI.** Conducting transactions by virtue of which officers and employees of the institution can become debtors to the institution, except as corresponds to customary employment benefits granted to employees, regular or alternate statutory auditors, external auditors of the institution; or ascendants or descendants of the first degree or spouses of the foregoing persons. The Department of Treasury and Public Credit may authorize exceptions to the provisions of the section, through general rules;

**VII.** Accepting or paying documents or certifying checks with insufficient funds, except in the case of credit opening;

**VIII.** Assuming responsibilities or obligations on behalf of third parties, other than those set forth in Section VIII of Article 46 of this law and with the reservation set forth in the following section;

**IX.** Granting bonds or security, except where they cannot be provided by bond institutions, by virtue of amount, and with prior authorization of the Department of Treasury and Public Credit.

The guarantees to which this section refers must be for a determinate amount and will require countersecurity in cash or securities that can be acquired by financial institutions in accordance with this law.

**X.** Guaranteeing fulfillment of the obligations derived from domiciled documents, upon giving domicile for payments or notices. This provision must be included in the text of the documents in which the designated domicile is given;

**XI.** Conducting business with merchandise of any kind, except transactions with gold, silver and foreign currencies that can be performed pursuant to the terms of this law and the Organic Law of the Bank of Mexico;

**XII.** Participating in companies and business entities that are not limited liability, and operating, on own behalf, commercial or industrial establishments or ranches, without prejudice to the right to hold bonds, obligations, shares and other negotiable instruments of these companies pursuant to the terms of this law.

The National Banking Commission may authorize continued operation where the foregoing are received in payment of credit or for security of existing credits, without exceeding the periods specified in the following section;

**XIII.** Directly or indirectly acquiring, with funds originating from its liabilities, negotiable instruments, securities or assets as set forth in sections I and III of Article 55 of this law. The Department of Treasury and Public Credit may authorize exceptions, by means of general rules.

When a credit institution receives negotiable instruments or securities, in payment of debts or by sale at auction in legal actions related to claims in its favor, which it should not maintain as assets, or property or interests as set forth in this section, it must adhere to the general regulations established by the National Banking Commission;

**XIV.** Maintaining checking accounts for those persons who, in the course of two months, have issued three or more of said documents, that, if presented on time, would not have been paid due to insufficient funds, unless this lack of funds is due to a cause not attributable to the drawer.

When any person acts in the foregoing manner, the institutions will submit the name of that person to the National Banking Commission, so that this commission may give such notice to the various national financial institutions, which may not open an account for said person for a period of one year. The interested party may come before the foregoing commission to exercise the rights to which he is entitled:

**XV.** Advance payment, in whole or in part, of obligations owed from cash bank deposits, loans or credit;

**XV bis.** Advance payment of securities repurchase agreement transactions, except those carried out with the Bank of Mexico, other financial institutions or brokerage firms;

**XV bis 1.** Advance payment of obligations owed resulting from the issuance of bank bonds, except where these fulfill the requirements set forth to this effect in Article 63 of this law;

**XV bis 2.** Advance payment of obligations owed resulting from issuance of subordinate debentures, except where the institution fulfills the requirements set forth to this effect in Article 64 of this law;

**XVI.** Direct or indirect acquisition of negotiable instruments and securities issued or accepted, subordinate debentures issued by other financial institutions or holding companies; as well as reacquisition of credits owed by third parties that may have been assigned, except for the case of the transactions specified in Article 93 of this law;

**XVII.** Extending credit or loans with security of:

**a)** The liabilities referred to by Section IV of Article 46, whether of its own, of any credit institution or of holding companies;

**b)** Interests in trusts, mandates or commissions that, in turn, have as their subject the liabilities described in the preceding paragraph.

**c)** Shares of full-service banking institutions or financial group holding companies, owned by any person who holds five percent or more of the capital stock of the institution or company in question.

For shares other than those specified in the preceding paragraph representing the capital stock of financial institutions, holding companies and any financial entity, the institutions must give 30-day notice to the Department of Treasury and Public Credit;

**XVIII.** Conducting transactions and offerings on own behalf and on behalf of third parties with regard to depositors for the acquisition of goods or services, for which it is observed that, to avoid charges for the foregoing, the depositors must express their objection;

**XIX.** In carrying out the transactions referred to in Section XV of Article 46 of this law:

**a)** Conducting transactions with the institution itself in the fulfillment of trusts, mandates or commissions. The Bank of Mexico may authorize certain transactions by means of general regulations when they do not imply a conflict of interests;

**b)** Assuming responsibility towards trustors or principals, with regard to the default of debtors on claims or regarding issuers, as to the securities acquired, except where at fault pursuant to the final section of Article 391 of the General Law of Negotiable Instruments and Credit Operations; or, guarantee yields by investment funds entrusted.

If, upon termination of the trust, mandate or commission established for the extension of credit, these have not been liquidated by the debtors, the institution must transfer them to the trustor or trust beneficiary, as appropriate, or to the principal, abstaining from covering the respective amount due.

In trust, mandate or commission agency agreements, this paragraph will be clearly inserted along with a statement by the trustee to the effect that it clearly represented content to the persons from whom it has received assets or interests for conveyance in trust;

**c)** Acting as trustees, or principals in trusts, mandates or commissions, through which funds of the general public are directly or indirectly secured, through any act causing direct or contingent liabilities, except in the case of trusts established by the federal government through the Department of Treasury and Public Credit, and trusts through which securities are issued which are registered in the National Securities Registry in accordance with the provisions of the Securities Market Law;

**d)** Carrying out the trusts, mandates or commissions referred to by the second paragraph of Article 88 of the Mutual Fund Company Law.

**e)** Acting in trusts, mandates or commissions through which limitations or prohibitions contained in the financial laws are evaded;

**f)** Using funds or securities of trusts, mandates or commissions assigned to the extension of credit, in which the trustee possesses discretionary authority in such extension of credit to carry out transactions in which the following persons can become debtors: trust officers; the members of the managing board or board of directors, as the case may be, both regular and alternate, whether acting or not; the employees and officers of the institution; regular or alternate statutory auditors, whether acting or not; external auditors of the institution; members of the technical committee of the respective trust; the ascendants or descendants of the first degree or spouses of the foregoing persons, business entities with majority equity ownership by these persons, or the institutions themselves, and those persons determined by the the Bank of Mexico in

general regulations,

and

**g)** Managing rural property, except where said management has been conferred to distribute estate among heirs, legatees, associates or creditors, or to pay an obligation or guarantee its fulfillment with the value of said property or its proceeds; in these cases, management may not be provided for more than two years, except in cases of guarantee or production trusts.

Any agreement contrary to the provisions in the preceding paragraphs will be null and void.

**XX.** Providing information obtained in transactions with customers for sales and marketing of products or services, except in the case of the express consent of the customer involved.

The Bank of Mexico may authorize, by means of general rules, exceptions to the provisions of Sections II, XV and XV bis of this article, in order to promote the healthy development of the financial system.

The National Banking and Securities Commission may authorize exceptions to provisions in Section I of this article, provided that these are made with the objective of fostering the stability of financial institutions or the banking system.

**Article 115.-** The cases foreseen in articles 111 to 114 of this Law shall proceed by request from the Ministry of Finance and Public Credit, who shall listen to the opinion of the National Banking and Securities Commission; and such cases could also proceed by request from the respective credit institution or from anyone that has a legal interest.

The provisions of the articles referred to in this Chapter do not exclude any other penalties that may result applicable according to other laws for the commission of other offenses.

In addition to fulfilling all other obligations that result applicable, credit institutions and limited scope financial institutions shall observe the following, in terms of the general provisions issued by the Ministry of Finance and Public Credit after listening to the previous opinion of the National Banking and Securities Commission:

I. Establish measures and procedures to prevent and detect actions, omissions, or transactions that may favor, or grant aid, support, or cooperation to commit the offenses foreseen in articles 139, 148 Bis or 400 Bis of the Federal Penal Code, and

II. Submit to the Ministry of Finance and Public Credit, through the National Banking and Securities Commission, reports relating to:

a. Actions, transactions and services performed with their customers and users relating to the preceding fraction I, and

b. Any action, transaction or service performed by members of the board of directors, directors, officers, employees, or legal representatives that may be placed in the case foreseen in fraction I of this article or that, as the case may be, may violate or jeopardize the adequate application of the general provisions referred to above.

The reports referred to in fraction II of this article, in accordance with the general provisions foreseen in such fraction, shall be elaborated and submitted taking into consideration at least the variations contemplated in such provisions, the characteristics that the actions, transactions, and services shall have in order to be reported, taking into account the amounts, frequency and nature, monetary and financial instruments with which they are carried out, and the commercial and banking practices observed in the locations in which they are carried out, as well as the frequency and the systems through which the information shall be transmitted.

In the same manner, the Ministry of Finance and Public Credit shall include in the aforementioned general provisions guidelines about the procedure and criteria that credit institutions and limited scope financial institutions shall observe with regards to:

a. The adequate knowledge about their clients and users, for which credit institutions and limited scope financial

institutions shall consider the background, specific conditions, economic or professional activity, and locations in which such clients and users operate;

b. The information and documentation that credit institutions and limited scope financial institutions shall gather to open accounts or execute contracts relating to transactions and services provided by such institutions and that fully demonstrate the identity of their clients;

c. The manner in which credit institutions and limited scope financial institutions shall keep and assure the security of the information and documentation related to the identification of their present or former clients and users, as well as of that concerning the actions, transactions, and services reported in accordance with this article, and

d. The terms to provide training in credit institutions and limited scope financial institutions on the subject matter of this article. The general provisions referred to in this article shall establish the terms for due compliance of this provision.

Credit institutions and limited scope financial institutions shall keep, for at least ten years, the information and documentation referred to in sub-section c) of the preceding paragraph, without prejudice to the provisions of this or other laws.

The Ministry of Finance and Public Credit shall be empowered to request and collect, through the National Banking and Securities Commission, from credit institutions and limited scope financial institutions, who shall be obligated to deliver, information and documentation relating the actions, transactions, and services referred to in this article. The Ministry of Finance and Public Credit shall be empowered to obtain additional information from other persons for the same purposes and to provide such information to competent authorities.

The observance of the obligations stated in this article does not imply any breach of articles 117 and 118 of this Law [relating to bank and trust secrecy obligations].

The general provisions referred to in this article shall be observed by credit institutions and limited scope financial institutions, members of their board of directors, directors, officers, employees, or legal representatives, and therefore such institutions and persons shall be responsible for the strict observance of the obligations imposed through such general provisions.

Violation to the general provisions referred to in this article shall be penalized by the National Banking and Securities Commission, according to the procedure established under article 110 of this Law, with a fine of up to 100,000 days of the daily general minimum wage in effect in the Federal District.

The fines contemplated above may be imposed to credit institutions and limited scope financial institutions, members of their board of directors, directors, officers, employees and legal representatives and natural and legal persons who, by reason of their actions, caused or intervened so that the credit institutions incur the respective irregularity or become responsible for it. Notwithstanding the foregoing, the National Banking and Securities Commission, bearing in mind the circumstances of each particular case, could proceed in accordance with article 25 of this Law.

The public servants of the Ministry of Finance and Public Credit and the National Banking and Securities Commission, the credit institutions and limited scope financial institutions, members of their board of directors, directors, officers, employees and legal representatives, shall abstain from informing about the reports, and other documentation and information referred to in this article, to persons or authorities other than those expressly empowered to request, receive, or keep such information. Violations to these obligations shall be penalized in accordance with corresponding laws.

**Article 117.-** The information and documents related to operations and services, referred to in Article 46 of this Law, will be confidential. Credit institutions, in protection of the clients and users privacy rights set forth in this Article, shall not in any case give notice or information of the deposits, operations or services, including the ones foreseen in section XV of the mentioned Article 46, but to the depositor, debtor, holder, beneficiary, trustor, trustee, mandatory or mandator,

to their legal representatives or to whom they have granted power to dispose of the account or to intervene in the operation or service.

As exception to the established in the previous paragraph, credit institutions will be obligated to give notice or information to referred to the above mentioned paragraph, when the judicial authority requests it by means of a decision ruled in a judicial process in which the holder or, as the case may be, the trustor, trustee, mandatory, commissary, mandator or representative being a part or defendant. For the purposes of this paragraph, the judicial authority will be able to formulate a request directly to the credit institution, or through the National Banking and Securities Commission.

Credit institutions also shall be excepted of the prohibition foreseen in the first paragraph of this Article and, therefore, obligated to give the mentioned notice or information, in the cases in which they are requested by the following authorities:

I. The Federal General Attorney or the public officials in whom delegates powers to request information, for proving corpus delicti and the indicter's probable liability;

II. The Federal District and States' general attorneys or under-attorneys, to prove the corpus delicti and the indicter's probable liability;

III. The Military General Attorney, to prove the corpus delicti and the indicter's probable liability;

IV. The federal fiscal authorities, for fiscal purposes;

V. The Ministry of Finance and Public Credit, for effects of the established in Article 115 of this law;

VI. The Federal Treasurer, when the supervision act deserves it, in order to request bank statements and any other information regarding personal accounts of public officials, auxiliaries and, as the case may be, individuals linked to the respective investigation;

VII. The Superior Account Authority , in exercise of its supervision and auditing powers of the Federal Public Account regarding the accounts or contracts when public federal resources been manage or exercised;

VIII. The Secretary and the undersecretaries of the Ministry of the Public Function, in exercise of their investigation or audit powers in order to verify the federal public officials' patrimony, as well as the agencies in charge of the follow-up of the liabilities of the public officials of the constitutionally autonomous organisms in exercise of its investigation powers, and

IX. The Federal Electoral Institute, in exercise of its inspection powers of the public federal resources, assigned to the political parties, political national groups and associations with political and electoral purposes, regarding the accounts or contracts that such legal persons may establish in order to exercise or administer them.

The authorities mentioned in the previous sections shall request the notice or information referred to in this Article in the exercise of its powers, according with the applicable legal provisions.

The requests, referred to in the third paragraph of this article, shall be formulated duly founded and motivated through the National Banking and Securities Commission. The public officials referred in section I, should request the judicial authority to issue the corresponding order, with the purpose that the credit institution delivers the requested information, as long as the above mentioned officials specify the institution's name, account number, name of the account holder or user and other information and elements that allow its full identification, according to the respective transaction.

The personnel and officials of the credit institutions shall be responsible, in terms of the applicable provisions, by the

infringement of the secret herein established and the institutions will be obliged in case of undue revelation of the secret, to repair the damages and prejudices being caused.

The abovementioned does not affect credit institutions' obligation to provide the National Banking and Securities Commission, all sort of information and documents that, in exercise of its inspection and supervision functions, requests to them regarding the operations that they celebrate and the services rendered, nor the obligation of providing information requested by the Bank of Mexico, the Institute for the Bank Savings Protection and the Financial Services Users Protection and Defense Commission, according to the applicable legal provisions.

It shall be understood that no violation exists of the secret applicable to the operations referred in section XV of Article 46 of this Law, in the cases in which the Superior Account Authority, according to the law that rules its functions, requires the information to which this Article refers.

The documents and data provided by the credit institutions as consequence of the exceptions to the first paragraph of this Article shall only be used in the acts that correspond in terms of law, in respect of which must be observed a strict confidentiality, although the concerned public official leaves the service. The public official who unduly breaks the reservation of his actuations, provide copy of them or of the documents related with them, or by any other means discloses information contained in them, will be subject to the corresponding administrative, civil or penal responsibilities.

The credit institutions shall answer the requirements formulated by the National Banking and Securities Commission as a result from the indicated authority's requests in this article, within the term that the same Commission determines. The Commission shall sanction the credit institutions that do not deliver within the established terms and conditions, according to Articles 108 to 110 of this law.

The Commission shall issue general provisions establishing the requirements that must be contained in the information requests or information requirements that the authorities referred in sections I to IX of this Article formulates, with the purpose that the required credit institutions are able to identify, locate and provide the requested notice or information.

<b>SECURITIES MARKET LAW</b> ( <i>Ley del Mercado de Valores</i> )	212; 292;
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**Article 212.-** In addition to fulfilling all other obligations that result applicable, securities brokerage firms shall observe the following, in terms of the general provisions issued by the Ministry of Finance and Public Credit after listening to the previous opinion of the Commission [National Banking and Securities Commission]:

I. Establish policies and procedures to prevent and detect acts, omissions or transactions that could favor, aid, support or cooperate in the commission of the offenses foreseen in articles 139, 148 Bis or 400 Bis of the Federal Penal Code, and

II. Submit to the Ministry of Finance and Public Credit through the Commission, reports relating to:

a. Actions, transactions and services performed with customers and users relating to the preceding fraction I., and

b. Any action, transaction or service performed by securities brokerage firms, the members of their board of directors, directors, officers, employees, or legal representatives that may be placed in the case foreseen in fraction I of this article or that, as the case may be, may violate or jeopardize the adequate application of the general provisions referred to above.

The reports referred to in this fraction, in accordance with general provisions foreseen hereto, shall be elaborated and submitted taking into consideration at least the variations contemplated in such provisions, the characteristics that the

actions, transactions, and services shall have in order to be reported, taking into account the amounts, frequency and nature, monetary and financial instruments with which they are carried out, and the commercial and banking practices observed in the locations in which they are carried out, as well as the frequency and the systems through which the information shall be transmitted.

III. The Ministry of Finance and Public Credit shall include in the aforementioned general provisions guidelines about the procedure and criteria with regards to:

- a. The adequate knowledge about their clients and users, for which credit securities brokerage firms shall consider the background, specific conditions, economic or professional activity and locations in which such clients and users operate;
- b. The information and documentation that securities brokerage firms shall gather to open accounts or execute contracts relating to transactions and services provided by such institutions and that fully demonstrate the identity of their clients;
- c. The manner in which securities brokerage firms shall keep and assure the security of the information and documentation related to identification of their present or former clients and users, as well as of that concerning the actions, transactions and services reported in accordance with this article, and
- d. The terms to provide training in securities brokerage firms on the subject matter of this article. The general provisions referred to in this article shall establish the terms for due compliance of this provision.

Securities brokerage firms shall keep, for at least ten years, the information and documentation referred to in sub-section c) of this fraction, without prejudice to the provisions of this or other laws.

The Ministry of Finance and Public Credit shall be empowered to request and collect, through the Commission, from securities brokerage firms, who shall be obligated to deliver, information and documentation relating the actions, transactions and services referred to in this article. The Ministry of Finance and Public Credit shall be empowered to obtain additional information from other persons for the same purposes and to provide such information to competent authorities.

The observance of the obligations stated in this article does not imply any breach of article 192 of this Law [relating to secrecy obligations].

The general provisions referred to in this article, shall be observed by securities brokerage firms, members of their board of directors, directors, officers, employees, or legal representatives, and therefore such institutions and persons shall be responsible for the strict observance of the obligations imposed through such general provisions.

**Article 292.** Securities depository firms, upon court request or request from an arbitrator designated by the parties, will open special accounts with respect to securities deposited that are the subject of litigation and will freeze all related negotiable instruments and not perform any transaction upon them until notification the final sentence or judgment rendered by the arbitrator ending the dispute. The foregoing will be without prejudice to corporate rights of the institution with regard to deposit of securities in accordance with the provisions of this law, arising from the endorsement made to said depository.

<b>LAW OF POPULAR SAVINGS AND CREDIT</b> ( <i>Ley de Ahorro y Crédito Popular</i> )	124
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**Article 124.-** In addition to fulfilling all other obligations that result applicable, cooperatives and popular financial entities shall observe the following, in terms of the general provisions issued by the Ministry of Finance and Public Credit

after listening to the previous opinion of the National Banking and Securities Commission:

I. Establish measures and procedures to prevent and detect actions, omissions, or transactions that may favor, or grant aid, support, or cooperation to commit the offenses foreseen in articles 139, 148 Bis or 400 Bis of the Federal Penal Code, and

II. Submit to the Ministry of Finance and Public Credit, through the National Banking and Securities Commission, reports relating to:

a. Actions, transactions and services performed with their customers and users relating to the preceding fraction I, and

b. Any action, transaction or service performed by members of the board of directors, directors, officers, employees, or legal representatives that may be placed in the case foreseen in fraction I of this article or that, as the case may be, may violate or jeopardize the adequate application of the general provisions referred to above.

The reports referred in fraction II of this article, in accordance with the general provisions foreseen in such fraction, shall be elaborated and submitted taking into consideration at least the variations contemplated in such provisions, the characteristics that the actions, transactions and services shall have in order to be reported, taking into account the amounts, frequency and nature, monetary and financial instruments with which they are carried out, and the commercial and banking practices observed in the locations where they are carried out, as well as the frequency and the systems through which the information shall be transmitted.

In the same manner, the Ministry of Finance and Public Credit shall include in the aforementioned general provisions guidelines about the procedure and criteria that cooperatives and popular financial entities shall observe with regards to:

a. The adequate knowledge about their clients and users, for which cooperatives and popular financial entities shall consider the background, specific conditions, economic or professional activity and locations in which such clients and users operate;

b. The information and documentation that cooperatives and popular financial entities shall gather to open accounts or execute contracts relating to transactions and services provided by such entities and that fully demonstrate the identity of their customers and associates;

c. The manner in which cooperatives and popular financial entities shall keep and assure the security of the information and documentation related to the identification of their present or former customers and associates, as well as of that concerning the actions, transactions and services reported in accordance with this article, and

d. The terms to provide training in cooperatives and popular financial entities on the subject matter of this article. The general provisions referred to in this article shall establish the terms for due compliance of this provision.

Cooperatives and popular financial entities shall keep, for at least ten years, the information and documentation referred to in sub section c) of the preceding paragraph, without prejudice to the provisions of this or other laws.

The Ministry of Finance and Public Credit shall be empowered to request and collect, through the National Banking and Securities Commission, from cooperatives and popular financial entities, who shall be obligated to deliver, information and documentation relating the actions, transactions, and services referred to in fraction II of this article.

The observance of the obligations stated in this article does not imply any breach of article 34 of this Law [relating to secrecy obligations].

The general provisions referred to in this article, shall be observed by cooperatives and popular financial entities, members of their supervision committee, directors, officers, employees, or legal representatives, and therefore such entities and persons shall be responsible for the strict observance of the obligations imposed through such general

provisions.

Violation to the general provisions referred to in this article shall be penalized by the National Banking and Securities Commission, according to the procedure established under article 126 of this Law, along with the fine foreseen in article 130, fraction XVI of this Law.

The fines contemplated above may be imposed to cooperatives, popular financial entities, members of their supervision committee, directors, officers, employees and legal representatives and natural and legal persons who, by reason of their actions, caused or intervened so that cooperatives and popular financial entities incur the respective irregularity or become responsible for it. Notwithstanding the foregoing, the National Banking and Securities Commission, bearing in mind the circumstances of each particular case, could proceed in accordance with article 122 of this Law.

The public servants of the Ministry of Finance and Public Credit and the National Banking and Securities Commission, the cooperatives, popular financial entities, members of their supervision committee, directors, officers, employees and legal representatives, shall abstain from informing about the reports, and other documentation and information referred to in this article, to persons or authorities other than those expressly empowered to request, receive or keep such information. Violations to these obligations shall be penalized in accordance with corresponding laws.

**LAW OF THE RETIREMENT SAVINGS SYSTEMS**  
(*Ley de los Sistemas de Ahorro para el Retiro*)

108 Bis

**Article 108 Bis.**- In addition to fulfilling all other obligations that result applicable, administrators of pension funds shall observe the following, in terms of the general provisions issued by the Ministry of Finance and Public Credit after listening to the previous opinion of the Commission [National Commission for the Retirement Savings System]:

I. Establish measures and procedures to prevent and detect actions, omissions or transactions that may favor, or grant aid, support or cooperation to commit the offenses foreseen in articles 139, 148 Bis or 400 Bis of the Federal Penal Code, and

II. Submit to the Ministry of Finance and Public Credit, through the Commission, reports relating to:

a. Actions, transactions and services performed with their customers and users relating to the preceding fraction I., and

b. Any action, transaction or service performed by members of the board of directors, directors, officers, employees, or legal representatives that may be placed in the case foreseen in fraction I of this article or that, as the case may be, may violate or jeopardize the adequate application of the general provisions referred to above.

The reports referred to in fraction II of this article, in accordance with the general provisions foreseen in such fraction, shall be elaborated and submitted taking into consideration at least, the variations contemplated in such provisions, the characteristics that the actions, transactions, and services shall have in order to be reported, taking into account the amounts, frequency and nature, monetary and financial instruments with which they are carried out, and the commercial and banking practices observed in the locations in which they are carried out, as well as the frequency and systems through which the information shall be transmitted.

In the same manner, the Ministry of Finance and Public Credit shall include in the aforementioned general provisions guidelines about the procedure and criteria that pension administrators shall observe with regards to:

a. The adequate knowledge about their clients and users, for which pension administrators shall consider the background, specific conditions, economic or professional activity, and locations in which such clients and users operate;

- b. The information and documentation that pension administrators shall gather to open accounts or execute contracts relating to transactions and services provided by such institutions and that fully demonstrate the identity of their clients;
- c. The manner in which pension administrators shall keep and assure the security of the information and documentation related to the identification of their present or former clients and users, as well as of that concerning the actions, transactions, and services reported in accordance with this article, and
- d. The terms to provide training in pension administrators on the subject matter of this article. The general provisions referred to in this article shall establish the terms for due compliance of this provision.

Pension administrators shall keep, for at least ten years, the information and documentation referred to in sub-section c) of the preceding paragraph, without prejudice to the provisions of this or other laws.

The Ministry of Finance and Public Credit shall be empowered to request and collect, through the Commission, from administrators of pension funds, who shall be obligated to deliver, information and documentation relating the actions, transactions and services referred to in fraction II of this article. The Ministry of Finance and Public Credit shall be empowered to obtain additional information from other persons for the same purposes and to provide such information to competent authorities.

The observance of the obligations stated in this article does not imply any breach of secrecy obligations.

The general provisions referred to in this article shall be observed by administrators of pension funds, members of their board of directors, directors, officers, employees, or legal representatives, and therefore such institutions and persons shall be responsible for the strict observance of the obligations imposed through such general provisions.

Violation to the general provisions referred to in this article shall be penalized by the Commission, according to the procedure established under article 99 of this Law, along with the fine foreseen in article 100, fraction XXVII of this Law.

The fines contemplated above may be imposed to administrators of pension funds, members of their board of directors, directors, officers, employees and legal representatives and natural and legal persons who, by reason of their actions, caused or intervened in administrators of pension funds to incur the respective irregularity or become responsible for it. Notwithstanding the foregoing, the Commission, bearing in mind the circumstances of each particular case, could proceed in accordance with article 52 of this Law.

The public servants of the Ministry of Finance and Public Credit and the Commission, administrators of pension funds, members of their board of directors, directors, officers, employees and legal representatives, shall abstain from informing about the reports, and other documentation and information referred to in this article, to persons or authorities other than those expressly empowered to request, receive or keep such information. Violations to these obligations shall be penalized in accordance with corresponding Laws.

<b>LAW OF INVESTMENTS SOCIETIES</b> ( <i>Ley de Sociedades de Inversión</i> )	91
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**Article 91.-** In addition to fulfilling all other obligations that result applicable, operator entities of investment societies, distributors of securities of investment societies and investment societies shall observe the following, in terms of the general provisions issued by the Ministry of Finance and Public Credit after listening to the previous opinion of the Commission [National Banking and Securities Commission]:

- I. Establish measures and procedures to prevent and detect actions, omissions or transactions that may favor, or grant aid,

support or cooperation to commit the offenses foreseen in articles 139, 148 Bis or 400 Bis of the Federal Penal Code, and

II. Submit to the Ministry of Finance and Public Credit through the Commission, reports relating to:

- a. Actions, transactions and services performed with their customers and users relating to the preceding in fraction I., and
- b. Any action, transaction or service performed by members of the board of directors, directors, officers, employees, or legal representatives that may be placed in the case foreseen in fraction I of this article or that, as the case may be, may violate or jeopardize the adequate application of the general provisions referred to above.

The reports referred to in fraction II of this article, in accordance with the general provisions foreseen in such fraction, shall be elaborated and submitted taking into consideration at least the variations contemplated in such provisions, the characteristics that the actions, transactions, and services shall have to be reported, taking into account the amounts, frequency and nature, monetary and financial instruments with which they are carried out, and the commercial and banking practices observed in the locations in which they are carried out, as well as the frequency and the systems through which the information shall be transmitted.

In the same manner, the Ministry of Finance and Public Credit would include in the abovementioned general provisions guidelines about the procedure and criteria that operator entities of investment societies, distributors of securities of investment societies and investment societies shall observe with regards to:

- a. The adequate knowledge about their clients and users, for which operator entities of investment societies, distributors of securities of investment societies and investment societies shall consider the background, specific conditions, economic or professional activity and locations in which such clients and users operate;
- b. The information and documentation that operator entities of investment societies, distributors of securities of investment societies and investment societies shall gather to open accounts or execute contracts relating to transactions and services provided by such institutions and that fully demonstrate the identity of their clients;
- c. The manner in which operator entities of investment societies, distributors of securities of investment societies and investment societies shall keep and assure the security of the information and documentation related to identification of their present or former clients or users, as well as of that concerning the actions, transactions and services reported in accordance with this article, and
- d. The terms to provide training in operator entities of investment societies, distributors of securities of investment societies and investment societies on the subject matter of this article. The general provisions referred to in this article shall establish the terms for due compliance of this provision.

Operator entities of investment societies, distributors of securities of investment societies and investment societies shall keep, for at least ten years, the information and documentation referred to in sub-section c) of the preceding paragraph, without prejudice to the provisions of this or other laws.

The Ministry of Finance and Public Credit shall be empowered to request and collect, through the Commission, from operator entities of investment societies, distributors of securities of investment societies and investment societies, who shall be obligated to deliver, information and documentation relating the actions, transactions, and services referred to in fraction II of this article. The Ministry of Finance and Public Credit shall be empowered to obtain additional information from other persons for the same purposes and to provide such information to competent authorities.

The observance of the obligations stated in this article does not imply any breach of article 55 of this Law [relating to secrecy obligations].

The general provisions referred to in this article, shall be observed by operator entities of investment societies, distributors of securities of investment societies and investment societies, members of their board of directors, directors, officers,

employees, or legal representatives, and therefore such institutions and persons shall be responsible for the strict observance of the obligations imposed through such general provisions.

Violation to the general provisions referred to in this article shall be penalized by the Commission, according to the procedure established under article 84 of this Law, with a fine of up to 10,000 days of the daily general minimum wage in effect in the Federal District

The fines contemplated above may be imposed to operator entities of investment societies, distributors of securities of investment societies and investment societies, members of their board of directors, directors, officers, employees and legal representatives and natural and legal persons who, by reason of their actions, caused or intervened so that the operator entities of investment societies, distributors of securities of investment societies and investment societies incur the respective irregularity or become responsible for it. Notwithstanding the foregoing, the Commission, bearing in mind the circumstances of each particular case, could proceed in accordance with article 52 of this Law.

The public servants of the Ministry of Finance and Public Credit and the National Banking and Securities Commission, operator entities of investment societies, distributors of securities of investment societies and investment societies, members of their board of directors, directors, officers, employees and legal representatives, shall abstain from informing about the reports, and other documentation and information referred to in this article, to persons or authorities other than those expressly empowered to request, receive or keep such information. Violations to these obligations shall be penalized in accordance with corresponding Laws.

<b>FEDERAL LAW OF BONDS INSTITUTIONS</b> ( <i>Ley Federal de Instituciones de Fianzas</i> )	5; 7; 15; 66; 70; 87; 110; 112
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**ARTICLE 5.-** In order to function as a bonding institution or to operate exclusively the rebonding service, the Federal Government should provide authorization granted by the Department of Treasury and Public Credit.

**ARTICLE 7.-** The persons who require authorization to constitute a bonding institution, shall be subject to the provisions of this law and shall comply with the following requirements:

...

**II.** Submit a list of the founding shareholders indicating their nationality, the capital that each shall contribute, the form in which such capital shall be paid as well as the source of the resources with which the subscription of said capital shall be made;

**ARTICLE 15.-** Bonding institutions must be organized as corporations (*sociedades anónimas*) with fixed or variable capital, subject to the General Law of Mercantile Companies in matters not provided in this Law, particularly the following:

....

**III.** Any person may acquire through one or several simultaneous or successive transactions, the control of shares that represent the paid-in capital of a bonding company, provided that such transaction shall be previously approved from the Ministry of Finance and Public Credit who shall take into consideration the opinion of the National Insurance and Bond Commission, when such shares represent more than 5% of the paid-in capital, notwithstanding the provision of section II Bis of this article.

In the event that one or more shareholders intend to obtain control over the management of a bonding company, such persons shall attach to their request, as applicable:

a) List of the persons that, in its case, intend to obtain control of the corresponding bonding company, indicating the capital that each will subscribe, the form in which they will pay it as well as the source of the resources with which they will make such payment;

**ARTICLE 66.-** The inspection and audit of bonding institutions, as well as the other persons and enterprises to which this Law refers, insofar as compliance with the dispositions thereof is concerned, shall remain entrusted to the National Insurance and Bond Commission in the terms of this Law and of the regulation issued for these purposes by the Federal Executive, Commission which besides the obligations and faculties attributed by this Law, will rule in relation with bonds and other persons to which this Law refers, in terms of the inspection and supervisory provisions contained in the General Law of Insurance Institutions and Mutual Entities.

**ARTICLE 70.-** The bonding institutions are compelled to receive the inspection visits ordered to be performed.

Visits or inspections shall be made to all the bonding institutions in accordance with the programs elaborated by the National Insurance and Bond Commission and that are approved by the Governing Board, taking in consideration the overall situation of the sector and the necessities of each concrete case; without prejudice to those which are carried out upon request of the statutory examiners, beneficiaries or of a group of shareholders, who submit sufficient data to justify that visit in the judgment of the National Insurance and Bond Commission.

The Chairman of the Commission may appoint at any time or even permanently, inspectors in the bonding institutions, who shall review their operations and their financial situation and audit the general progress of the bonding institution, as well as delegates who shall verify the work of those inspectors.

The Commission can also order the performance of special visits or inspections, which can be undertaken by the Chairman of such Commission. When exercising its functions under this Article, the National Insurance and Bond Commission so requires, it may engage such auditors and other professionals that aid it in such functions.

**ARTICLE 87.-** *For the purposes of this Law, individuals or legal entities which intervene in the contracting of bonds, and in the advising of the execution of contracts, their conservation or modification, for the greater convenience of the contracting parties, shall be considered bonds agents.*

In order to carry out the activity of a bonding agent, authorization of the National Insurance and Bond Commission is required. The Commission can revoke the authorization, after hearing the interested party, in the terms of the respective Regulation.

Authorizations shall be non-transferable and may be granted to the following persons when they satisfy the requirements which are established in the respective Regulation:

- (a) Individuals who are employees of bonding institutions in order to carry out that activity;
- (b) Individuals who shall be carrying out that activity through mercantile contracts; and
- (c) Legal entities that are incorporated in order to operate that activity.

The activities which bonding agents carry out shall be subject to the provisions of this Law and the respective Regulation, to the general policy orientations set forth by the Ministry of Finance and Public Credit in bonding matters and to the inspection and auditing provisions provided by the National Insurance and Bond Commission.

Bonding agents must meet the requirements demanded by the respective Regulation, but in no case may persons who by their position or through any other circumstance exercise coercion in the contracting of bonds, be authorized to

act as bonding agents.

**ARTICLE 110.-** The fines corresponding to penalties for violations provided in this Law and in provisions issued in connection therewith, shall be imposed administratively by the National Insurance and Bond Commission, taking the general minimum wage in force in the Federal District at the time of commission of the violation, unless another form of penalty is set forth in applicable Law, and shall be enforced by the Ministry of Finance and Public Credit.

When imposing the corresponding penalty, the aforementioned Commission must always previously hear the interested party and shall take into account the economical conditions and intention of the violator, the importance of the violation and the convenience of avoiding practices tending to contravene the provisions of this Law and the rules arising therefrom.

In the case of bonding companies, the economical condition shall be measured by taking into consideration the net capital and the capital stock at the end of the preceding fiscal year.

In order to hear the alleged violator the National Insurance and Bond Commission shall grant it a term of 10 working days, which may be extended one time, for the interested party to manifest what it deems convenient, and submitting the evidence that he wishes. Once the term and its extension has elapsed, if the interested party did not appear before the National Insurance and Bond Commission, the right to be heard by said authority shall be extinguished, and the corresponding resolution shall be issued based on the elements available on the respective file in terms of this Article.

Once the allegations made by the interested party have been analyzed and the evidence submitted by him has been evaluated, or in its case once the documents that form part of the respective administrative file have been analyzed, the National Insurance and Bond Commission, in order to impose the corresponding fine in the respective resolution, shall:

- a) Indicate the legal provisions or administrative rules that are applicable to the case as well as the special circumstances, individual reasons or immediate causes that were taken into consideration to determine the existence of the violation; and
- b) Take into account the importance of the act or omission that originated the imposition of the penalty and economical status of the violator.

When the penalty to be imposed is larger than the pre-established minimum, the corresponding resolution shall indicate the reasons and motives for which the National Insurance and Bond Commission considers applicable such penalty.

The penalties imposed in accordance with this law in no case shall exceed 2% of the net worth or capital stock of the bonding company. The imposition of penalties shall not discharge the violator from complying with its obligations or to cure the circumstances that originated the penalty.

Taking into consideration the special circumstances of each case, the National Insurance and Bond Commission may also admonish the violator or just reprimand it.

The provisions of this article does not exclude the imposition of penalties that in accordance with this or other laws are applicable with respect to unlawful actions or criminal offenses, nor the revocation of the authorization to the bonding company.

In protection of public interest, the National Insurance and Bond Commission shall made public any sanctions that it imposes for violations of this law or to the rules arising therefrom, once such resolutions are definitive, indicating only the sanctioned person, the violated provision and the imposed penalty.

**Article 112.-** The cases foreseen in articles 112 Bis to 112 Bis 7 and 112 Bis 9 of this Law shall proceed by request from the Ministry of Finance and Public Credit, who shall listen to the opinion of the National Insurance and Bonding Commission, and such cases could also proceed by request from the respective sureties institution or from anyone that has a legal interest.

Penalties foreseen in this Law would be calculated upon the base of days times the daily general minimum wage in effect in the Federal District

In addition to fulfilling all other obligations that result applicable, sureties institutions and bonding agents shall observe the following, in terms of the general provisions issued by the Ministry of Finance and Public Credit after listening to the previous opinion of the National Insurance and Sureties Commission:

I. Establish measures and procedures to prevent and detect actions, omissions, or transactions that may favor, or grant aid, support, or cooperation to commit the offenses foreseen in articles 139, 148 Bis or 400 Bis of the Federal Penal Code, and

II. Submit to the Ministry of Finance and Public Credit through the National Insurance and Sureties Commission, reports relating to:

a. Actions, transactions and services performed with their customers and users relating to the preceding fraction I., and

b. Any action, transaction or service performed by members of the board of directors, directors, officers, employees, or legal representatives that may be placed in the case foreseen in fraction I of this article or that, as the case may be, may violate or jeopardize the adequate application of the general provisions referred to above.

The reports referred in fraction II of this article, in accordance with the general provisions foreseen in such fraction, shall be elaborated and submitted taking into consideration at least the variations contemplated in such provisions, the characteristics that the actions, transactions, and services shall have in order to be reported, taking into account the amounts, frequency and nature, monetary and financial instruments with which they are carried out, and the commercial and banking practices observed in the locations in which they are carried out, as well as the frequency and the systems through which the information shall be transmitted.

In the same manner, the Ministry of Finance and Public Credit shall include in the aforementioned general provisions guidelines about the procedure and criteria that bonding institutions and bonding agents shall observe with regards to:

a. The adequate knowledge about their clients and users, for which sureties institutions and agents shall consider the background, specific conditions, economic or professional activity and locations in which such clients and users operate;

b. The information and documentation that sureties institutions and agents shall gather to open accounts or execute contracts relating to transactions and services provided by such institutions and that fully demonstrate the identity of their clients;

c. The manner in which sureties institutions and agents shall keep and assure the security of the information and documentation related to identification of their present or former clients and users, as well as of that concerning the actions, transactions, and services reported in accordance with this article, and

d. The terms to provide training in sureties institutions and agents on the subject matter of this article. The general provisions referred to in this article shall establish the terms for due compliance of this provision.

Sureties institutions and agents shall keep, for at least ten years, the information and documentation referred to in subsection c) of the preceding paragraph, without prejudice to the provisions of this or other laws. The Ministry of Finance and Public Credit shall be empowered to request and collect, through the National Insurance and Sureties Commission, from sureties institutions and agents, who shall be obligated to deliver, information and documentation relating the actions, transactions and services referred to in this article. The Ministry of Finance and Public Credit shall be empowered to obtain additional information from other persons for the same purposes and to provide such information to competent authorities.

The observance of the obligations stated in this article shall not imply any breach to secrecy obligations neither violation to article 126 of this Law, nor to articles 117 and 118 in relation with article 46, fraction XV of the Law of Credit

Institutions. The general provisions referred to in this article shall be observed by sureties institutions and agents, members of their board of directors, directors, officers, employees, or legal representatives, and therefore such institutions and persons shall be responsible for the strict observance of the obligations imposed in such general provisions.

Violation to the general provisions referred to in this article shall be penalized by the National Insurance and Sureties Commission, according to the procedure established under article 110 of this Law, with a fine of up to 100,000 days of the daily general minimum wage in effect in the Federal District.

The fines contemplated above may be imposed to sureties institutions and agents, members of their board of directors, directors, officers, employees and legal representatives and natural and legal persons who, by reason of their actions, caused or intervened in the sureties institutions to incur the respective irregularity or become responsible for it. Notwithstanding the foregoing, the National Insurance and Sureties Commission, bearing in mind the circumstances of each particular case, could proceed in accordance with articles 82 and 87 of this Law.

The public servants of the Ministry of Finance and Public Credit and the National Insurance and Sureties Commission, the sureties institutions and agents, members of their board of directors, directors, officers, employees and legal representatives, shall abstain from informing about the reports, and other documentation and information referred to in this article, to persons or authorities other than those expressly empowered to request, receive or keep such information. Violations to these obligations shall be penalized in accordance with corresponding Laws.

**GENERAL LAW OF INSURANCE INSTITUTIONS AND MUTUAL ENTITIES** (*Ley General de Instituciones y Sociedades Mutualistas de Seguros*)

5; 16; 23; 29; 32; 39; 40; 44; 106; 108; 110; 126; 138;140;

ARTICLE 5.

In order to be organized and function as an insurance institution or mutual insurance company, authorization of the Federal Government is required, being the competent authority to grant such authorization the Ministry of Finance and Public Credit.

ARTICLE 16.

Persons that request an authorization to incorporate an insurance company or mutual insurance company shall be subject to the provisions of this law and shall comply with the following:

- I. Submit the draft of the company's by-laws;
- II. Submit a list of the founding shareholders indicating their nationality, the capital that each shall contribute, the form in which such capital shall be paid as well as the source of the resources with which the subscription of said capital shall be made;
- III. Submit a strategic program for the implementation of the policies and norms referred to in paragraph 1, of section I, of article 29 of this Law.
- IV. Indicate the names, nationality, domiciles and occupations of the board members, officers and normative comptroller, who shall comply with the requirements set forth in article 29, sections VII Bis and VII Bis 1 of this Law.

V. Submit an operation plan that at least shall contemplate:

- a) The initial capital;
- b) The basis pertaining to its internal organization and control;
- c) The prospective geographic coverage and business segments;
- d) The technical operation and placement of insurance programs, with respect to the operations and lines for which they are requesting authorization;

VI. Submit the corresponding receipt of having deposited with Nacional Financiera, S.N.C., such amounts in Mexican currency or in Government securities with a market value, for an amount equal to 10% of the minimum capital with which such company shall operate in accordance with this law.

The Ministry of Finance and Public Credit, after taking into consideration the opinion of the National Insurance and Bond Commission, shall issue the general rules that set forth the form and terms in which each of the foregoing requisites shall be evidenced.

The corresponding authorization shall be subject to the condition that the insurance company is organized and commences operations within the terms set forth in section I of Article 75 and section I of Article 97 of this Law.

The deposit referenced in section VI of this article shall be reimbursed upon beginning of operations or denial of the authorization, but it shall be applied to the taxing authorities if notwithstanding that the corresponding authorization has been granted, the condition set forth in the foregoing paragraph is not complied with.

In case that the authorization is denied, the authorities may withhold from the promoter up to 10% of the deposit and shall be applied to the federal tax authorities in connection with the expenses incurred in connection with the corresponding procedure.

The authorization request to form an insurance institution to operate in the health insurance sector, in addition to the provisions of this article, must be accompanied by a provisional report issued by the Ministry of Health, after payment of the corresponding duties, which must not be more than 60 calendar days after its expedition, in which it shall be stated that the institution has the necessary elements to be able to render the services that are the matter of the insurance policies to which Article 8, section V, of this Law refers, or that it can sub-contract those services. The final resolution issued by the Ministry of Health, after the payment of the corresponding duties, must be filed in accordance with Article 75, section II Bis, letter a).

With respect to mutual insurance companies the provisions of sections III and VI shall not be applicable.

The request submitted by an insurance company or a mutual insurance company to modify the authorization under which it is operating, in order to change or expand the corresponding operations or lines, shall comply as applicable, with the requisites set forth in sections I to V of this article and indicating the adjustments that it shall effect with respect to such matters. In such case, it shall be subject to the provisions of article 18 of this Law.

ARTICLE 23.

***For the purposes of this Law, individuals or legal entities which intervene in the contracting of insurance by means of the interchange of proposals and acceptances, and in the advising of the execution of contracts, their conservation or modification, for the greater convenience of the contracting parties, shall be considered insurance agents.***

Intermediation of insurance policies that are not of the nature of adhesion contracts, is reserved exclusively to insurance

agents; intermediation of those that are of the nature of adhesion contracts may also be carried out through the companies referred to in the last paragraph of Article 41 of this Law.

In order to carry out the activity of an insurance agent, authorization of the National Insurance and Bond Commission is required, which shall grant it or refuse it at its discretion and, after hearing the interested party, may suspend it for up to two years or revoke, in addition to applying admonitions and fines to such agents, in the terms of this Law and the respective Regulation. The authorizations shall be for one or more operations or lines; nevertheless, in the case of intermediation in pension insurance derived from the social security laws, authorizations shall only be granted for intermediating such insurance in respect of only one insurance institution, in addition to which they may be granted authorizations to carry out their activities in other operations or fields, with various institutions.

Authorizations shall be non-transferable and may be granted to the following persons when they satisfy the requirements which are established in the respective Regulation:

- (a) Individuals who are employees of insurance institutions in order to carry out that activity;
- (b) Individuals who shall be carrying out that activity through mercantile contracts; and
- (c) Legal entities that are incorporated in order to operate that activity.

The activities which insurance agents carry out shall be subject to the provisions of this Law and the respective Regulation, to the general policy orientations set forth by the Ministry of Finance and Public Credit in insurance matters and for the due compliance of the provisions of Article 24 of this Law, and to the inspection and auditing of the National Insurance and Bond Commission. The provisions of Article 71 of this Law shall also be applicable to them.

Insurance agents must meet the requirements demanded by the respective Regulation, but in no case may persons who by their position or through any other circumstance exercise coercion in the contracting of insurance, be authorized to act as insurance agents.

Agents of insurance institutions shall give notice to the National Insurance and Bond Commission at least 10 days in advance of the change of location of the establishment or close of their offices. They shall likewise give such notice to their insured.

## **FIRST TITLE. INSURANCE INSTITUTIONS**

### **CHAPTER I. ORGANIZATION**

#### **ARTICLE 29.**

Insurance institutions must be organized as corporations (*sociedades anónimas*) with fixed or variable capital, subject to the General Law of Mercantile Companies in matters not provided in this Law, particularly the following:

I. The institutions shall have a minimum paid-in capital, expressed in Investment Units, for each authorized operation or line, which capital shall be covered, in national currency, within the term specified in this section and which shall be determined by the Ministry of Finance and Public Credit during the first quarter of every year, which determination shall be made considering, among other things, the resources that are necessary to support the adequate rendering of services that the insured activity requires, the amount of paid-in capital and capital reserves with which the group of institutions that comprise the system of insurers operates, the country's economic situation and the principle of promoting the healthy, equilibrated development of the system and adequate competition.

The minimum capital must be totally subscribed and paid up no later than June 30 of the year in which the Ministry of Finance and Public Credit had established it. When the capital stock exceeds the minimum at least 50% of it must be paid

up, provided that this percentage is not less than the minimum established.

When an insurance company does not comply with the provisions of the preceding paragraph, the provisions of article 74 of this Law shall be applicable.

The capitalizations resulting from dividends and superavit from revaluation of real estate assets shall be adjusted to the general provisions issued to such effect by the National Insurance and Bond Commission.

Regarding variable capital companies, the minimum mandatory capital shall be integrated by shares with no withdrawal rights. The amount of capital with withdrawal rights shall in no case exceed the paid-in capital without withdrawal rights.

Shares shall be paid in full at the time of their subscription.

The capital stock of insurance institutions may be composed of a portion represented by shares with limited voting rights up to an amount equivalent to 30% of paid up capital, with the prior authorization of the Ministry of Finance and Public Credit. The acquisition of stock with limited voting rights shall not be subject to the limits established by No. 2, of section II of this article. These shares shall not be counted for the purpose of the limit established in the last paragraph of No. 1, section II of this article.

The shares with limited voting rights shall grant a voting right only in matters relative to change of purpose, merger, spin-off, transformation, dissolution and liquidation, as well as cancellation of registration on any securities exchange.

Shares with limited voting rights may confer a right to receive a preferential and accumulative dividend, as well as higher dividend than that of common stocks, provided and when it is so established in the by-laws of the issuing institution. In no case may the dividends from this type of shares be less than those of other classes of shares.

The amounts which subscribers of shares pay on their nominal value for premiums or other similar payments, shall be kept in a special reserve fund, and may only be computed as capital for the purposes of determining the minimum capital required by this Law.

The accumulated losses registered by an insurance institution shall be applied directly, and in the order indicated, to the following concepts: profits to be applied at the close of the fiscal year, provided such profits are not derived from the revaluation of investments in variable income instruments; capital reserves; and paid-in capital. At no time shall the paid-in capital may be less than the minimum determined by the Ministry of Finance and Public Credit; in the event it is, it shall be restored to such level or the provisions of Article 47 of this Law shall apply.

I bis. The institutions may classified be as follows based on the origin of the shareholders who subscribe their capital:

- (a) With total or majority of Mexican capital; or
- (b) With total foreign capital or with a majority thereof, in which case they shall be considered as Subsidiaries of Foreign Financial Institutions.

In all matters concerning their organization, the institutions to which letter (a) of this section refers shall be governed by that which is provided in this Chapter, whereas the institutions to which letter (b) refers, shall be governed by that which is provided in this Chapter, insofar as is applicable, with exception of section II of this article, as well as by that which is established in Chapter I Bis of the First Title of this Law.

At no time may foreign governments or official departments thereof participate in the capital of insurance institutions, whether directly or through another person.

II. In the case of institutions to which letter (a) of section I bis of this Law refers:

1. Credit institutions, mutual insurance companies, securities exchanges, auxiliary credit organizations, companies

operating investment companies, *sociedades financieras de objeto limitado, entidades de ahorro y crédito popular, administradoras de fondos para el retiro* or exchange houses may not participate in their paid in capital stock, whether directly or through another person.

The provisions of the foregoing paragraph shall not be applicable when the participation results from the participation of financial holding companies referred to in the Financial Groups Law.

The Ministry of Finance may authorize banking institutions to acquire shares of insurance companies and holding companies referred to in section III of this article when acting as trustees in trusts that are not utilized as a means to contravene the provisions of this Law.

Foreign insurance, reinsurance or rebonding entities, as well as foreign individuals or legal persons, other than those excluded in the first paragraph of this item, may acquire shares that represent the capital of these insurance institutions. The Mexican investment must always maintain the ability to determine the management of the institution and its effective control.

For that purpose, the foreign investment must be evidenced in a special series of shares representative of the capital of the corresponding company, which in no case may exceed 49% of the paid-in capital of the company.

2. Any person may acquire through one or several simultaneous or successive transactions, the control of shares that represent the paid-in capital of an insurance company, provided that such transaction shall be previously approved from the Ministry of Finance and Public Credit who shall take into consideration the opinion of the National Insurance and Bond Commission, when such shares represent more than 5% of the paid-in capital, notwithstanding the provision of section II, point 1 of this article.

In the event that one or more shareholders intend to obtain control over the management of an insurance company, such persons shall attach to their request, as applicable:

- a) List of the persons that, in its case, intend to obtain control of the corresponding insurance company, indicating the capital that each will subscribe, the form in which they will pay it as well as the source of the resources with which they will make such payment;
- b) Indicate the names, nationality, domiciles and occupations of the board members, officers and normative comptroller, who shall comply with requisites set forth in sections VII Bis and VII Bis 1 of this article;
- c) The activities plan of the insurance company, which shall contemplate, as applicable, the matters referred to in article 16 of this Law;
- d) Strategic program for the implementation of the norms and policies referred in number 1, of section I, of article 29 Bis of this Law;
- e) Such other related documentation as required by the Ministry of Finance in order to evaluate the corresponding request.

For the purposes of this Law, it shall be deemed that the control over an insurance company is obtained when 30% or more of the shares that represent the paid-in capital of the company are acquired, when a given person has control over the general shareholders' meeting, when a given person has the ability of appointing the majority of the members of the board or when by any other means the corresponding insurance company is controlled.

Except for the provisions contained in the Financial Groups Law, companies that have control over an insurance company shall be subject to the review and surveillance of the National Insurance and Bond Commission and such companies and their shareholders shall be subject to the provisions of this section II, section III of this article and sections III and IV of article 139 hereof.

Persons that contribute shares of one or several insurance companies to the capital to one of the companies referred to in

the preceding paragraph, may retain the participation that results in the capital thereof in amount equal to the value of the shares that each of them so contributes.

Except for the provisions of the Financial Groups Law, in the capital of the above-mentioned companies, another company of the same nature, mutualist insurance companies, banking or bonding companies, brokers, *sociedades financieras de objeto limitado*, *sociedades operadoras de sociedades de inversion*, *organizaciones auxiliares de crédito*, *administradoras de fondos para el retiro*, *entidades de ahorro y crédito popular* or exchange houses as well as such other companies that the Ministry of Finance determines in general provisions as incompatible by reason of their activities, may not participate in the capital of said companies.

The provisions of the foregoing three paragraphs shall be stated in the by-laws of the corresponding companies.

Persons who acquire or transfer shares for more than 2% of the paid-in capital of an insurance company, shall give notice thereof to the Ministry of Finance within the following three working days to said acquisition or transfer.

Insurance companies shall provide to the Ministry of Finance and Public Credit and the National Insurance and Bond Commission the information that such authorities require with respect to the persons that directly or indirectly have acquired the shares that represent their paid-in capital, in the forms and subject to the conditions set forth in general provisions.

III. In order to participate in shareholders' meetings of insurance institutions or of controlling companies referred to in the Financial Groups Law or of companies that control an insurance company in terms of section II of this article, the following requirements must be fulfilled:

(a) Show in writing the capacity of the person who is to attend, whether that of shareholder, mandate, commission agent, fiduciary or any other. Mandates, commission agents or any other type of representatives may not, in any case, participate in meetings on their own behalf;

(b) Show in writing the name of the person or persons to whom the shares belong which they are representing, and set forth the number of shares which belongs to each one, in the case of a mandate, commission agent or any other type of representative, as well as in other cases which the National Insurance and Bond Commission shall determine;

Recount clerks are obligated to ascertain the observance of the provisions of this item and report thereon to the general meeting, which shall be recorded in the respective minutes.

The Ministry of Finance and Public Credit shall be enabled to issue general rules for the purpose of procuring the strict compliance with the provisions of this section and in the preceding section.

IV. The duration of the company may be stipulated to be indefinite; but may not be less than 30 years. The company may have only the purpose of functioning as an insurance institution in the terms of this Law.

V. All the assemblies and meetings of the directors shall take place at the business domicile, which must always be within the territory of the Republic.

VI. An ordinary general meeting must be held each year at least, and the right of the members which represent at least 10% of the paid in capital to request the calling of an extraordinary meeting shall be established in the articles of association. If the board does not issue the requested call, within a period of no more than one month from the date on which the petition for the meeting of the assembly was received, the statutory examiner (*comisario*), upon a motion of the interested shareholders, shall issue the convocation under the same conditions as the board should have done.

In extraordinary general meetings of shareholders the decisions must be taken by a majority of 80% of the paid in capital, at least, except in the case of a second call, in which case the resolutions shall be adopted by at least a vote of 30% of the paid-in capital.

The call shall contain the corresponding agenda, which shall enumerate all matters that will be discussed in the meeting,

including those comprehended in the general matters that will be submitted to deliberation and that imply a resolution from the meeting.

The documentation and information regarding the matters to be discussed in the corresponding shareholders meeting, shall be delivered to the shareholders with at least fifteen days prior to its execution.

VII. The management of the insurance institution shall be performed by a board of directors and an executive officer, each with their corresponding authorities.

The organization and duties of the board of directors, shall be governed by the applicable legal provisions and in addition it shall be subject to the following provisions:

- (a) The number of proprietary directors may not be less than five nor exceed from fifteen, from which at least the twenty-five percent shall be independent. An alternate director shall be appointed for each proprietary director, provided that the alternates of the independent directors, shall also be independent;
- (b) The board of directors shall meet at least once every three months and, extraordinarily, when called by: the Chairman of the Board, at least twenty five percent of the board members or any of the statutory examiners;
- (c) In order for an ordinary or extraordinary board meeting to be validly held at least fifty one percent of the board members shall be present, of which at least one shall be an independent member;
- (d) Each shareholder or group of shareholders who represent at least 10% of the paid in capital of an insurance institution shall have a right to designate one member of the board. The appointment of those board members may only be revoked when all the other members is revoked as well, without prejudice to the provision in Article 31 of this Law;
- (e) The chairman of the board shall have a tie-breaking vote;
- (f) The members shall refrain from participating in the discussions and voting of any matter which may imply a conflict of interest to them. Likewise, they shall keep absolute confidentiality with respect to any such actions or events in connection with the insurance institution to which they are members of the board, as well from all deliberation undertaken in the board, without prejudice of the obligations that the company has to provide all information that is requested to it under this Law.

In the performance of their duties the board of managers shall observe the provisions of Article 29 Bis hereof.

The general manager shall elaborate and submit to the board of directors, for its approval, the policies for the adequate employment and use of the human and material resources of the insurance company, which shall consider the rational use of such resources, restrictions for the use of certain assets, surveillance and control mechanisms and in general the application of resources to the company's activities and its corporate purpose.

The general manager shall at all times provide precise data and reports to aid the board of directors in taking adequate decisions.

VII bis. The appointments of board members and normative comptroller shall be subject to the following:

- 1. Appointments shall be made on individuals with technical capacity, honorability, adequate credit records as well as with a broad knowledge in financial, legal or administrative areas;
- 2. The normative comptroller as well as the majority of the members of the board shall reside in Mexican territory;
- 3. In any case, the following may not be appointed as members of the board of directors:

- a) Officers or employees of the company, with exception of the general manager or his equivalent and officers of the company who occupy posts with the two immediately lower administrative hierarchies therefrom, provided that such do not compose more than one third of the board of directors;
- b) Spouses of directors or persons who are related to more than two directors up to the second degree;
- c) Persons who have pending litigation with the insurance institution in question;
- d) Persons convicted of intentional property crimes, those who are disqualified to carry on trade or to occupy an employment, office or commission in the public service, or in the Mexican financial system;
- e) Persons who are bankrupt and insolvent persons who have not been rehabilitated;
- f) Public officers of authorities in charge of the inspection and oversight of insurance institutions; or
- g) Anyone who carries out functions of regulation of insurance institutions, except if the Federal Government participates in the capital thereof;
- h) Public officers of the Central Bank, the Institute for the Protection of Bank Savings, National Commission of the Retirement Savings System, the National Insurance and Bond Commission and the National Commission for the Protection and Defense of Users of Financial Services; and
- i) Persons who form part of the board of another insurance company, or of a controlling company of another insurance company that is engaged in the same line or operations, when the company in question does not maintain control patrimonial links among such companies in the terms of section II above.

The provisions of the foregoing paragraph shall not applicable to whomever holds at least two percent of the shares that represent the capital stock of both companies;

4. The independent members of the board as well as the normative comptrollers shall also provide evidence that they held high-decision making offices, which performance requires knowledge and experience in financial, legal, administrative matter or that is otherwise in connection with insurance activity and who in not case are:

- a) Officers or employees of the company at the time of their appointment, including those persons who held such positions during the immediately preceding year;

Independent members of the board may not be appointed as an employee or officer of the company;

- b) Shareholders that without being employees or officers of the company have authority powers over the officers of the company. The shareholders may not be appointed as normative comptroller of the company;

- c) Partners of employees of partnerships or associations that provide consulting services to the company or to the companies that belong to the same economical group of the company, if the income received from such entities represent 10% or more of their total income;

- d) Clients, suppliers, debtors, creditors, partners, board members or employees of a company

that is a material client, supplier, debtor or creditor of the company.

It shall be deemed that a client or supplier is important when the services provided to the company or the sales made to it represent more than 10% of the total services or sales of the client or supplier, respectively. Likewise it shall be deemed that a creditor or debtor is material when the amount of the loan is more than 15% of the assets of the company or its counterpart.

e) Employees from a foundation, association or partnership that receive material donations from the company.

Material donations are those that represent more than 15% of the total donations received by the foundation, association or partnership in question;

f) Members of the board, general managers or high – ranking officers of a company in which board of directors participates the general manager or a high – ranking officer of the company;

g) Spouse, significant others and relatives in the first degree with any of the persons mentioned in items c) to f) of number 3 of this section, or to the third degree in connection with the persons mentioned in paragraphs a), b) and h) of number 3 of this section;

h) Persons who have occupied a managing or administrative office in the company or in the financial or economic group to which in its case the company belongs during the preceding year at the moment in which their appointment is intended to be made, and

i) Agents, employees of agents and adjustors.

VII bis 1. The appointment of a director general of the insurance institution or his equivalent must be given to a person who is of recognized financial and moral quality and who also meets the following requirements:

a) Be a resident on Mexican territory in terms of the Fiscal Code of the Federation;

b) For at least five years to have rendered their services in offices of high level decision-making, where their functions required knowledge and experience in financial, legal and administrative matters;

c) To not have any of the impediments to being a director which are stipulated in letters c) to f) and h) of number 3 of the preceding section; and

d) To not be carrying out functions of regulation of insurance institutions.

Officers who occupy posts with the two hierarchies below to that of the director general or his equivalent must comply with the requirements provided in the first paragraph and in items a), c) and d) of this section shall have knowledge and experience of at least five years in the matters related with the functions that are assigned to them.

The acts of the general director and of the officials who hold positions within the hierarchy immediately below the general director, which acts are committed in fulfilling their duties, shall invariably obligate the insurance institution in question, notwithstanding the civil liabilities and penalties they may incur personally.

The provisions of the foregoing paragraph shall be reproduced in the by-laws of the insurance companies.

VII bis -2. The appointments of directors of national insurance institutions shall be made by the Federal Executive through the Ministry of Finance and Public Credit, such appointments duly being made from among public officers of the federal public administration or independent professionals of recognized honorability, experience and prestige in economic and financial matters. The charge of director is personal and may not be fulfilled through representatives. In no case may the general director and the public servants of the institution who occupy offices within the two levels below the

latter be directors, neither may the persons to whom letters b) to f), h) and i) of section VII Bis of this article be appointed as directors.

The general director of national insurance institutions shall be appointed by the Federal Executive through the Ministry of Finance and Public Credit, that appointment duly being made from among the persons who meet the requirements stipulated in the first paragraph and letters a) a d) of section VII Bis-1 of this article.

Public servants of the institution who occupy posts within the two levels below the director general shall comply in addition with the requisites set forth paragraphs a), c) and d) of section VII Bis 1 of this article shall also provide evidence of knowledge and experience of at least five years in the matters related to the functions that are assigned to them.

The National Commission of Insurance and Bonds, with the approval of its Governing Board, may determine that removal or suspension of the public officers who may obligate a national insurance institution with their signature, with the exception of the director general or equivalent, when it considers that such persons do not possess the sufficient technical or moral quality to fulfill their duties or that they have not adjusted to the applicable legal and administrative dispositions in fulfilling them, proceeding, if applicable, in the terms of article 31 of this Law.

Likewise, the Commission itself may recommend the removal of the director general of the institution to the Federal Executive, through the aforementioned Ministry, when it considers that such director general has not been adjusted to the applicable legal and administrative dispositions in the fulfillment of his duties.

VII Bis 3. In each insurance company there shall be a normative comptroller who is responsible of supervising compliance with the applicable internal and external legal provisions, in accordance with article 29 Bis 1 of this Law.

VII Bis 4. The insurance company in question shall verify, as applicable, that the persons who are appointed as members of the board, statutory examiners, normative comptroller, general manger or the equivalent thereof and officers with the two immediately hierarchies below the general manger comply with the requirements set forth in article 32 before initiating their duties as well as with sections VII Bis, VII Bis 1, VII Bis 2 and VII Bis 3 of this article.

The National Insurance and Bond Commission through generally applicable norms shall set firth the rules that insurance companies must observe to verify compliance with the respective requirements as well as the criteria through which the corresponding files that evidence compliance with this paragraph shall be integrated.

VIII. They shall separate at least 10% of their profits to constitute an ordinary reserve fund, until a sum equal to 75% of the amount of the paid-in capital is reached;

IX. The by-laws and any amendment to them, must be submitted for the approval of the Ministry of Finance and Public Credit, which shall determine whether they comply with the requirements established by the Law. After the Ministry of Finance and Public Credit gives such approval, the by-laws or their amendments may be recorded in the Public Commercial Register without a court order being necessary.

X The merger of two or more insurance institutions, as well as the spin-off of an insurance institution, must be effected in accordance with the provision in Article 66 of this Law; and

XI. The winding-up and liquidation of the company must be effected in accordance with the provision in Title IV of this Law.

**CHAPTER SIX**  
**Rendering of Services to Mutual Funds**  
**Section I**  
**Services**

**ARTICLE 32.** Mutual funds in the terms and cases set forth in this law, for the fulfillment of their institutional purpose, must engage the services listed below:

**I.** Mutual fund asset management;

- II.** Mutual fund share distribution;
- III.** Mutual fund share valuation;
- IV.** Mutual fund rating;
- V.** Provision of information on investment asset values;
- VI.** Deposit and custody of investment assets and mutual fund shares;
- VII.** Mutual fund accounting;
- VIII.** Mutual fund administrative personnel, and
- IX.** Others as authorized by the Commission through general provisions.

Capital investment companies will not be required to engage the services specified in Sections II, IV and V of this article, but, in all cases with regard to appraisal they must adhere to the provisions of Article 44 of this law. The Commission may grant exceptions, by means of general provisions, to special-purpose investment companies with regard to the contracting of services as dictated in this rule.

## **Section II Asset Management**

**ARTICLE 39.** Asset management services will consist of the following activities:

- I.** Realization of the operations referred to by Article 15, Sections I, II, IV and V of this law, on behalf and in representation of the mutual fund to which services are rendered, as well as, where appropriate, management of issuance of securities referred to by Section VI of the foregoing article, and
- II.** Management of security portfolios for investment companies and third parties, pursuant to the Securities Market Law.

Entities rendering asset management services must be organized as mutual fund management companies, and will have all powers and obligations to manage, comparable to an agent with general power of attorney to perform acts of such a nature, and must observe, in all cases, the investment regime applicable to the mutual fund in question, as well as the prospectus provided to investors, safeguarding, at all times, the interests of the fund's shareholders by supplying information that is pertinent, adequate and necessary for purposes of decision making.

Mutual fund management companies may also render the services specified in Sections I and II of this article, and those set forth by Article 32, Sections II, VI, VII and VIII of this law, observing, as appropriate, regulations applicable to the corresponding type of services, pursuant to this law and the Securities Market Law. Moreover, these management companies may provide the service of share valuation pursuant to the terms of this law, upon prior authorization from the Commission, and adhering to the general regulations issued by the Commission in this regard.

Financial institutions, brokerage houses, secondary financial institutions, currency exchange houses, special-purpose financial institutions and insurance companies may only offer the services specified in this article to mutual funds through managing companies organized for this purpose, pursuant to this law and the regulations applicable to said financial entities.

## **Section III Distribution**

**ARTICLE 40.** Mutual fund share distribution services will include promotion, consulting to third parties, trading of shares on behalf and by order of the mutual fund in question, and, where appropriate, generation of reports and consolidated investment statements and other complementary services authorized by the Commission, through general provisions.

Distribution activities referred to in this article may be carried out by distribution companies authorized pursuant to the provisions of Article 33 of this law, and these may be entities belonging to financial group holding companies.

Financial institutions, brokerage houses, secondary financial institutions, currency exchange houses and special-purpose financial institutions may directly provide mutual fund companies with share distribution services, without prejudice to adherence to this law and other applicable regulations, and they will, in all cases, be subject to the supervision of the Commission in the performance of these activities.

In no event may distribution companies conduct transactions on their own behalf with the public, with regard to mutual fund company shares.

Mutual fund share distribution companies may enter into agreements with individuals and legal entities containing individuals assisting them in their activities, provided that these certify compliance with the provisions of Article 35 of this law.

In no case may mutual fund share distribution be made at a price other than the current public offering price for the date of trading.

#### **Section IV Valuation**

**ARTICLE 44.** Mutual fund share valuation services will be provided by valuation companies or mutual fund management companies authorized for this purpose, in order to determine the current public offering price of the various classes of shares pursuant to the terms of the general provisions issued by the Commission.

With regard to capital investment companies and special-purpose investment companies, public offering price may be determined by valuation companies or by valuation committees designated by these.

In order to determine public offering price, the individuals or entities responsible for this service will use current value of the securities, documents and instruments that make up the assets of the mutual fund, provided by the provider of prices for said companies; or, the prices obtained by means of any method established or authorized by the Commission regarding assets that by nature cannot be valued by these providers.

Valuation of investments held by capital investment companies in promoted companies will adhere to the guidelines established by the Commission for this purpose in general regulations

#### **CHAPTER II. INSPECTION AND AUDIT**

##### **ARTICLE 106.**

The inspection and audit of insurance institutions and mutual companies, as well as the other persons and enterprises to which this Law refers, insofar as compliance with the dispositions thereof is concerned, shall remain entrusted to the National Insurance and Bond Commission in the terms of this Law and of the regulation issued for these purposes by the Federal Executive.

Insurance institutions authorized to operate in the health insurance sector shall also be subject to the inspection and supervision of the Ministry of Health, exclusively on the health services and products that are the matter of the insurance policies that they conclude. When the aforementioned Ministry detects any irregularity related with such services and products in the exercise of the aforementioned duties, it shall communicate such irregularity to the National Insurance and Bond Commission in order that it shall proceed to imposing penalties pursuant to the provisions of this Law.

The National Insurance and Bond Commission shall exercise, with respect to receivers and liquidators, the functions of surveillance which it has been attributed in relation to insurance institutions and mutual companies.

Insurance institutions and mutual companies and the other persons and enterprises subject to this Law and to the

inspection and audit of the National Insurance and Bond Commission, and in its case the Ministry of Health, must cover the corresponding quotas in the terms of the applicable legal dispositions.

**ARTICLE 108.**

The National Commission of Insurance and Bonds is a desconcentrated agency of the Ministry of Finance and Public Credit that is subject to this Law and to the Internal Regulation issued by the Federal Executive for the purpose and shall have the following powers:

I. To carry out the inspection and audit which it is competent to do in accordance with this and other laws;

II. To function as a consultation body of the Ministry of Finance and Public Credit in the case of the insurance system and in other cases which the laws shall determine;

III. To impose administrative fines for violations to this Law and other laws that regulate the activities, institutions and persons subject to its inspection and audit, as well as to the provisions which issue therefrom.

Such penalties may be admonitions or, when the laws and provisions which emanate therefrom so establish, temporary suspensions of activities, vetoes or disqualification for carrying on activities, as well as fines.

The imposition of penalties shall correspond to the Governing Board of the Commission, which may delegate this duty to the Chairman and other public servants thereof, due to the nature of the violation or of the amount of the fines, and shall likewise have the undelegatable faculty to partially or totally pardon the fines imposed, if applicable.

The fines imposed in the terms of this Law and other laws which regulate the activities, institutions and persons subject to the inspection and audit of the aforementioned Commission, as well as the provisions which emanate therefrom, must be paid within the 15 working days from the date of their notification, and when the violator gives any kind of legal defense against the fine which had been applied to him, and the fine is confirmed totally or partially, its amount must be immediately remitted once the corresponding decision is notified to the violator.

Appeal of revocation shall proceed against the penalties, which must be interposed in writing within the 15 working days following their notification and must be exhausted before proceeding to any other method of refutation.

The appeal stipulated must be interposed before the Governing Board of the Commission, when the penalty has been issued by that collegiate body or by the Chairman of the Commission or, before the latter, in the case of penalties imposed by other public servants of the Commission. The writ in which the party affected shall interpose the appeal, must contain the expression of the act challenged and the grievances caused thereby, offering, and when possible, attaching the evidence which may be deemed convenient for the purpose.

When the challenged act is not stipulated or the grievances are not expressed, the competent authority shall reject the appeal due to its being improper. If the evidence is omitted, it shall be considered as not offered.

The resolution of the appeal of revocation may be rejection, confirmation, issuance of a mandate to replace the challenged decision by a new one to be substituted therefor or revocation of the challenged act, and must be issued within a period no longer than 45 working days subsequent to the day on which the appeal was presented, if it must be resolved by the Chairman of the Commission, and in the case of appeals that are within the jurisdiction of the Government Board, that period may not be longer than 60 working days.

The submission of the appeal shall suspend the enforcement of the penalty. If such is confirmed, totally or partially, the resolution of the corresponding appeal shall stipulate the provisions regarding immediate enforcement thereof after the corresponding notice.

IV. To issue the provisions necessary for the exercise of the faculties which the Law grants it and for the efficient compliance therewith, as well as with the rules and regulations which based thereon shall be issued and contributed by means of the issue of dispositions and instructions to insurance institutions and mutual companies, and the other persons and enterprises subject to its inspection and audit, with the policies which the Ministry of Finance and

Public Credit is competent to issue in those matters, following the instructions which it receives therefrom;

IV Bis. Issue, within its authority, the prudential rules aimed at preserving the solvency, liquidity and financial stability of the insurance companies and mutual insurance companies;

V. To present an opinion to the Ministry of Finance and Public Credit on the interpretation of this Law and other relative matters in case of doubt with respect to its application;

VI. To make studies which shall be committed and presented to the Ministry of Finance and Public Credit, make suggestions which are deemed adequate for improving them; as well as motions and reports relative to the insurance system deemed suitable to be brought before said Ministry;

VII. To aid the Ministry of Finance and Public Credit in the development of policies adequate for the selection of technical and financial risks in relation with the operations practiced by the insurance system, following the instructions received from the same Ministry;

VIII. To intervene, in the terms and conditions that this Law stipulates, in the drawing up of the regulations and general rules to which it refers;

VIII Bis. To provide the financial foreign authorities information received from the companies and persons supervised by it, when it has entered with said authorities information exchange agreements that contemplate a reciprocity principle, refraining from providing information when in its judgment such may be used for purposes other than surveillance or by reason of public interest, national security or any other reason set forth in the respective agreements;

IX. To annually draw up their budgets which shall be submitted for the authorization of the Ministry of Finance and Public Credit;

X. To render an annual report of their labors to the Ministry of Finance and Public Credit;

XI. The quotas that pertain to the surveillance and audit services of the National Insurance and Bond Commission, referred to in Article 106 hereof, shall be destined to cover the budget thereof. In case that at the end of the fiscal year there are any remnants from amounts collected as duties, such shall be transferred to a special reserve of the National Insurance and Bond Commission, which shall be destined to cover expenses pertaining to future fiscal years in order ensure the continuity of its programs, but in no case may it be applied to make payments not set forth in the Federal Budget, reducing in its case the impact over federal resources or additional quotas for the companies or persons subject to the surveillance and audits of the National Insurance and Bond Commission, and

XII. Others which are attributed thereto by this Law and other legal ordinances with respect to the insurance system, provided that they do not refer to mere acts of audit or execution.

The faculties to which items VII, IX and X of this article refer, cannot be delegated.

#### **ARTICLE 110.**

Visits or inspections shall be made to all the insurance institutions and mutual companies in accordance with the programs elaborated by the National Insurance and Bond Commission and that are approved by the Governing Board, taking in consideration the overall situation of the insurance industry and the necessities of each concrete case; without prejudice to those which are carried out upon request of the statutory examiners, or of a group of shareholders or of policy-holders, who submit sufficient data to justify that visit in the judgment of the National Insurance and Bond Commission.

The visits shall have the following purpose: To review, verify, prove and evaluate the resources, obligations, net wealth, as well as the operations, functioning, systems of control and, in general, all that which might affect the financial and legal position, shown or which should be shown in the records, for the purpose of fulfilling the provisions which govern

them and sound practices in the matter.

The visits may be ordinary, special or investigative. The first shall be carried out in accordance with an annual program that the Chairman of the Commission shall approve. The second shall be made if it is necessary to examine in the judgment of the Chairman, and if so, in order to correct special operational and investigational situations with the object of clarifying a specific situation.

The Chairman of the Commission may appoint at any time or even permanently, inspectors in the insurance institutions and mutual companies, who shall review their operations and their financial situation and audit the general progress of the insurance institution or mutual company, as well as delegates who shall verify the work of those inspectors.

Insurance institutions and mutual companies, as well as the other persons and enterprises subject to the inspection and audit of the Commission, shall be obligated to render all the help to the inspectors which they require, furnishing the data, reports, records, minutes books, auxiliary books, documents, correspondence and in general, the documentation, disks, tapes or any other processable media of storage of data which the institution shall have and that the inspectors deem necessary for compliance with their duties; possibly retaining access to their offices and other installations.

The visitors and inspectors shall be persons who are knowledgeable in financial matters, having the knowledge requirements determined by the Internal Regulation of the Commission, and neither them nor other personnel may obtain services from the institutions subject to inspection, or be debtors thereto under any circumstances, under the penalty of immediate dismissal. Transactions which are carried out with the express approval of the Governing Board of the Commission are excepted.

When exercising its functions under this Article, the National Insurance and Bond Commission so requires, it may engage such auditors and other professionals that aid it in such functions.

## **CHAPTER SECOND ADMINISTRATIVE LIQUIDATION**

### **ARTICLE 126.**

When the Ministry of Finance and Public Credit determines that an insurance institution shall be liquidated, the provisions of this chapter shall be applicable, possibly applying the Bankruptcy Law in that which is not provided herein. The Ministry of Finance and Public Credit shall deliver to a liquidator appointed by it, of all the assets, policies, credits, securities, real and personal property, books, files, documents and, in general, all that which is owned by the institution. The liquidator, within a period of 60 days, following the date on which he takes possession thereof, shall establish exactly the assets and liabilities of the company in liquidation and propose in writing to the Ministry of Finance and Public Credit, the manner in which said liquidation shall be conducted. In view of the preceding report, the Ministry shall establish the term within which the liquidation must be carried out. The liquidator may realize the property making up the assets of the institution, but must obtain, in each case, the express approval of the Ministry of Finance and Public Credit. From the assets realized shall be deducted the expenses and fees of the liquidation, and the rest shall be distributed among the policy holders in proportion to the technical reserve corresponding to each policy on the date of the declaration of dissolution and in proportion to the value of the policies, for due compromises. The rights of the insureds upon liquidation of the policies shall be valued on the date of the declaration of dissolution of the company. The Ministry of Finance and Public Credit must previously approve all the calculations that serve as a base for making the distribution of the assets among the insured parties. Prior thereto, the insured parties may make the observations which shall proceed with respect to their credits. For this purpose, the liquidator shall communicate to each insured the amount of the technical that corresponds to him, or, if applicable, the value of the policy in the case of compromises due.

Neither the assets within the technical reserves to which Article 63 of this Law, nor the resources of third parties to which items III, III Bis and IV of article 34 of this Law refers, may be considered within the assets forming the estate of the *concurso mercantil*, nor of the administrative liquidation, as the case may be.

### CHAPTER III. INFRACTIONS AND CRIMINAL OFFENSES

#### ARTICLE 138.

The fines corresponding to penalties for violations provided in this Law and in provisions issued in connection therewith, shall be imposed administratively by the National Insurance and Bond Commission, taking the general minimum wage in force in the Federal District at the time of commission of the violation, unless another form of penalty is set forth in applicable Law, and shall be enforced by the Ministry of Finance and Public Credit.

When imposing the corresponding penalty, the aforementioned Commission must always previously hear the interested party and shall take into account the economical conditions and intention of the violator, the importance of the violation and the convenience of avoiding practices tending to contravene the provisions of this Law and the rules arising therefrom.

In the case of insurance companies and mutual insurance companies, the economical condition shall be measured by taking into consideration the net capital and the capital stock at the end of the preceding fiscal year.

In order to hear the alleged violator the National Insurance and Bond Commission shall grant it a term of 10 working days, which may be extended one time, for the interested party to manifest what it deems convenient, and submitting the evidence that he wishes. Once the term and its extension has elapsed, if the interested party did not appear before the National Insurance and Bond Commission, the right to be heard by said authority shall be extinguished, and the corresponding resolution shall be issued based on the elements available on the respective file in terms of this Article.

Once the allegations made by the interested party have been analyzed and the evidence submitted by him has been evaluated, or in its case once the documents that form part of the respective administrative file have been analyzed, the National Insurance and Bond Commission, in order to impose the corresponding fine in the respective resolution, shall:

- a) Indicate the legal provisions or administrative rules that are applicable to the case as well as the special circumstances, individual reasons or immediate causes that were taken into consideration to determine the existence of the violation; and
- b) Take into account the importance of the act or omission that originated the imposition of the penalty and economical status of the violator. When the penalty to be imposed is larger than the minimum, the corresponding resolution shall indicate the reasons and motives for which the National Insurance and Bond Commission considers applicable such penalty.

The penalties imposed in accordance with this law in no case shall exceed 2% of the net worth or capital stock of the insurance company or mutual insurance company. The imposition of penalties shall not discharge the violator from complying with its obligations or to cure the circumstances that originated the penalty.

Taking into consideration the special circumstances of each case, the National Insurance and Bond Commission may also admonish the violator or just reprimand it.

The provisions of this article does not exclude the imposition of penalties that in accordance with this or other laws are applicable with respect to unlawful actions or criminal offenses, nor the revocation of the authorization to the company or mutual insurance company.

In protection of public interest, the National Insurance and Bond Commission shall made public any sanctions that it imposes for violations of this law or to the rules arising therefrom, once such resolutions are definitive, indicating the sanctioned person, the violated provision and the imposed penalty.

**Article 140.-** The cases foreseen in articles 141 to 146 and 147 to 147 Bis 2 of this Law shall proceed by request from the Ministry of Finance and Public Credit, who shall listen to the opinion of the National Insurance and Sureties Commission, and such cases could also proceed by request from the respective insurance institution, mutual entity or agent or from

anyone that has a legal interest.

Penalties foreseen in this Law shall be calculated upon the base of days times the daily general minimum wage in effect in the Federal District

In addition to fulfilling all other obligations that result applicable, insurance institutions, mutual entities or agents shall observe the following, in terms of the general provisions issued by the Ministry of Finance and Public Credit, after listening to the previous opinion of the National Insurance and Sureties Commission:

I. Establish measures and procedures to prevent and detect actions, omissions, or transactions that may favor, or grant aid, support, or cooperation to commit the offenses foreseen in articles 139, 148 Bis or 400 Bis of the Federal Penal Code, and

II. Submit to the Ministry of Finance and Public Credit through the National Insurance and Sureties Commission, reports relating to:

a. Actions, transactions and services performed with customers and occasional users relating to the preceding fraction I., and

b. Any action, transaction or service performed by members of the board of directors, directors, officers, employees, or legal representatives that may be placed in the case foreseen in fraction I of this article or that, as the case may be, may violate or jeopardize the adequate application of the general provisions referred to above.

The reports referred to in fraction II of this article, in accordance with the general provisions foreseen in such fraction, shall be elaborated and submitted taking into consideration at least the variations contemplated in such provisions, the characteristics that the actions, transactions, and services shall have in order to be reported, taking into account the amounts, frequency and nature, monetary and financial instruments with which they are carried out, and the commercial and banking practices observed in the locations in which they are carried out, as well as the frequency and the systems through which the information shall be transmitted.

In the same manner, the Ministry of Finance and Public Credit shall include in the aforementioned general provisions guidelines about the procedure and criteria that insurance institutions, mutual societies or agents shall observe with regards to:

a. The adequate knowledge about their clients and users, for which insurance institutions, mutual societies or agents shall consider the background, specific conditions, economic or professional activity and locations in which such clients and users operate;

b. The information and documentation that insurance institutions, mutual entities or agents shall gather to open accounts or execute contracts relating to transactions and services provided by such institutions and that fully demonstrate the identity of their clients;

c. The manner in which insurance institutions, mutual societies or agents shall keep and assure the security of the information and documentation related to the identification of their present or former clients and users, as well as of that concerning the actions, transactions, and services reported in accordance with this article, and

d. The terms to provide training in insurance institutions, mutual societies or agents on the subject matter of this article. The general provisions referred to in this article shall establish the terms for due compliance of this provision.

Insurance institutions, mutual funds or agents shall keep, for at least ten years, the information and documentation referred to in sub-section c) of the preceding paragraph, without prejudice to the provisions of this or other laws.

The Ministry of Finance and Public Credit shall be empowered to request and collect, through the National Insurance and Sureties Commission, from insurance institutions, mutual societies or agents, who shall be obligated to deliver,

information and documentation relating the actions, transactions and services referred to in fraction II of this article. The Ministry of Finance and Public Credit shall be empowered to obtain additional information from other persons for the same purposes and to provide such information to competent authorities.

The observance of the obligations stated in this article does not imply any breach of secrecy obligations neither violation of any restriction agreed contractually, nor of articles 117 and 118 in relation with article 46, fraction XV of the Law of Credit Institutions.

The general provisions referred to in this article shall be observed by insurance institutions, mutual societies or agents, members of their board of directors, directors, officers, employees, or legal representatives, and therefore such institutions and persons shall be responsible for the strict observance of the obligations imposed through such general provisions.

Violation to the general provisions referred to in this article shall be penalized by the National Insurance and Sureties Commission, according to the procedure established under article 138 of this Law, with a fine of up to 100,000 days of the daily general minimum wage in effect in the Federal District.

The fines contemplated above may be imposed to insurance institutions, mutual entities or agents, members of their board of directors, directors, officers, employees and legal representatives and natural and legal persons who, by reason of their actions, caused or intervened in the institution to incur the respective irregularity or become responsible for it. Notwithstanding the foregoing, the National Insurance and Sureties Commission, bearing in mind the circumstances of each particular case, could proceed in accordance with articles 23 and 31 of this Law.

The public servants of the Ministry of Finance and Public Credit and the National Insurance and Sureties Commission, insurance institutions, mutual entities or agents, members of their board of directors, directors, officers, employees and legal representatives, shall abstain from informing about the reports, and other documentation and information referred to in this article, to persons or authorities other than those expressly empowered to require, receive or conserve said information. Violations to these obligations shall be penalized in accordance with corresponding laws.

Law of the Contract of Insurance

154

**ARTICLE 154.-** The policy of the contract for insurance can not be issued to the bearer. The possession of such policy can be transferred to other person by a written declaration of both parties notified to the insurance company. The payable policy insurance can be transferred by means of an endorsement which shall include: date, name and address of the person who is receiving the insurance policy and the signature of the person who is transferring such policy.

In case of irrevocable designation of beneficiary, this latter can transmit this right upon written declaration notified to the insurance company, as foreseen by article 19 of the present Law.

**GENERAL LAW OF AUXILIARY CREDIT ORGANIZATIONS AND ACTIVITIES** (*Ley General de Organizaciones y Actividades Auxiliares del Crédito*)

81; 81-A; 87-B; 87-E; 87-F; 87-J; 87-K; 87-L; 87-M; 87-N; 87-Ñ; 95; 95 Bis

**Article 81-A.-** No authorization is required, when the following transactions are performed only with foreign currency:

I. Purchase and sale of paper money, minted pieces and common metals of legal circulation in the country of issuance, for an amount equivalent or not exceeding of ten thousand Dollars of the United States of America per client per day.

II. Purchase and sale of travelers checks issued in foreign currency, for an amount equivalent or not exceeding of ten thousand Dollars of the United States of America per client per day.

III. Purchase and sale of metallic pieces minted in coin shape, for an amount equivalent or not exceeding of ten thousand Dollars of the United States of America per client per day.

IV. Purchase and sale of money market documents (*documentos a la vista*) issued and payable in foreign currency issued by a financial institution, for an amount equivalent or not exceeding of ten thousand Dollars of the United States of America per client per day. These documents can only be sold to Credit Institutions or to Money Exchange Companies.

V. Repealed.

In the performance of the above mentioned transactions referred to in sections I through IV of the present article, the agreed value should be delivered in the same act in which the transactions are undertaken and they can only be paid with cash, travelers checks or checks payable in national currency. In any case, it is prohibited to perform transference or transmission of funds in order to complete such transactions.

**Article 87-B.** Extension of credit, as well as execution of financial leasing or factoring may be conducted in a regular and professional manner by any person or entity, without no need for authorization by the federal government.

Those stock companies which, in their bylaws, expressly indicate as their main corporate purpose the regular and professional realization of one or more activities indicated in the preceding paragraph, will be considered multiple-purpose financial institutions. These companies will be regarded financial entities, and may be:

I. Regulated multiple-purpose financial institutions, o

II. Non-regulated multiple-purpose financial institutions.

The companies specified in Section I above are those that, pursuant to the terms of this law, maintain lending institution or financial group holding company equity participation. These companies must add to their corporate name the phrase: "*sociedad financiera de objeto múltiple*" [multiple-purpose financial institution], or its acronym "SOFOM," followed by the words, "*entidad regulada*" [regulated entity] or its abbreviation "E.R." Regulated multiple-purpose financial institutions will be subject to the oversight of the National Banking and Securities Commission.

Companies considered by Section II of this article will be those without capital participation of any of the entities described in the preceding paragraph. These companies must add to their corporate name the phrase: "*sociedad financiera de objeto múltiple*" [multiple-purpose financial institution], or its acronym "SOFOM," followed by the words, "*entidad no regulada*" [non-regulated entity] or its abbreviation "E.N.R." Non-regulated multiple-purpose financial institutions will not be subject to the oversight of the National Banking and Securities Commission.

**Article 87-E.** In financial leasing agreements, factoring and loans by multiple-purpose financial institutions, in which agreement is made to the effect that the lessee, seller in factoring, or loan recipient may dispose of the credit or loan amount in partial sums, or is authorized to make repayments prior to the expiration of the term specified in the agreement, the account statement certified by the corresponding company's accountant will so certify, except in the presence of evidence to the contrary, at the respective determination of the outstanding balance of the debtor.

**Article 87-F.** The agreement corresponding to the credit, financial lease or factoring granted by multiple-purpose financial institutions, provided that said instrument is accompanied by the respective account statement referred to in the preceding article, will be an executory commercial instrument, without need of signature or any other requirement whatsoever.

With regard to factoring, in addition to the respective agreement, multiple-purpose financial institutions must have documents demonstrating the claims conveyed through the operation, as well as the notification to the debtor of said conveyance when such notification is required pursuant to applicable regulations.

The account statement referred to in the first paragraph of this article must contain identifying information of the contract or agreement corresponding to the loan, factoring or financial lease entered into; the initial capital stipulated or, where appropriate, the determined rental amount; outstanding capital or, where appropriate, overdue rental payments; capital or, where appropriate, rent nearing due date or maturation; loan interest rates or, where appropriate, rent variation applicable to rental amounts determined for each payment period; past-due interest generated; interest rate applicable to past-due interest, and charges generated.

**Article 87-J.** Financial leasing, factoring and credit agreements executed by multiple-purpose financial institutions must expressly indicate that, for their establishment and performance as such, no authorization is required by the Department of Treasury and Public Credit. The foregoing must also be stated in any information used by multiple-purpose financial institutions for purposes of promotion of their operations and services.

In addition to the foregoing, non-regulated multiple-purpose financial institutions must state, in the documentation and information referred to in the preceding paragraph, that they are not subject to the supervision and oversight of the National Banking and Securities Commission.

**Article 87-K.** The National Commission for the Protection and Defense of Users of Financial Services will be responsible for the protection and defense of the rights and interests of the public using the services provided by multiple-purpose financial institutions in conducting transactions specified in Article 87-B of this law, pursuant to the terms of the Law of Protection and Defense of Users of Financial Services. With regard to the foregoing services, multiple-purpose financial institutions will be subject to the aforementioned law, pursuant to the terms specified therein applicable to financial institutions. In such a capacity, the National Commission for the Protection and Defense of Users of Financial Services may exercise, with respect to multiple-purpose financial institutions providing the aforementioned services, the authority conferred upon it by the foregoing law, and the corresponding sanctions set forth in said law will be applicable to these financial institutions.

Multiple-purpose financial institutions, upon organization in such a capacity, must communicate this fact in writing to the National Commission for the Protection and Defense of Users of Financial Services, within ten working days after registration of the corresponding incorporation papers in the Public Registry of Commerce.

**Article 87-L.** Without prejudice to the provisions of this chapter, the authority conferred by the Law of Transparency and Promotion of Competition to the National Banking and Securities Commission, with respect to financial institutions that extend secured credit in the terms of this law, will also be conferred upon to the National Commission for the Protection and Defense of Users of Financial Services, with respect to non-regulated multiple-purpose financial institutions.  
(Second paragraph repealed).

**Article 87-M.** With regard to credit, financial leasing and factoring transactions, multiple-purpose financial institutions must:

**I.** Provide advance notice to customers regarding consideration; installment amounts, and the manner and frequency of these; financing charges; fees; amount and detail of any charges, as appropriate; number of installments to be made, and frequency; where appropriate, the right to advance payment for the operation and applicable conditions, interest, including past-due interest, manner of calculation and rate type and, as appropriate, discount rate.

**II.** If a fixed rate is applied, the customer will also be informed of the amount of interest to be paid in each period. If a variable rate is applied, the customer will be informed of the rate adjustment rule, which may not depend on unilateral decisions of the respective multiple-purpose financial institutions, but rather on variations in the interest rate representative of the cost of the transaction to the customer, which must be easily verifiable by the customer;

**III.** Inform the client of the total amount due in the transaction in question, and, where appropriate, number and amount of installments, interest, and corresponding charges and fees, including those set for advance payments or cancellation; provide properly itemized descriptions of payments;

**IV.** (Derogated).

The National Commission for the Protection and Defense of Users of Financial Services may issue recommendations to multiple-purpose financial institutions for the compliance of the provisions of this article.

**Article 87-N.** In addition to the provisions set forth by articles 87-K, 87-L and 87-M of this law, the National Commission for the Protection and Defense of Users of Financial Services will be responsible for oversight and supervision of compliance by multiple-purpose financial institutions with the provisions of articles 87-I, 87-M and 87-Ñ of this law, pursuant to the determinations of the Commission with regard to the exercise of this authority.

The foregoing Commission may exercise this authority at the sites of operation of the multiple-purpose financial institutions in question, pursuant to the terms of procedure set forth by the Federal Law of Administrative Procedure. Moreover, the Commission may exercise such authority through visits and requests for information or documentation. For the purposes of the provisions of this article, multiple-purpose financial institutions, as well as their representatives and employees, are required to allow official Commission personnel to access the site or sites to be inspected.

**Article 87-Ñ.** The multiple-purpose financial institutions will be subject, as regards guarantee trust transactions managed pursuant to Section II of Chapter V of Title II of the General Law of Negotiable Instruments and Credit Operations, to the provisions of Articles 79 and 80 of the Financial Institutions Law applicable to these institutions. In guarantee trust agreements referred to by Article 395 of the General Law of Negotiable Instruments and Credit Operations, and in the performance of these, multiple-purpose financial institutions will be prohibited from:

**I.** Acting as trustees in any trusts other than those of the guarantee;

**II.** Using the cash, property, claims or securities of the trusts to conduct transactions in which they may become debtors or beneficiaries of their trust officers; administrators, regular or alternate members of the board of directors, whether acting or not; managers or employees; regular or alternate statutory auditors, whether acting or not; external auditors; members of the technical committee of the respective trust; ascendants or descendants of the first degree or spouses of the foregoing persons. companies with majority equity ownership by these persons, or the multiple-purpose financial institutions themselves;

**III.** Conducting transactions on own behalf;

**IV.** Acting in trusts through which limitations or prohibitions contained in this or other laws are evaded;

**V.** Assuming responsibility towards trustors or beneficiaries with regard to default of debtors on assets, claims or securities of the trust, except where at fault pursuant to the final section of Article 391 of the General Law of Negotiable Instruments and Credit Operations;

If, upon termination of the trust, the assets, claims or securities have not been paid by the debtors, the trust company must transfer them together with the cash, property and other claims or securities that make up the trust property, to the trustor or the trust beneficiary, as appropriate, and abstain from covering the respective amount due.

In trust agreements, the stipulations of this paragraph will be clearly inserted along with a statement by the trustee to the effect that it clearly represented content to the persons from whom it has received cash, assets, interest or securities for conveyance in trust;

**VI.** Acting as trustees in trusts through which, directly or indirectly, funds of the public are secured through any action causing direct or contingent liability;

**VII.** Acting in trusts through which limitations or prohibitions contained in this or other laws are evaded;

**VIII.** Acting as trustees in trusts referred to by the second paragraph of Article 88 of the Mutual Funds Law, and

**IX.** Managing rural property, except where said management has been conferred to guarantee for trust beneficiary the performance of an obligation and payment preference with the value of said property or its proceeds.

Any agreement contrary to the provisions in the preceding sections will be null and void

**Article 95.-** The cases foreseen in articles 96, 97, 98, 99, 99 Bis, 101, 101 Bis and 101 Bis 2 of this Law shall proceed by request from the Ministry of Finance and Public Credit, who shall listen to the opinion of the National Banking and Securities Commission; and such cases could also proceed by request from the respective auxiliary credit organizations and foreign exchange firms or from anyone that has a legal interest.

Penalties foreseen in this Law shall be calculated upon the base of days times the daily general minimum wage in effect in

the Federal District.

In addition to fulfilling all other obligations that result applicable, auxiliary credit organizations and foreign exchange firms shall observe the following, in terms of the general provisions issued by the Ministry of Finance and Public Credit after listening to the previous opinion of the National Banking and Securities Commission:

I. Establish measures and procedures to prevent and detect actions, omissions, or transactions that may favor, or grant aid, support, or cooperation to commit the offenses foreseen in articles 139, 148 Bis or 400 Bis of the Federal Penal Code, and

II. Submit to the Ministry of Finance and Public Credit through the National Banking and Securities Commission, reports relating to:

a. Actions, transactions and services performed with their customers and users relating to the preceding fraction I., and

b. Any action, transaction or service performed by members of the board of directors, directors, officers, employees, or legal representatives that may be placed in the case foreseen in fraction I of this article or that, as the case may be, may violate or jeopardize the adequate application of the general provisions referred to above.

The reports referred to in fraction II of this article, in accordance with the general provisions foreseen in such fraction, shall be elaborated and submitted taking into consideration at least the variations contemplated in such provisions, the characteristics that the actions, transactions, and services shall have in order to be reported, taking into account the amounts, frequency and nature, monetary and financial instruments with which they are carried out, and the commercial and banking practices observed in the locations in which they are carried out, as well as the frequency and the systems through which the information shall be transmitted.

In the same manner, the Ministry of Finance and Public Credit shall include in the aforementioned general provisions guidelines about the procedure and criteria that auxiliary credit organizations and foreign exchange firms shall observe with regards to:

a. The adequate knowledge about their clients and users, for which auxiliary credit organizations and foreign exchange firms shall consider the background, specific conditions, economic or professional activity, and locations in which such clients and users operate;

b. The information and documentation that auxiliary credit organizations and foreign exchange firms shall gather to open accounts or execute contracts relating to transactions and services provided by such institutions and that fully demonstrate the identity of their clients;

c. The manner in which auxiliary credit organizations and foreign exchange firms shall keep and assure the security of the information and documentation related to the identification of their present or former clients and users, as well as of that concerning the actions, transactions, and services reported in accordance with this article, and

d. The terms to provide training in auxiliary credit organizations and foreign exchange firms on the subject matter of this article. The general provisions referred to in this article would establish the conditions for due compliance of this provision.

Auxiliary credit organizations and foreign exchange firms shall keep, for at least ten years, the information and documentation referred to in sub-section c) of the preceding paragraph, without prejudice to the provisions of this or other laws.

The Ministry of Finance and Public Credit shall be empowered to require and collect, through the National Banking and Securities Commission, from auxiliary credit organizations and foreign exchange firms, who shall be obligated to deliver, information and documentation relating the actions, transactions and services referred to in fraction II of this article. The Ministry of Finance and Public Credit shall be empowered to obtain additional information from other people for the

same purposes and to provide such information to competent authorities.

The observance of the obligations stated in this article shall not imply any breach of secrecy obligations neither violation of any restriction agreed contractually.

The general provisions referred to in this article shall be observed by auxiliary credit organizations and foreign exchange firms, members of their board of directors, directors, officers, employees, or legal representatives, and therefore such institutions and persons shall be responsible for the strict observance of the obligations imposed through such general provisions.

Violation to the general provisions referred to in this article shall be penalized by the National Banking and Securities Commission, according to the procedure established under article 88 of this Law, with a fine of up to 100,000 days of the daily general minimum wage in effect in the Federal District.

The fines contemplated above may be imposed to auxiliary credit organizations and foreign exchange firms, members of their board of directors, directors, officers, employees and legal representatives and natural and legal persons who, by reason of their actions, caused or intervened in the auxiliary credit organizations and foreign exchange firms to incur the respective irregularity or become responsible for it. Notwithstanding the foregoing, the National Banking and Securities Commission, bearing in mind the circumstances of each particular case, could proceed in accordance with article 74 of this Law.

The public servants of the Ministry of Finance and Public Credit and the National Banking and Securities Commission, auxiliary credit organizations and foreign exchange firms, members of their board of directors, directors, officers, employees and legal representatives, shall abstain from informing about the reports, or other documentation and information referred to in this article, to persons or authorities other than those expressly empowered to request, receive or keep such information. Violations to these obligations shall be penalized in accordance with corresponding laws.

**Article 95 Bis.**- In addition to fulfilling all other obligations that result applicable, multiple scope financial institutions, persons that perform the activities stated in article 81-A of this Law [unlicensed foreign exchange centers], and money remitters shall observe the following, in terms of the general provisions issued by the Ministry of Finance and Public Credit after listening the previous opinion of the Tax Administration Service:

I. Establish measures and procedures to prevent and detect actions, omissions, or transactions that may favor, or grant aid, support, or cooperation to commit the offenses foreseen in articles 139, 148 Bis or 400 Bis of the Federal Penal Code, and

II. Submit to the Ministry of Finance and Public Credit through the Tax Administration Service, reports relating to:

a. Actions, transactions and services performed with customers and users relating to the preceding fraction I, and

b. Any action, transaction or service performed by members of the board of directors, directors, officers, employees, or legal representatives that may be placed in the case foreseen in fraction I of this article or that, as the case may be, may violate or jeopardize the adequate application of the general provisions referred to above.

To the effect of this article, a money remitter is defined as the person that, on a customary manner and in exchange of a payment, fee, benefit, or profit, receives in Mexican territory rights or funds in local or foreign currency, directly or in the offices of that person, or by wire, fax, courier service, electronic means, or electronic transfers of funds, so that, in accordance with the instructions from the originator, it transfers such rights or funds abroad or to a different location within Mexican territory or it delivers such rights or funds in the same place in which it received them, to the designated beneficiary.

The reports referred to in fraction II of this article, in accordance with the general provisions foreseen in such fraction, shall be elaborated and submitted taking into consideration at least the variations contemplated in such provisions, the characteristics that the actions, transactions, and services shall have in order to be reported, taking into account the

amounts, frequency and nature, monetary and financial instruments with which they are carried out, and the commercial and banking practices observed in the locations in which they are carried out, as well as the frequency and the systems through which the information shall be transmitted.

In the same manner, the Ministry of Finance and Public Credit shall include in the aforementioned general provisions guidelines about the procedure and criteria that multiple scope financial institutions, persons that perform the activities stated in article 81-A of this Law and money remitters shall observe with regards to:

- a. The adequate knowledge about their clients and users, for which multiple scope financial institutions, people performing the activities referred to in article 81-A of this Law and money remitters shall consider the background, specific conditions, economic or professional activity and locations in which such clients and users operate;
- b. The information and documentation that multiple scope financial institutions, persons that perform the activities referred to in article 81-A of this Law and money remitters shall gather to open accounts or execute contracts relating to transactions and services provided by such institutions and that fully demonstrate the identity of their clients;
- c. The manner in which multiple scope financial institutions, persons that perform the activities referred to in article 81-A of this Law and money remitters shall keep and assure the security of the information and documentation related to the identification of their present or former clients and users, as well as of that concerning the actions, transactions, and services reported in accordance with this article, and
- d. The terms to provide training in multiple scope financial institutions, persons that perform the activities referred to in article 81-A of this Law and money remitters on the subject matter of this article. The general provisions referred to in this article shall establish the terms for due compliance of this provision.

Multiple scope financial institutions, persons that perform the activities referred to in article 81-A of this Law and money remitters shall keep, for at least ten years, the information and documentation referred to in sub-section c) of the preceding paragraph, without prejudice to the provisions of this or other laws.

The Ministry of Finance and Public Credit shall be empowered to request and collect, through the Tax Administration Service, from multiple scope financial institutions, persons that perform the activities referred to in article 81-A of this Law and money remitters, who shall be obligated to deliver, information and documentation regarding the actions, transactions, and services referred to in fraction II of this article.

The observance of the obligations stated in this article does not imply any breach of secrecy obligations neither violation of any restriction agreed contractually.

The general provisions referred to in this article shall be observed by multiple scope financial institutions, persons that perform the activities referred to in article 81-A of this Law and money remitters, members of their board of directors, directors, officers, employees, or legal representatives, and therefore such institutions and persons shall be responsible for the strict observance of the obligations imposed through such general provisions.

Violation to the general provisions referred to in this article shall be penalized by the Tax Administration Service, according to the procedure foreseen in its Law, with a fine of up to 100,000 days of the daily general minimum wage in effect in the Federal District.

The fines contemplated above may be imposed to multiple scope financial institutions, persons that perform the activities referred to in article 81-A of this Law and money remitters, members of their board of directors, directors, officers, employees and legal representatives and natural and legal persons who, by reason of their actions, caused or intervened in the institutions to incur the respective irregularity or become responsible for it.

The Tax Administration Service shall have the power to supervise, oversee and inspect the observance and duly compliance of the obligations foreseen in this article and the general provisions issued by the Ministry of Finance and

Public Credit.

The public servants of the Ministry of Finance and Public Credit and the Tax Administration Service, multiple scope financial institutions, persons that perform the activities referred to in article 81-A of this Law and money remitters, members of their board of directors, directors, officers, employees and legal representatives, shall abstain from informing about the reports, or other documentation and information referred to in this article, to persons or authorities other than those expressly empowered to require, receive or keep such information. Violations to these obligations shall be penalized in accordance with corresponding laws.

**LAW OF THE NATIONAL BANKING AND SECURITIES COMMISSION** (*Ley de la Comisión Nacional Bancaria y de Valores*)

4; 6;

## **CHAPTER II Powers**

**ARTICLE 4.** The Commission has the authority to:

- <sup>(3)</sup> I. Oversee financial institutions, related entities, as well as individuals and other legal entities that carry out activities specified in the laws corresponding to the financial system;
- II. Issue, in the area under its competence, prudential regulations to which entities will be subject;
- III. Dictate transaction recording regulations applicable to the entities;
- IV. Establish rules for calculation of assets and, where appropriate, obligations and liabilities of the entities, pursuant to the terms established by law;
- V. Issue regulations with respect to the information entities must periodically provide;
- VI. Establish general regulations on the conditions and requirements for auditors of the entities, as well as their reports;
- VII. Establish the criteria referred to by Article 2 of the Securities Market Law, as well as those of general application in the financial sector on actions and operations considered contrary to commercial, banking and stock-exchange standards or healthy practices in the financial markets, and dictate necessary measures so that activities and operations of entities adhere to the laws applicable to them, general provisions derived from these, and the foregoing standards and healthy practices;
- VIII. Act as consulting body for the federal government on financial matters;
- IX. Ensure proper and effective fulfillment of entities in transactions and services with financial service users pursuant to the agreed-upon terms and conditions, through established procedures and the laws regulated the financial system;
- <sup>(2)</sup> X. Derogated.
- XI. Authorize organization and operation, and determine minimum capital of entities pursuant to law;
- <sup>(3)</sup> XII. Grant authorization to individuals who conduct consulting, promotion, and securities trading transactions with the general public, as securities market intermediary agents, pursuant to the terms set forth by regulations applicable to these individuals;
- <sup>(3)</sup> XIII. Order or recommend admonition, suspension or dismissal and, as appropriate, disqualification of the advisors, managers, statutory auditors, trust officers, agents, officers, independent external auditors and other individuals who can cause obligations for entities, pursuant to the provisions of applicable law.
- XIV. Order the suspension of operations of entities pursuant to the provisions of this law;
- XV. Intervene in administration or management of entities, in order to suspend, control, or terminate any operations that place at risk the solvency, stability or liquidity of entities, or those operations in violation of the regulatory laws or general provisions derived therefrom, pursuant to the terms of applicable regulations;
- XVI. Investigate actions of individuals and legal entities who do not belong to the financial sector and who are suspected of conducting operations violating the laws that govern the sector, ordering inspection visits of the suspected violators as appropriate;

XVII. Order the suspension of operations, intervene in administration or management, or order the closing down of business concerns, establishments or companies of sole proprietors or legal entities that, without the corresponding authorization, conduct activities that require such authorization pursuant to the terms of the regulatory provisions applying to financial sector entities;

<sup>(3)</sup> XVIII. Investigate actions or events that violate the provisions set forth by the Securities Market Law, for which it is permitted to carry out visits with regard to these actions or events, as well as cite, require information from or require appearance of suspected violators and other persons that may contribute to the proper realization of the investigation;

<sup>(3)</sup> XIX. Impose administrative sanctions for violations of the regulations pertaining to activities, entities and individuals subject to oversight of the Commission, or of rules arising therefrom, and, where appropriate, assist the public prosecutor's office with respect to violations of financial system laws;

XX. Hear and render decisions on motions for reconsiderations filed against applied sanctions, and render decisions on total or partial waiver of the fines imposed;

XXI. Participate in liquidation proceedings of entities pursuant to the terms of the law;

XXII. Set dates on which entities must close doors or suspend operations;

XXIII. Prepare and publish financial statistics regarding entities and markets;

XXIV. Execute agreements with national and international agencies with supervisory and regulatory functions similar to those of the Commission, and participate in fora involving national and international financial oversight and regulation agencies;

XXV. Provide any assistance requested by foreign supervisory and regulatory agencies, for which any information and documentation requested on any person may be obtained in the exercise of its powers of inspection and oversight;

XXVI. Participate in issuance, drawing and cancellation of negotiable instruments or securities of entities, pursuant to the law, to ensure that circulation of these does not exceed legal limits;

XXVII. Apply, to public servants of full-service banking institutions in which the Federal Government has control through equity participation, and to development banking institutions, the regulations and sanctions set forth in the Federal Law regarding Responsibilities of Public Servants corresponding to internal comptrollerships, without prejudice to those sanctions which the Department of the Comptroller and Administrative Development is responsible for applying pursuant to the terms of the foregoing law;

XXVIII. Keep the National Registry of Securities and Intermediaries certifying registrations in said registry;

XXIX. Authorize, suspend or cancel securities and stock-exchange specialist registrations in the National Registry of Securities and Intermediaries, and suspend the foregoing registration with regard to brokerage houses;

XXX. Oversee securities issuers registered in the National Registry of Securities and Intermediaries, with regard to their obligations pursuant to the Securities Market Law;

XXXI. Dictate general regulations with regard to the manner and terms in which issuing companies possessing privileged information must make such information public;

XXXII. Issue standards which set minimum public disclosure requirements for securities rating firms with regard to the credit quality of issuances rated and on other aspects towards improving services provided to users;

XXXIII. Establish rules applicable to brokerage houses in transactions with stockholders, advisors, executives and employees;

XXXIV. Authorize and oversee systems used for compensation, centralized information and securities rating and other mechanisms towards efficiency in transactions and improvement of the securities market;

XXXV. Order the suspension of securities quotations when disorderly conditions exist in the market or transactions are conducted which are contrary to healthy practices;

<sup>(8)</sup> XXXVI. Issue regulations necessary for the exercise of the authority conferred by this and other laws, and for the effective enforcement of these and of the rules established based hereon;

<sup>(8)</sup> XXXVII. Regulate adhesion contracts, publicity and account statements used by the financial institutions as referred to by the Law for Transparency and Financial Service Regulations, pursuant to the terms of the foregoing law, and

<sup>(9)</sup> XXXVIII.- Other powers as granted by this law, the Regulatory Law of Subsection XIII bis of Section B, Article 123 of the Political Constitution of the United Mexican States and by other laws.

**ARTICLE 6.** For the effects of Section II of Article 4, the Commission, pursuant to the provisions set forth by financial system laws, will establish prudential regulations towards preserving the liquidity, solvency and stability of financial

institutions.

**SECONDARY REGULATIONS**

**ORGANIC LAW REGULATIONS OF THE OFFICE OF THE ATTORNEY GENERAL OF THE REPUBLIC**  
*(Reglamento de la Ley Orgánica de la Procuraduría General de la República)*

1; 2; 15; 16; 27; 28;

**CHAPTER ONE  
ORGANIZATION OF THE OFFICE OF THE ATTORNEY GENERAL**

**Article 1.**

These regulations intend to establish the organization and operation of the Office of the Attorney General of the Republic, for the resolution of matters entrusted thereto, to the Attorney General and to the Federal Public Prosecutor by the Political Constitution of the United Mexican States, its Organic Law and other regulations.

**Article 2.**

For the fulfillment of matters under the competence of the Office of the Attorney General, its Chief and the Federal Public Prosecutor will have the following administrative units and decentralized bodies:

- Deputy Attorney General's Office for Special Investigations into Organized Crime;

...

- Specialized Unit for Investigation of Terrorism, Arms Stockpiling and Trafficking;

- Specialized Unit for Investigation of Operations with Funds of Illicit Origin and Counterfeiting or Alteration of Currency;

**CHAPTER FOUR  
DEPUTY ATTORNEY GENERALS**

**Article 15**

The Deputy Attorney General's Office for Special Investigation into Organized Crime is the specialized unit referred to by Article 8 of the Federal Law against Organized Crime, and will exercise the powers that said regulation confers upon it.

This Deputy Attorney General's Office will have specialized units and a technical control body that will perform the functions specified in Article 8, second paragraph, of the Federal Law against Organized Crime.

**Article 16.**

The public servants of the Deputy Attorney General's Office for Special Investigation into Organized Crime and of the administrative units assigned thereto, must meet the requirements set forth in Articles 31, 32 and 33 of the Organic Law, as appropriate, and, additionally, the following:

**I.** Successfully complete the courses in the specialization of organized crime established by the Career Service for each level;

**II.** Pass the initial and periodic evaluations for entrance and continuance in the foregoing deputy attorney general's office,

and, as appropriate, in the Institution, applied by the Evaluation and Human Development Center, and

**III.** Not have been sanctioned with a suspension of more than 15 days, dismissal or disqualification through a final decision during career.

## **CHAPTER TEN SPECIALIZED UNITS**

### **Article 27.**

At the head of each of the specialized units will be a Director, who will hold the authority to:

**I.** Exercise of the functions set forth in Article 4 of the Organic Law, with respect to the crimes under unit's competence, in coordination with the administrative units and competent agencies;

**II.** Hear matters under the responsibility of the precincts related to the crimes under unit's competence, in accordance with applicable law and institutional policies, or when ordered by the Attorney General or respective deputy attorney general;

**III.** Exercise the authority to bring matters under own jurisdiction for the investigation and prosecution of crimes of state jurisdiction connected to federal crimes under unit's competence;

**IV.** Submit to precincts, through the Bureau of Control of Pretrial Investigations, investigations related to the crimes under unit's competence, for their prosecution, pursuant to institutional regulations and policies, or when so ordered by the Attorney General or respective deputy attorney general;

**V.** Authorize decisions of reservation of action, incompetence to stand trial, joining or separation of pretrial investigations under its responsibility.

**VI.** Establish coordination mechanisms with administrative units responsible for the control and follow-up of pretrial investigations and federal criminal proceedings, in order to optimize criminal prosecutions, and facilitate the procedural actions that must be filed before judicial authorities;

**VII.** Coordinate with precincts in the investigations and proceedings carried out in the territorial jurisdiction of the respective precinct, related to those crimes under unit's competence, in accordance with applicable law and institutional policy, or when so directed by the Attorney General or respective deputy attorney general, and provide assistance and support to precincts;

**VIII.** Propose, in coordination with the competent administrative units of the Institution, policies, strategies and courses of action to fight crimes under unit's competence;

**IX.** Participate, in coordination with the competent administrative units of the Institution, with international organizations and groups responsible for or involved in investigation and control of crimes under their respective competences;

**X.** Provide competent administrative units of the Institution with information and statistics on the crimes under unit's competence;

**XI.** Exercise direct and immediate command over assigned personnel.

**XII.** Others conferred by regulations applying to the Attorney General.

### **Article 28.**

The units specialized in organized crime will be competent in the following matters:

...

**II.** The Specialized Unit for Investigation of Terrorism, Arms Stockpiling and Trafficking will hear crimes as established in Article 2 of the Federal Law against Organized Crime, in relation to the crimes listed below:

a) Terrorism, as set forth in Article 139, first paragraph, of the Federal Criminal Code, and

b) Arms stockpiling and trafficking, as set forth in articles 83 bis and 84 of the Federal Firearms and Explosives Law.

**III.** - The Specialized Unit for Investigation of Operations with Funds of Illicit Origin and Counterfeiting or Alteration of

Currency, will hear crimes as established in Article 2 of the Federal Law against Organized Crime, in relation to the crimes listed below:

a) Operations with funds of illicit origin, contemplated in Article 400 bis of the Federal Criminal Code, and

...

The Specialized Units referred to in this article will hear investigations for crimes under their competence, even when these have not been committed by members of organized crime. In these cases, they will not be authorized to apply the provisions of the Federal Law Against Organized Crime.

The foregoing is without prejudice to hearing other illegal actions connected to those described in the previous sections, in accordance with the guidelines issued by the Attorney General.

**INTERNAL BYLAW OF THE MINISTRY OF FINANCE AND PUBLIC CREDIT** (*Reglamento Interior de la Secretaría de Hacienda y Crédito Público*)

15

**Article 15.** The Financial Intelligence Unit is empowered to:

**I.** Propose and issue opinion to other administrative units of the Ministry [of Finance and Public Credit] about general provisions that, on terms of the applicable legislation, the latter shall emit related to:

**a)** The establishment of measures and procedures in order to prevent and detect acts or transactions that might favour, give aid, help or cooperation of any kind to carry out terrorism, its financing or money laundering offences;

**b)** The report of acts, transactions and services that could be related to the offences described hereinabove concerning customers and users or managers, officials, employees and attorneys of said individuals, and

**c)** The guidelines concerning the proceedings and criteria that reporting entities shall observe, regarding due knowledge and identification of customers and users; the information and documentation that said entities shall compile in order to celebrate contracts, perform transactions, render services and verify customer's identity; the means by which reporting entities shall protect and guarantee the security of the information and documentation contained in the files of users and customers and the terms to provide guidance and training to reporting entities, among others;

**II.** Participate in coordination with other administrative units of the Ministry, in the analysis and production of laws and decrees draft initiatives regarding terrorism, its financing and money laundering offences;

**III.** Issue legal opinions to other administrative units of the Ministry regarding the interpretation for administrative purposes of the general provisions set forth on section I hereinabove, or the legal provisions derived from said provisions;

**IV.** Design the official formats to submit the transaction reports referred on the general provisions mentioned on preceding section I;

**V.** Verify in coordination with other agencies of the Ministry, due compliance with the general provisions referred to above in section I;

**VI.** Receive and analyze the transaction reports foreseen in the general provisions mentioned hereinabove in section I, and the customs reports referred to in article 9 of the Customs Law. Additionally, provide feedback on the usefulness of said reports to reporting entities and competent authorities;

- VII.** Request and compile either directly from the reporting entities or through the supervisory authorities channels, additional information and documentation related to the just-mentioned reports;
- VIII.** Negotiate with other administrative units the suitable and timely approach to information or documentation that may be helpful to exercise its powers, including the access to private databases;
- IX.** Assess and approve the working schedules, information technology and other technical criteria that reporting entities shall establish and monitor their observance;
- X.** Receive, compile and analyze the evidence, reports, documents and informs regarding conducts that might favour, give aid, help or cooperation of any kind to carry out terrorism, its financing or money laundering offences, integrating the respective files;
- XI.** Perform, in coordination with tax authorities, supervisory procedures, within the powers granted in this article;
- XII.** Provide and request to competent domestic authorities, the information and documentation that may be useful to develop their functions;
- XIII.** Present accusations or penal complaints to the Public Prosecutor regarding conducts that might favour, give aid, help or cooperation of any kind to carry out terrorism, its financing or money laundering offences, providing case evidence elements;
- XIV.** Cooperate with the competent authorities, in representation of the Ministry, on criminal procedures related to conducts that might favour, give aid, help or cooperation of any kind to carry out terrorism, its financing or money laundering offences;
- XV.** Monitor and follow-up the penal procedures in which the Ministry may have an interest;
- XVI.** Attend the requirements and resolutions rendered by jurisdictional or administrative authorities, including the Public Prosecutor;
- XVII.** Link up administrative units and supervisory agencies of the Ministry with other agencies and entities of the Federal Public Administration and negotiate, celebrate and implement agreements with those agencies;
- XVIII.** Inform the supervisory agencies of the Ministry about incompliance with the general provisions referred to in section I of this article
- XIX.** Request to the supervisory agencies, reports about the findings of their supervisory activities;
- XX.** Participate in the negotiation of international treaties within the scope of its attributions and subscribe the international agreements that do not require to be signed by the Minister;
- XXI.** Participate in national and international fora and events on the subjects related to its attributions;
- XXII.** Perform as linkage between the Ministry and foreign countries, international or intergovernmental organizations, with whom international treaties or agreements have been subscribed and implement the agreements reached with those entities;
- XXIII.** Exchange information and documentation with foreign authorities of the countries with which international treaties or agreements have been subscribed, within the subjects of its attributions;
- XXIV.** Spread typologies and guidelines within the subjects of its attributions;

**XXV.** Notify resolutions, engagements, requirements, requests of information and other administrative acts, related to the exercise of its powers;

**XXVI.** Issue certificates of the files concerning the subjects of its attributions;

**XXVII.** Use, exploit and safeguard the information generated within the scope of its attributions. Promote and supervise the observance of security policies in accordance with the rules and guidelines set forth by the General Coordination on Information Quality and Security;

**XXVIII.** Establish statistic and economic models that support the analysis of transaction reports and customs declarations;

**XXIX.** Define policies to cluster and categorize the information with a risk-based approach;

**XXX.** Record statistics within the scope of its attributions, so as to present reports and informs;

**XXXI.** Establish policies and programs regarding reception and analysis of the information obtained within the general provisions referred to in subsection I hereinabove and the customs declarations. Encourage the reporting entities to observe their compliance and feedback on the usefulness of said reports and declarations.

**XXXII.** Exercise the powers referred to in article 7, subsections XIII to XIX of this Internal Regulation, and

**XXXIII.** Exercise the powers conferred to in other legal provisions and those directly granted by the Minister [of Finance and Public Credit].

Bylaw of Inspection and Surveillance of the National Insurance and Bonds Commission.	3; 7; 8;
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**ARTICLE 3.-** The persons subject to the inspection and audit of the Commission, shall be obligated to render all the help to the inspectors which they require, furnishing the data, reports, records, minutes books, auxiliary books, documents, correspondence and in general, the documentation, disks, tapes or any other processable media of storage of data which the institution shall have and that the inspectors deem necessary for compliance with their duties; possibly retaining access to their offices and other installations.

The information referred to in the preceding paragraph, includes that contained in the processing and conservation of data systems, as well as any other technical proceeding settled for such means, such as magnetic files, microfilmed documents files, optical processes for consultation or of any other nature.

The information requested by the Commission for the exercise of its surveillance and inspection functions, should be submitted through the standard request forms established for such means and in terms of the present Bylaw and of the General Provisions issued by the Commission.

The information provided in order to fulfil that foreseen in the present Bylaw will exclusively be used to perform the inspection and surveillance functions attributed to the Commission by the legal and administrative provisions.

The public servants of the National Insurance and Bonds Commission, auditors and other professionals who aid the Commission according to that foreseen in article 110 of the General Law of Insurance Institutions and Mutual Entities and article 70 of the Federal Law of Bonds Institutions, who according to their functions have access to the information referred to in this article, are constrained to keep due secrecy of such documentation. The breach of this provision might

result in the imposition of the sanctions foreseen by the applicable laws.

**ARTICLE 7.** - The Commission will perform the inspection functions referred to in this Bylaw to the persons mentioned in article 1, through ordinary, special or investigative visits.

In the elaboration of the Annual Program of Ordinary Visits for consideration and approval of the President of the Commission, its general scopes shall be included, as well as the terms in which it will be performed. This Program will be elaborated on the basis of proved experience, in order to allow these visits to take place with the necessary frequency.

The special visits shall be made if it is necessary to correct special operational situations; and those investigative with the scope of clarifying or asses a specific situation.

**ARTICLE 8.**- The inspection performed by the Commission to the persons subject to its inspection and surveillance functions will be performed by visits which will have the purpose of review, verify, prove and evaluate the resources, obligations, net wealth, as well as the operations, functioning, control systems and in general, all that which might affect the financial, actuary, reinsurance and legal position, shown or which should be shown in the records, for the purpose of fulfilling the legal, regulating and administrative provisions which govern them and best practices in the functioning and operation, by undertaking the following actions:

**I.** Verify the timely, appropriate, complete and accurate registration of the transactions, by which responsibilities or contingent liabilities are or might be originated;

**II.** Prove the existence of the properties which are part of the fixed assets, the documentation that prove the existence of their obligations as well as the creation of reserves and other components which integrate the liabilities; as well as the accurate integration of the capital, capital reserves and other patrimonial accounts;

**III.** Verify the accurate valuation of the concepts referred to by the preceding fractions;

**IV.** Verify and prove that the financial statements reflect the situation and results of the operations;

**V.** Evaluate the organizational structure and the accountancy and internal control systems, aimed at preserving its solvency and financial stability;

**VI.** Analyze the determined deviations in relation with the applicable provisions, uses and best practices, and prove that these are properly corrected;

**VII.** Investigate or clarify situations observed throughout the surveillance action;

**VIII.** Investigate or clarify situations observed by the external auditors, the normative comptroller and, if applicable, the medical comptroller;

**IX.** Investigate or clarify situations presented by the commissioner, persons insured, beneficiaries of bonds, or a group of shareholders, who submit sufficient data to justify in the judgment of the National Insurance and Bond Commission a visit as foreseen in the first paragraph of this article;

**X.** Prove the performance of corrective actions ordered by the Commission or by other authorities, as well as the regularization plans or programs of autocorrecting which may have been implemented;

**XI.** Evaluate the existence of the necessary systems, proceedings and administrative infrastructure to provide the services pertaining to its business area, and

**X.** Review, verify, prove and evaluate any other aspect in which it is deemed necessary on a case by case basis.

In the theoretical hypothesis foreseen by this article, the aim will consist in stimulating the fulfilment, correction and

observance deemed necessary by each case.

## **AML/CFT GENERAL PROVISIONS (SECONDARY REGULATIONS)**

General Provisions Referred To In Article 95bis Of The General Law of Auxiliary Credit Organizations and Activities Applicable To The Persons Who Perform Operations Referred To In Article 81-A Of Such Legal Ordinance

### **CHAPTER I DEFINITIONS**

**First.-** The present Provisions have the purpose to set forth, according to that foreseen in article 95 BIS of the Credit Institutions Law, minimum measures and procedures that the persons who perform Transactions referred in article 81-A of the mentioned legal ordinance shall observe to prevent, detect and report acts, omissions or Transactions that may favor, help, provide aid or cooperation of any kind for the commission of the offense foreseen in article 139 of the Federal Penal Code, or that may correspond to assumptions referred to in article 400 Bis of the same Code.

**Second.-** For the purposes of the present Provisions, it will be understood as:

- I.** “Beneficial owner”, the person who obtains by means of other person, a profit derived from a Transaction. It also refers to those people who exercise ultimate control over a legal person or legal contract.
- II.** “Client”, in singular or plural, any legal or natural person who undertakes in conjunction with the Entities, the Transactions referred to in article 81-A of the present Law.
- III.** “Monetary Instrument”, the coins and paper money of the United Mexican States, or any other country of legal circulation, minted pieces and common paper money of legal circulation in the country of issuance; travelers checks issued in foreign currency, metallic pieces minted in coin shape, money orders issued and payable in foreign currency by a financial institution.
- IV.** “Law”, the Credit Institutions Law;
- V.** “Transactions”, those referred in article 81-A of the Law;
- VI.** “Unusual Transaction”, the Transaction, activity, conduct or behavior that is not in line with the background, known or declared activity of the Client, or with his/her usual Transactional behavior pattern regarding the amount, frequency, type or nature of the Transaction(s) concerned, when there is not a reasonable justification for such behavior, or that which, for any other reason, the Entities consider that the funds may be destined to favor, provide aid or cooperation of any kind for the commission of the offense foreseen in article 139 of the Federal Penal Code, or that may belong to any of the possibilities referred to in article 400 Bis of the same legal ordinance; or when it is considered that the funds may be destined to favor the commission of the offenses mentioned in this paragraph and the sufficient elements are available to make the report;
- VII.** “Concerning Transaction”, the Transaction, activity, conduct or behavior by directors, officials, employees and legal representatives of the Entities that, due to their characteristics, may jeopardize the compliance or make vulnerable the enforcement of what is foreseen in the Law and the present Provisions, or that which for any other reason are dubious to the Entities;
- VIII.** “Relevant Transaction”, the Transactions performed with Monetary Instruments set forth in section III of this Provision, for an amount equal or exceeding the equivalent in national currency of three thousand Dollars of the United States of America.

To calculate the Transactions amounts in domestic currency, it shall be considered the exchange rate applicable to

pay liabilities in a foreign currency payable in the United Mexican States, published by Bank of Mexico in the Official Gazette, on the immediate preceding date when the Transaction is performed;

- IX.** “Politically exposed person”, individuals who are or have been entrusted with prominent public functions in a foreign country or national territory, considering among others, heads of state or government, senior politicians, senior government officials, senior judicial or military officials, senior executives of state owned corporations or important political parties’ officials;

It is similar to a Politically exposed person, spouses and blood relatives up to the second degree, as well as companies in which the Politically exposed person has financial interests;

- X.** “Risk”, the possibility for Entities to be used by their Clients to perform acts or Transactions that may be destined to favor, provide aid or cooperation of any kind for the commission of the offense foreseen in article 139 of the Federal Penal Code, or that may apply in any of the possibilities referred to in article 400 Bis of the same legal ordinance;

- XI.** “SAT”, Tax Administration Service (*Servicio de Administración Tributaria*);

- XII.** “Secretariat”, the Secretariat of Finance and Public Credit, and

- XIII.** “Entities”, the persons who perform activities referred to in article 81-A of the Law.

## **CHAPTER II CLIENT IDENTIFICATION POLICY**

**Third.-** Entities shall establish and comply with a Client identification policy, which shall include at least, the guidelines set forth in the present Chapter, as well as the criteria, measures and procedures required for their identification compliance, including those related to the verification and actualization of information provided by Clients.

**Fourth.-** Entities shall integrate a Client identification file prior to the performing of Transactions for an amount equal or exceeding the equivalent in national currency of three thousand Dollars of the United States of America, which shall include at least the following:

- I.** In the case of Mexican natural persons, the following data shall be filed: last and first names; domicile; (street, number, neighborhood, zip code, delegation or municipality, city or town and federal entity), date of birth, nationality, occupation or profession, activity or business purpose, telephone(s) in which said individual could be located, e-mail when available, and the Population Register Code and/or the Federal Tax Register when the said individual have them.

Furthermore, it shall be required the presentation of the following documents:

- a) Personal identification, which shall be in all cases an original official document issued by the competent authority, current on the date being filed, bearing a photograph, domicile and signature of the holder.

For this purpose, it shall be deemed as valid personal identification documents, among others, the Federal Voting Card issued by the Federal Electorate Institute, passport issued by the Secretariat of Foreign Affairs, professional certificate, national military service card and the military identity card.

It also shall be considered as valid the member card of the National Institute for Elder People, cards and carnets issued by the Mexican Institute of Social Welfare cards issued by superior education public institutions, driver's license, Consular ID, cards issued by federal and local entities, and other document issued by a competent authority with the scope to obtain resources or different kind of economic support derived from federal, local or municipal governmental programs. According to the characteristics and the place in which the Transaction takes place, the entities can establish measures which help them to verify in a reasonable way, the identity of their clients, such as, testimony rendered to a competent jurisdictional authority, eye witnesses or verifying questions.

- b) Proof of the Population Register Code issued by the Secretariat of the Interior and/or the Fiscal Identification Carnet issued by the Secretariat, when the Client has them.
- c) Domicile proof, when the domicile stated on a contract does not match the one on the identification or the latter does not have a domicile, it will be necessary for the Client to present a document that gives proof of his/her domicile, which may be, among others, the utilities bill, telephone, residential property tax bills, bank statements, all current within a three months period from the date of emission, or rent/leasing contract registered before the competent fiscal authority.

The documents included in the preceding subsection a) which contain the domicile, can also be considered as documents to prove such information.

In the case of legal representatives, Entities shall request the original power of attorney letter or a certified copy of the document issued by the public notary pursuant to the terms set forth in the legislation, which states the powers granted to the legal representative, as well as an official identification and proof of domicile of the latter, with independence between the data and the documents of who granted the power of attorney.

- II.** Regarding Mexican national legal persons, the following data shall be filed: trade or legal name, commercial occupation, activity or business purpose, Federal Tax Register, domicile (street, number, neighborhood, zip code, city or town and federal entity); telephone(s), e-mail when available, the company's date of incorporation, nationality and name of the manager(s), director, general director, or legal representative who may, with his/her signature, force the legal entity to perform the Transactions involved.

Likewise, it shall be requested, at least, the presentation of the following documents:

- a) Testimony or certified copy of the incorporation certificate registered at the Commercial Public Register, which thoroughly certifies its legal existence;
- b) Fiscal Identification Carnet issued by the Secretariat;
- c) Proof of domicile;
- d) Testimony or certified copy of the document containing the powers granted to the representative or legal representatives issued by a public notary in the event that such powers are not stated in the incorporation certificate, as well as personal identification of the latter, pursuant to subsection a) of the preceding section I, and
- e) In the event of a legal person of recent incorporation not registered in the Commercial Public Register, Entities shall request a signed document by a legal empowered individual that certified his/her legal personality in terms of the corresponding testimony, manifesting that the proper registration shall be performed and the resulting information provided to the Entity in due time.

**III.** In case of foreigners, they shall:

- a) Natural persons, submit original passport and document authorizing their legal stay in the country, when available, or any similar document referred to in subsection I of the present Provision; as well as information on their domicile in their country of origin and where they may be located while residing in national territory; and
- b) Legal persons, present a certified copy or apostille of the document that duly proves their legal incorporation, as well as the document stating the individual designated as legal representative, and in the event that said individual is also a foreigner, he/she shall submit the documents outlined on the previous section.

**IV.** In the event of companies and entities referred to in Annex 1 of the present Provisions, the Entities shall implement simplified Client identification measures; integrating the file with at least the following information:

Trade or legal name, activity or business purpose; Federal Tax Register; domicile; (street, number, neighborhood, zip code, city, town or federal entity); telephone(s), e-mail when available, and the name of the administrator(s), director, general director or legal representative who may, with his/her signature, force the legal entity to perform the involved Transaction.

Likewise, it shall be requested, at least, as may apply, the filing of the testimony or certified copy of the document containing the powers granted to the representative or legal representatives issued by a public notary, proof of appointment certificate issued by a competent official, according to article 90 of the Credit Institutions Law, as well as their personal identification pursuant to subsection a) of the preceding section I.

When there are reasons or certainty that the identification documents presented by the Clients are false or have scratches or corrections, the Entities shall file another identification file or request two banking or commercial references and two personal references, which shall include: name, domicile and telephone number of who presented them, which authenticity shall be confirmed by the latter, prior to the performance of the Transaction.

Entities shall keep in the Client's identification file, a copy of documents mentioned in this Provision, prior verification with their originals.

**Fifth.-** Entities shall only be able to perform Transactions of any kind until their Clients have satisfactorily complied with the identification requirements set forth in this Chapter.

**Sixth.-** The Entities shall take reasonable measures and establish procedures to identify Beneficial Owners and comply with the requirements referred to in sections I and II of the Fourth of these Dispositions, for which they shall:

1. In the case of legal commercial persons, know its corporate structure and controlling interests;
2. With regards to legal persons who are companies or civil associations, identify their partners, associates or equivalents.

**Seventh.-**The Entities should adopt measures in order to keep updated the information and documentation contained in the identification file. During the Transactional relation with the Client, Entities should verify and ask the client to update the information and documentation, specifically when they notice significant changes in his or her habitual behavior or when the Entity has doubts regarding the veracity of such information or documentation.

The Entities shall apply measures in order to update the identification files at least one time per year, when the Client is a

person ranked as high risk or when he or she is a Politically exposed person.

Additionally, Entities shall randomly ask to the Clients to hand in copy of their personal identification with domicile included, in order to verify that this address coincides with the one contained in the identification file. If it does not coincide, the Entity shall proceed to update such information.

The internal procedures shall foresee the cases in which depending on the level of risk, the Entity shall perform visits to the domicile of the Client, having to include in the identification file the evidence and records of such visits.

### **CHAPTER III CLIENT DUE DILIGENCE POLICY**

**Eight.** - Entities must elaborate and observe a Client due diligence policy, which shall include, at least, the guidelines established in the present Dispositions, as well as the required criteria, measures and procedures for their due compliance.

**Ninth.**- The implementation of the Client due diligence policy shall be based on the Transactional Risk that a Client may represent, so that when the Risk level is higher, it shall be required additional information and tighter monitoring of the Client's Transactional behavior.

For the latter, Entities must classify Clients per their Risk level, establishing at least two classifications, high and low Risk. Entities may establish in between Risk levels, in addition to those previously mentioned.

To determine the Risk level where Clients should be located, as well as whether the Client is considered a Politically exposed person or not, Entities shall establish internal criteria for which, among other things, they shall take into consideration the Client's background, profession, activity or business purpose, origin of funds involved, and other circumstances determined by Entities.

The Entities shall establish mechanisms to determine the Risk level of Transactions performed with a Mexican politically exposed person, and determine whether the Transactional behavior reasonably matches with his/her functions, level and responsibility.

Furthermore, Entities shall establish a preemptive alarm system to verify and detect changes in the Client's Transactional behavior and apply the necessary measures.

**Tenth.**- In Transactions classified as of high Risk, Entities shall implement reasonable measures to know about the origin of funds involved and try to obtain the information and documents pointed out in Chapter II of the present Provisions, regarding their spouse and economic dependants, as well as companies or associations with which the Client maintains patrimonial links in the case of natural persons; and in the case of legal persons, their corporative structure and main shareholders.

Transactions shall be classified as high Risk, among others, when performed with foreign Politically exposed persons.

The performance of Transactions whose characteristics could represent a high Risk for the Entity must be approved at the director's level and be made of the knowledge of the persons referred to in Provision Ninetieth, for the mentioned effects.

**Eleventh.**- If an Entity considers or has sufficient grounds to believe that –when performing a particular Transaction- the funds may be the result of an illicit activity in terms of that foreseen in article 400 Bis of the Federal Penal Code or may

be destined to favor, help or provide aid or cooperation of any kind for the commission of an offense as foreseen in article 139 of the same legal ordinance, must, when accepting the Transaction, immediately inform the persons mentioned in the Provision Nineteenth, who within the following twenty-four hours shall submit to the Secretariat, through the SAT, the Unusual Transaction Report and duly inform the Secretariat.

**Twelfth.**- When doubts arise about whether a Client is acting on behalf of a third party, Entities shall, to the extent possible, identify the true Client or Beneficial owner of the Transactions, without prejudice to its confidentiality obligations towards third parties imposed by contractual or conventional means.

In the assumption foreseen in the previous paragraph, as well as in cases where doubt arise regarding the information or documents provided by the Client for identification purposes, or about his/her Transactional behavior, the monitoring of the Transactions must be tighten, and if necessary, submit them for consideration of the persons mentioned in Provision Nineteenth who shall rule, and if applicable, produce the Unusual Transaction Report.

**Thirteenth.**- The identification and Client due diligence policies of each Entity shall include, at least:

1. Procedures for the Client due diligence compliance, including its update, according to that stipulated in the present Provisions;
2. Procedures for Entities to do a follow-up to its Client Transactions;
3. Cases where Transactions deviate from Transactional profiles;
4. Identification of possible Unusual Transactions, and
5. Considerations to, when applicable, modify the Risk level previously determined.

The Clients' Transactional profile shall be based on the information they must provide to the Entity, and when necessary, on information obtained by the Entity, regarding the number, type, nature and frequency of Transactions commonly carry out by said Clients, the origin and destination of funds, relying on the knowledge that the Entity's employee or official may have regarding his/her clientele base and additional elements and criteria determined by the Entities.

**Fourteenth.**- The Entities shall send to the SAT and the Secretariat, a document with the criteria, measures and procedures about the Client identification and due diligence policies for the effects stipulated in the Thirtieth Second and Thirtieth Third of these Provisions. With the purpose of uniformity, the Entities may elaborate a reference document, through the Association to which they belong to. The modifications shall also be sent to the authorities mentioned.

#### **CHAPTER IV REPORTS ON RELEVANT TRANSACTIONS**

**Fifteenth.**- Entities shall submit, on a quarterly basis to the Secretariat, through the SAT, their reports on Relevant Transactions, no latter than ten business days after the closing of the business day from the last month of the quarter concerned, in the official format that for that effect publishes the Secretariat, through an electronic device or any other type, according to terms and specifications pointed out by the latter.

The Entities, in which Relevant Transactions did not take place during the quarter concerned, shall notify the Secretariat, through the SAT, about such situation.

To facilitate the submission of reports to the Secretariat referred to by the present Provisions, the SAT, previous request by Entities, shall be able to determine the sequence that these shall follow, within the terms pointed out in this Provision.

**CHAPTER V**  
**REPORTS OF UNUSUAL TRANSACTIONS**

**Sixteenth.**- The Entities shall submit to the Secretariat, through the SAT, their Unusual Transactions Reports, within the following thirty natural days starting from the day the Transaction is detected by the Entity's system, model, process or the Entity's employee, whichever comes first, in the official format that for such purpose publishes said Secretariat, through the electronic means or any other, according to terms and specifications established by the latter.

The Entities, in order to determine whether a Transaction is Unusual, shall consider, among other things, the following circumstances that may occur in an isolated or combined manner:

- I. The specific conditions, background and classification of each of their Clients, their professional and/or commercial activity or business purpose;
- II. The types, amounts, frequency and nature of Transactions commonly carried out by their Clients and their relation with the Clients' own background and known economic activity;
3. The unusually high amounts, the complexity and uncommon characteristics of Transactions performed by the Clients;
4. The Transactions performed in the same account, in Monetary Instruments for multiple or fractional amounts that when added in five days equals or exceeds the equivalent to three thousand dollars of the United States of America;
5. Commercial or exchange practices and customs offered in the location where they operate;
6. When Clients refuse to provide identification documents stated in the Fourth of the present Provisions or when it is detected that apocryphal information is being presented;
7. When Clients try to bribe or intimidate personnel from the Entities, with the purpose of obtaining its cooperation to perform activities or Unusual Transactions, or contravene the present Provisions, other legal norms or criteria, measures and procedures of the Entities on this matter;
8. When Clients notoriously seek to avoid the parameters used by Entities to report Transactions refer to by the present Provisions;
9. When indications or extraordinary events of difficult explanation occur, which generate any type of suspicion about the origin, handling or destination of funds or when suspicion arise of whether those indications or events may be related to acts, omissions or operations that may favor, provide aid or cooperation of any kind for the commission of the offense foreseen in article 139 of the Federal Penal Code, or that may belong to any of the possibilities referred to in article 400 Bis of the same legal ordinance;
10. When the Transactions that Clients seek to carry out involve countries and jurisdictions:
  - a) In which the Mexican legislation considers as preferential tax systems, or
  - b) In which in the opinion of international organizations of which the United Mexican States is part, do not have measures to prevent, detect and combat Transactions with funds of illicit origin or terrorist financing, or when the application of such measures is deficient.

On this respect, the Secretariat shall provide to Entities the lists containing the names of such countries and jurisdictions;

11. When it is presumed or doubts arise about whether a Client acts on behalf of a third party, and,

12. The conditions under which other Clients operate, who indicated being involved in similar activities, profession or commercial occupation or having the same business purpose.

The Entities shall examine the background and purpose of the Transactions presented to the persons referred to in Provision nineteenth, for their ruling as Unusual, establishing in writing the results of such evaluation, which shall be available to competent authorities.

To facilitate the process for identifying Unusual Transactions, the Secretariat shall periodically advise Entities and provide guidelines, information and typologies that allow detecting Transactions that shall be reported according to the present Provisions.

Additionally, in this process, Entities shall rely on their criteria, measures and internal procedures, and consider the guidelines provided by the Secretariat elaborated by foreign authorities or by international organizations of which the United Mexican States is part of.

**Seventeenth.-** Under the assumption that a Relevant Transaction also has the characteristics for being considered as Unusual, Entities shall formulate separately both reports regarding the same Transaction highlighting such situation in the Unusual Transaction Report.

## **CHAPTER VI CONCERNING TRANSACTIONS REPORTS**

**Eighteenth.-** The Entities shall submit to the Secretariat, through the SAT, the reports on Concerning Transactions within the following thirty natural days starting from the day the Transaction was detected, through the system, model, process or the Entity's employee, which ever happens first, in the official format that for such effect publishes the Secretariat, through the electronic device or any other type, according to terms and specifications pointed out by the latter.

The Entities, in order to determine a Transaction as Concerning, shall consider, among other things, the following circumstances that may occur in an isolated or combined manner:

- I. When it is detected that a director, official, employee or legal representative of the Entity maintains a life style notoriously superior to that which would correspond according with his/her income perceived;
- II. When, without a justified reason, a director, official, employee or legal representative has intervened in a reiterated manner in the performance of certain Transactions reported as Unusual;
- III. When suspicion arise about whether a director, official, employee or legal representative has performed acts, omissions or operations that may favor, provide aid or cooperation of any kind for the commission of the offense foreseen in article 139 of the Federal Penal Code, or that may belong to any of the possibilities referred to in article 400 Bis of the same legal ordinance, and
- IV. When, without a justified reason, there is lack of correlation between the functions invested to a director, official, employee or legal representative and the activities that in fact he/she performs.

## **CHAPTER VII INTERNAL STRUCTURES**

**Ninetieth.-** The Committee will designate from within its members, an official who will carry out, at least, the functions and obligations stipulated as follows:

- I. Determine the identification and Client due diligence policies, that should be elaborated by the Entities, according to that established in the present Provisions, and the criteria, measures and procedures developed for due compliance, and to verify its right performance.

- II.** *Act as competent area to be aware of the results regarding the assessment on the effectiveness of the policies, criteria, measures and procedures pointed out in the previous section, in order to correct the flaws, deficiencies or omissions.*
  - III.** *Be informed of the performance of Transactions whose characteristics could represent a high Risk for the Entity, according to reports presented and, when applicable, elaborate the recommendations it deems appropriate;*
  - IV.** Be informed of the behavior performed by its directors, officials, employees or legal representatives of the Entities, which may cause it to incur in the breach of that foreseen in the present Provisions, or cases where such directors, officials, employees or legal representatives contravene what is foreseen in the policies, criteria, measures and procedures stated in section I of this Provision.
  - V.** Establish and disseminate the criteria for Client classification on the basis of their Risk level, as stipulated in the Ninetieth Provision;
  - VI.** Disseminate among personnel responsible of applying the present Provisions, the officially recognized lists released by international organizations or authorities from other countries, of people linked to terrorism or its financing, or to other illegal activities;
  - VII.** In relation with the Transactions referred to in the following section, received in order to rule them as Unusual or Concerning, coordinate the activities needed to be performed as follow up, such as needed investigations.
  - VIII.** Rule on the Transactions that shall be reported to the Secretariat, through the SAT, as Unusual or Concerning, in terms established in the present Provisions;
  - IX.** Document the adopted resolutions, as well as the arguments considered to rule over a Transaction put to his/her consideration to be determined as Unusual or Concerning.
  - X.** Approve the training programs for the Entities' personnel on matters of prevention, detection and behavior report directed towards favoring, provide aid or cooperation of any kind for the commission of an offense as foreseen in article 139 of the Federal Penal Code, or that may be referred to in article 400 bis of the same legal ordinance;
  - XI.** Inform the competent area of the Entity, regarding behavior performed by its directors, officials, employees or legal representatives, which may cause it to incur in the breach of that foreseen in the present Provisions, or cases where such directors, officials, employees or legal representatives contravene what is foreseen in the policies, criteria, measures and procedures stated in section I of the Twenty Seventh of these Provisions, in order to impose the disciplinary measures that may apply;
  - XII.** Act as an internal organ of consultation regarding the application of the present Provisions, Client identification and due diligence policies, as well as the criteria, measures and procedures that for such effects are established by the Entities;
  - XIII.** Act as liaison between the Secretariat and the SAT for matters related to these Provisions and,
  - XIV.** Solve other matters presented for its evaluation regarding the implementation of the present Provisions.
- Twentieth.-** The administrator of the Entity shall appoint the person or persons who will have the competence and obligations referred to in the previous disposition, and shall inform of such information and of their respective substitutes to the Secretariat, through the SAT, within fifteen business days following the date in which said appointment was made.

**CHAPTER VIII  
TRAINING AND DISSEMINATION**

**Twentieth one** The Entities shall develop training and dissemination programs, which shall cover, at least, the following:

- I.** Give training courses at least once a year, which shall be especially designed for those persons referred to in the Nineteenth Provision as well as for directors, officials, employees or legal representatives of the Entities that work in areas of attention to the public. These courses shall include in its content Client identification and due diligence policies, as well as the criteria, measures and procedures developed by the Entity for a diligent compliance of these Provisions is oversee, and
- II.** The dissemination of the present Provisions and its modifications, as well as on information about techniques, methods and tendencies to prevent, detect and report Transactions that could be destined to favor, provide aid or cooperation of any kind for the commission of an offense as foreseen in article 139 of the Federal Penal Code or that may apply according to article 400 Bis of the same legal ordinance.

**Twentieth two.-** The Entities shall have records on the participation in the courses of the persons referred to in the Ninetieth Provision, as well as directors, officials, employees or legal representatives of the Entities, to whom evaluations must be given on acquired knowledge, establishing measures to be adopted regarding those who do not obtain satisfactory results.

Prior to their entrance period, Entities shall assure and record the fact that the Officials and employees that are going to work in areas of attention to the public or managing funds are duly trained on this matter.

**CHAPTER IX  
AUTOMATED SYSTEMS**

**Twentieth third.-** Entities shall have automated systems that perform, among other things, the following functions:

- I.** Maintain and update information records registered in the Clients' due diligence files;
- II.** Generate, codify, encrypt and transmit in a secured manner to the Secretariat, through the SAT, information pursuant to Relevant, Unusual and Concerning Transaction reports, in terms and according to the period of times provided by the present Provisions;
- III.** Classify Transactions based on the criteria established by the Entities, in order to detect possible Unusual Transactions;
- IV.** Detect and monitor Transactions carried out by a single Client in Monetary Instruments, in multiple or fractional amounts, that in five days equals or exceeds the equivalent in national currency of three thousand dollars from the United States of America;
- V.** Contribute to the follow-up and analysis of possible Unusual and Concerning Transactions, considering at least access to historical records of Transactions made by Clients, Transactional behavior, average of Transactions and any another parameter that could contribute to the analysis of this type of Transactions;
- VI.** Group in a consolidated data base the different Transactions of a single Client, in order to control and perform an integral monitoring of his/her data and Transactions;
- VII.** Retain historical records of possible Unusual and Concerning Transactions;
- VIII.** Function as means for the personnel of the Entities to report in a secure, confidential and auditable manner,

possible Unusual or Concerning Transactions, and

- IX.** Maintain security schemes for processed information that guarantees its integrity, availability, auditability and confidentiality.

## **CAPITULO X RESERVATION AND CONFIDENCIALITY**

**Twentieth Fourth.-** Members of the Board of Directors, persons designated under Ninetieth Provision, as well as directors, officials, employees and legal representatives from the Entities, must maintain the most absolute confidentiality regarding the information on the reports foreseen in the present Provisions, except when requested by authorities expressly authorized, having also strictly forbidden to alert or inform their Clients about their incorporation into said reports.

**Twentieth Fifth.-** The compliance of the obligation invested to Entities, to members of its Board of Directors, the persons designated under Ninetieth Provision, as well as directors, officials, employees and legal representatives, to send to the Secretariat, through the SAT, the reports and information referred to in the present Provisions, shall not constitute a violation to restrictions on disclosure of information imposed by contractual means or any legal disposition, and shall not imply any type of responsibility.

Furthermore, the reports and information generated by the Entities in order to comply with the present Provisions, will not be considered an indication of an established offense.

## **CHAPTER XI OTHER OBLIGATIONS**

**Twentieth Sixth.-** The Entities shall provide to the Secretariat, through the SAT, all information and documentation requested related to reports foreseen in the present Provisions.

**Twentieth Seventh.-** The Entities, when in doubt of the accuracy of the Fiscal Identification Carnet of their Clients, shall verify the authenticity of the data contained in it within 30 natural days of being presented, according to procedures established by the Secretariat for that effect.

**Twentieth Eight.-** The Entities shall adopt a selection procedure to assure that their personnel have the technical quality and necessary experience, as well as honorability to carry out activities given to them. For the effects of this Provision, a person without honorability means those who have been sentenced for crimes against property, those have been disqualified to perform commercial activities or to hold public positions or posts pertaining to the Mexican financial system.

**Thirtieth Nineth.-** Entities shall make reasonable efforts to implement the present Provisions, as may apply, in their offices, branches, agencies and subsidiaries located abroad, especially in those located in countries where measures to prevent, detect and combat Transactions with funds of illicit origin or for financing terrorism do not exist or are applied in an insufficient manner.

When it is impossible to apply the present Provisions in their offices, branches, agencies and subsidiaries located abroad, as may apply, the Entities shall inform in writing about such situation to the Secretariat, through the SAT, in a period not longer than twenty business days after the conclusion of the proceedings that for this effect they carried out.

In those cases in which the Provisions of the country where the Entity's offices, branches, agencies and subsidiaries are located establish enhanced requirements on this matter, they will be complied by informing the SAT of such situation, in order for it to evaluate its relation with the present Provisions.

**Thirtieth.**- The copies of reports foreseen in the present Provisions and of the registrations of Transactions that occurred, shall be kept for a period of not less than ten years after their conclusion.

The documents that integrate the Client due diligence files shall be kept for a period of not less than ten years.

For such effect, Entities shall comply with the criteria, which according to the Commerce Code, regarding microfilming, recording, conservation and document destruction.

## **CHAPTER XII GENERAL PROVISIONS**

**Thirtieth one.**- The Secretariat shall be able to interpret, for administrative effects, the content of the present Provisions, as well as determine the scope of their implementation, while listening to the opinion of the SAT.

**Thirtieth two.**- The SAT shall be authorized to request directly to the Entities, or through the Association that represents them, when applicable, to make modifications to their Client identification and due diligence policies, and to the criteria, measures and procedures that they elaborated according to that foreseen in the present Provisions, when to its judgment, it is considered necessary for their correct implementation.

**Thirtieth third.**- The SAT, in exercise of the supervisory powers conferred to it by the Law and other legal ordinances shall oversee that Entities, including when applicable, their offices, branches, agencies and subsidiaries in national and foreign territory, comply with the obligations established in the present Provisions, in their Client identification and due diligence policies, and in the criteria, measures and procedures that they shall elaborate according to that foreseen in the present Provisions, and shall impose the sanctions that may apply for the lack of compliance to the mentioned obligations in terms established in the Law, while being able to request at any time, the information or necessary documentation for the enforcement of its duties.

**Thirtieth fourth.**- With regards to the application of sanctions, it shall also be considered as noncompliance, those cases in which Entities present incomplete information, illegible, or with errors, or when the electronic or magnetic device do not comply with the technical specifications stipulated by the Secretariat.

**Thirtieth fifth.**- The Entities shall hand in to the SAT, through the Local Attention Taxpayers Office which corresponds attending to the domicile, a document in the official format that for that effect establishes the Secretariat, in which they inform that due to the activities they perform, they should be considered as those cases mentioned in article 81-A of the Law. This document shall contain:

- I.** Trade or legal name;
- II.** Name of the owner or in case, of the principal shareholders;
- III.** Domiciles of the offices, agencies, establishments or branches in which the Transactions are performed;
- IV.** Fiscal Identification Carnet, and
- V.** The activities performed by which they are located under article 81-A of the Law.

The document referred to in the present Provision shall be presented within the first fifteen days after the Entities perform the activities mentioned in article 81-A of the Law.

According to the precedent paragraph, the Entities shall give notice to the authorities of any change of information provided or of the cease of performance of the activities referred to in article 81-A of the Law. This notice shall take place within the first fifteen days in which either circumstance occurs.

This information shall be updated at least once a year, and with the sequence specified by the Secretariat in order to be complied by the Entities.

## TRANSITORIES

**First.-** The present Provisions shall enter into effect the following day they are published in the Official Gazette.

**Second.-** The Entities, when performing the Transactions, shall have thirty natural days starting from the date the present Provisions enter into effect, to compose the Client identification files referred to by the Fourth of the present Provisions.

**Third.-** The policies referred to in Provision Third should be elaborated within thirty natural days starting from the date the present Provisions enter into effect. The same period of time applies for the implementation and fulfillment of Chapters II, III, VII and VIII of the present Provisions as well as the procedures foreseen in the Twentieth Eight Provision.

**Fourth.-** Within a period of six months, starting from the date the present Provisions enter into effect, implementation and fulfillment of that foreseen in in Chapter IX of the present Provisions should be performed.

**Fifth.-** The Entities shall have one hundred and twenty natural days starting from the date the present Provisions enter into effect, to present to the SAT and the Secretariat the document regarding the criteria, measures and uniform procedures on the Client identification and due diligence policy referred to by the Fourteenth of the present Provisions.

**Sixth.-** The persons that prior to the enter into force of the present Provisions perform the activities referred to by article 81-A of the Law, shall have thirty working days starting from the date the present Provisions enter into effect, to perform the notification referred to by the Thirtieth Fifth of the present Provisions.

## ANNEX 1

The simplified regime shall apply to the following Entities when they carry out Transactions as Clients:

Holding Companies of Financial Groups  
Investment Companies  
Investment Companies Specialized in Pension Funds  
Investment Management Companies  
Investment Stock Distributing Companies  
Credit Institutions  
Brokerage Companies  
Money Exchange Companies  
Pension Fund Administration Companies  
Insurance Companies  
Mutual Insurance Companies  
Bonding Companies  
General Deposit Warehouses Companies  
Financial Leasing Companies  
Savings and Loans Companies  
Popular Financial Companies  
Limited Scope Financial Institutions  
Credit Unions  
Financial Factoring Companies  
Securities Issuing Companies\*  
Foreign Financial Institutions\*\*  
Federal, State and Municipal Public Companies and Entities

Securities Trading Companies

Security Depository

Companies that administer mechanisms to facilitate securities' Transactions

Central Counterparts

\* Those whose securities are registered in the National Securities Register.

\*\* Those which are established in countries or territories where measures are implemented to prevent, detect and combat Transactions with funds of illicit origin and financing of terrorism, and that are supervised regarding the fulfillment of such measures.