

**ORDER 03-11 OF JOUMADA ETHANIA 27TH, 1424
CORRESPONDING TO AUGUST 26TH, 2003
RELATING TO MONEY AND CREDIT
AS AMENDED AND COMPLETED By ORDER 10-04 OF
RAMADHAN 16TH, 1431 CORRESPONDING
TO AUGUST 26TH, 2010**

The President of the Republic

Whereas the Constitution, namely its Articles 122-150 and 124;

Whereas Law 62-144 of December 13th, 1962 establishing and setting forth the charter of the Central Bank of Algeria and the setting of its Statutes;

Whereas Order 66-154 of June 8th, 1966, as amended and completed, on the Code of Civil Procedures,

Whereas Order 66-155 of June 8th, 1966, as amended and completed, on the Code of Criminal Procedures;

Whereas Order 66-156 of June 8th, 1966, as amended and completed, on the Penal Code;

Whereas Order 75-58 of September 26th, 1975, as amended and completed, establishing the Civil Code;

Whereas Order 75-59 of September 26th, 1975, as amended and completed on the Commercial Law;

Whereas Law 84-17 of July 7th, 1984, as amended and completed, on the Budget Law;

Whereas Law 90-10, as amended and completed on Money and Credit .

Whereas Law 90-30 of December 1st, 1990 relating to Estate law;

Whereas Order 03-03 of Joumada El Oula 19th, 1424 corresponding to July 19th, 2003 on competition;

Whereas Order 07-01 of Safar 11th, 1428 corresponding to March 1st, 2008 relating to specific incompatibilities and obligations connected to certain jobs and functions.

Whereas Law 08-09 of Safar 18th, 1429 corresponding to February 25th, 2008 relating to the Code of civil and administrative procedure.

Whereas Order 09-01 of Rajab 29th, 1430 corresponding to July 22nd, 2009 relating to the complementary Budget Law for 2009.

After hearing the Board of Ministers;

promulgates the Order, the content of which follows:

BOOK I

ON MONEY

Article 1 - The monetary unit of the People's Democratic Republic of Algeria is the Algerian "Dinar, abbreviated AD.

The "Dinar" is divided into one hundred equal parts referred to as centimes, abbreviated CTS.

Article 2 - The fiduciary currency shall include banknotes and metallic coins.

The privilege of issuing fiduciary currency within the national territory shall fall within the prerogatives of the State.

The power to use such privilege shall exclusively be granted to the Central Bank which is governed by the provisions of this Order and called thereafter "Bank of Algeria" when maintaining its relationships with third parties.

Article 3 - Through regulations issued in compliance with the provisions of this Order, are determined the followings:

- the issuing of banknotes and metallic coins;
- the identifying signs of a banknote or a metallic coin namely their face value dimensions, type and other features;
- the terms and conditions of control of both manufacture and destruction of banknotes and metallic coins.

Article 4 - Only banknotes and metallic coins issued by the Bank of Algeria are legal tender, excluding any others. They are unlimited legal tender.

Article 5 - Banknotes and metallic coins which would be subject of a withdrawal from circulation cease to be legal tender if they are not presented for exchange within a ten (10) year period.

Their exchange value shall be therefore acquired by the Treasury.

Article 6 - No claim may be submitted to the Bank of Algeria in case of any loss, theft, destruction or seizure of banknotes or metallic coins issued by the latter.

Article 7 - No one is allowed to issue, put into circulation or accept:

- any instrument denominated in Algerian Dinars intended to be used as means of payment instead of the local currency;

- any non interest bearing bond payable at sight to bearer, even if it is denominated in foreign currency.

Article 8 – Counterfeiting and forgery of banknotes or metallic coins issued by the Bank of Algeria or by any other foreign legal monetary authority as well as the introduction, use, sale, hawking and the distribution of such counterfeited and forged banknotes or metallic coins shall be punished in compliance with the Algerian Penal Code.

BOOK II

STRUCTURE, ORGANIZATION AND OPERATIONS OF THE BANK OF ALGERIA

TITLE I

GENERAL PROVISIONS

Article 9 - As a national institution endowed with a legal status and financial autonomy, the Bank of Algeria is considered as a trader when dealing with third parties.

Bank of Algeria shall be governed by Commercial Law in so far as it is not waived by the provision of this Order.

Bank of Algeria shall observe the rules of commercial accounting and shall neither be submitted to the public accountancy regulations nor to the control of the “Cour des Comptes”.

Bank of Algeria shall not be subjected to Trade Registration.

Article 10 - The capital of the Bank of Algeria is wholly subscribed by the State.

Article 11 - The Head Office of the Bank of Algeria is based in Algiers.

The Bank of Algeria sets up branches and agencies wherever it deems necessary.

Article 12 - The dissolution of the Bank of Algeria could be pronounced only by a law which shall determine the terms of its liquidation.

TITLE II
MANAGEMENT AND SUPERVISION
OF THE BANK OF ALGERIA

Chapter I

Management of the Bank of Algeria

Article 13 - The management of the Bank of Algeria is entrusted to a Governor assisted by three Vice-Governors, all appointed by a Presidential Decree.

Article 14 - The positions of both the Governor and Vice-Governors are incompatible with any elective term of office, any governmental responsibility and any civil service.

They may assume no activity, profession and position during their mandate excepting when representing the Government with international and public institutions of monetary, financial and economic nature.

They can borrow no amount from any institution whatsoever whether Algerian or foreign and no commitment bearing the signature of any of them can be admitted neither in the portfolio of the Bank of Algeria nor in that of any other institution operating in Algeria.

Article 15 - The remuneration of the Governor and Vice-Governors shall be determined by Decree. They are chargeable to the Bank of Algeria.

Except in case of revocation due to a serious offence, the Governor and the Vice-Governors and eventually their heirs shall receive at the end of their mandate an allowance equalling a two-year salary to be charged to the Bank of Algeria excluding any other amount paid by the latter.

Within a two-year period following their mandate, the Governor and the Vice-Governors are not authorized to manage or work for any organization under the authority or control of the Bank of Algeria or for any other institution depending on such organization, nor serve as representative or advisers for such Institutions or Companies.

Article 16 - The Governor shall be responsible for the management of the Bank of Algeria.

The Governor of the Bank of Algeria hereinafter referred to as the “Governor” shall take all enforcement measures and carry out all acts in compliance with law.

The Governor shall sign on behalf of the Bank of Algeria all conventions, annual financial reports, balance-sheets and profit and loss accounts.

The Governor shall represent the Bank of Algeria in dealing with public authorities in Algeria, foreign Central Banks, International Financial Institutions and with third parties in general.

Legal proceedings shall be instituted and defended at the instigation and behest of the Governor. He shall take all the precautionary measures he deems necessary.

The Governor shall proceed with all duly authorized acquisitions and transfers of personal and real estate. He shall organize the staff and departments of the Bank of Algeria and specifies their duties.

The Governor shall recruit, nominate, promote, revoke and dismiss the employees of the Bank of Algeria in compliance with the conditions set forth in the personnel statutes.

The Governor shall appoint representatives of the Bank of Algeria to the Board of other Institutions whenever such representation is provided for.

Article 17 - The Governor defines the duties of each of the Vice-Governors and specifies their respective powers.

The Governor may delegate power of signature to staff of the Bank of Algeria.

The Governor may, to meet operational needs, appoint special representatives among executives of the Bank of Algeria.

Chapter II

Administration of the Bank of Algeria

Article 18 - The Board of Directors of the Bank of Algeria is composed of:

- the Governor, as Chairman;
- the three Vice-Governors;
- three officials of the highest rank nominated by a Presidential Decree owing to their competency in economic and financial fields.

- In the event of absence or vacancy of their posts, the officials shall be replaced by their alternates appointed in accordance with the same conditions.

Article 19 - The management of the Bank of Algeria is ensured by the Board of Directors vested with the following powers to:

- deliberate over both the internal organization of the Bank of Algeria and the opening and closing of agencies and branches;
- draw up the regulations applicable to the Bank of Algeria;
- approve the personnel statutes and the remuneration system of employees of the Bank of Algeria;
- deliberate at the request of the Governor upon all conventions;
- rule on the acquisitions and alienations of real estate;
- decide on the possible legal actions to be undertaken on behalf of the Bank of Algeria and authorize arrangements and transactions;
- approve for each year the budget of the Bank of Algeria;
- determine the terms and conditions governing the compiling and the closing of the accounts of Bank of Algeria;
- decide upon the distribution of profits and approve the draft report that the Governor shall submit on his behalf to the President of the Republic;
- be informed of all the aspects of the management of the Bank of Algeria.

Article 20 - During their mandate as members of the Board of Directors, the officials and their substitutes shall sit ex officio.

Article 21 - The Board of Directors shall determine the attendance fees of the three officials as well as the terms of reimbursement of their travelling and accommodation expenses, if the case arises.

Article 22 - The Governor shall convene and preside over the Board of Directors and sets the agenda of its meetings. In the absence of the Governor, a Vice-Governor presides over the session in the capacity of acting Governor.

The Board of Directors shall hold its meetings upon convocation of its president as often as necessary. Meetings of the Board may also be convened at the request of three of its members.

Article 23 - The Board of Directors shall adopt its rules of procedures.

Article 24- The presence of at least four members of the Board of Directors is required for holding meetings.

No member is authorized to designate his representative.

The decisions shall be taken by simple majority of the members present. In the event of equal number of votes the president shall have the casting vote.

Article 25- Without prejudice to the obligations bound upon them by Law, and excepting cases where they are compelled to testify before the court on criminal matters, members of the Board of Directors shall not directly or indirectly disclose facts or information which they have been informed of in the course of their duties.

The same obligation shall be incumbent upon any person whose services the Board of Directors may have recourse to in the performance of its duties.

Chapter III

Supervision and control of the Bank of Algeria by an Audit Body (Censors)

Article 26 – The Bank of Algeria shall be supervised by an audit body composed of two auditors appointed by a Presidential Decree.

The two auditors shall serve on a full time basis on secondment from their original administrations. Their term of office shall be terminated by the same means.

The two auditors must be specialized in finance and Central Banks accountancy so as to be able to carry out their duties.

The terms and conditions related to the remuneration of the auditors shall be specified through regulations.

The Board of Directors shall determine the organization of the audit body as well as the human and material resources put at its disposal.

Article 27 - The auditors shall perform a general supervision over all departments and operations of the Bank of Algeria. They shall exercise particular supervision over the credit registry and overdue registry as well as the organization and the functioning of the money market.

The auditors may jointly or separately perform the auditing and the control they deem appropriate.

The auditors shall attend meetings of the Board of Directors with a consultative voice. They shall inform the Board of Directors on the results of the controls they have performed.

The auditors may provide the Board of Directors any proposal and comment they deem appropriate. If their proposals are not accepted, they may request to have them recorded on the minute-book and shall inform the Minister of Finance.

The auditors shall report to the Board of Directors on the yearly audit of accounts and their proposed amendments if any.

The auditors shall also transmit a report to the Minister of Finance within the four months following the closing of the fiscal year. A copy of this report shall be sent to the Governor.

The Minister of Finance may, at any time, request the auditors to submit reports on specific issues that fall within their competency.

Chapter IV

Annual accounts and publications

Article 28 - The accounts of the Bank of Algeria shall be closed on the 31st of December of each year.

The proceeds, net of any amortization, charges and provisions constitute the annual profits. From these profits, ten percent (10%) are appropriated in favour of the statutory reserve. Such appropriation becomes no longer compulsory, when the reserve amount equals that of the capital. After granting the allotments deemed necessary by the Board of Directors for the special and general reserves, the amount outstanding is deposited in the Treasury. These reserves may be earmarked for capital increase.

Article 29 - Within the three months following the closing of each fiscal year, the Governor transmits to the President of the Republic the balance sheet and the profit and loss accounts as well as a report detailing the activities and operations of the Bank of Algeria, namely, those reporting the supervision of the banking activity during the year, the prudential financial position of Banks and Financial Institutions and lessons learned from the activity of risk centralization. One month at the latest, further to that transmittal, the balance sheet and the profit and loss accounts are published in the "Journal Officiel" of the People's Democratic Republic of Algeria.

The Governor shall periodically submit to the President of the Republic, a report on banking supervision that is communicated to the Council of Money and Credit and to the Banking Commission.

The Governor shall also submit on an annual basis to the President of the Republic, with copies to the Head of Government, the council of money and credit consulted, the following documents:

- A report on the management of foreign exchange reserves;

- A report on the management of the external debt including an analysis on the situation and prospects of the external solvency of the economy.

Article 30 - The Bank of Algeria shall publish an annual report on economic and monetary developments in Algeria which includes, namely, the necessary data required for a sound understanding of monetary policy. This report shall serve as a basis for an address before the People's National Assembly and followed by a discussion.

The Bank of Algeria may publish statistical data and economic and monetary surveys.

Article 31 - The Bank of Algeria shall submit to the Minister of Finance, the statement of its accounts closed at the end of each month. Said statement shall be published in the "Journal Officiel" of the People's Democratic Republic of Algeria.

Chapter V

Exemptions and Privileges

Article 32 - Notwithstanding the provisions of Article 13 of Law 84-17 of July 7th, 1984, relating to the Law of Finance, the Bank of Algeria shall be exempt in respect of all operations connected with its activities from any taxation, duties and tax burdens of any kind whatsoever.

Shall be exempt from stamp duties and registration fees, any contracts, bills, and in general any document and deed relating to the transactions carried out by the Bank of Algeria as part of its direct duties.

Article 33 – In the course of any legal proceedings, the Bank of Algeria shall be exempted from supplying collateral security or advance payment whenever the law requires such obligation upon the parties, as well as from any legal costs and fees collected in favour of the State.

Article 34 - The State shall ensure the safety and protection of the premises of Bank of Algeria and provides free of charge the required escorts needed for the safe transfer of funds or securities.

BOOK III
DUTIES AND OPERATIONS
OF THE BANK OF ALGERIA

TITLE I

GENERAL DUTIES

Article 35 - The Bank of Algeria is commissioned to ensure price stability as an objective of monetary policy, to create and maintain as far as money, credit and exchange transactions are concerned, the best conditions for a sustained development of the national economy while ensuring monetary and financial stability.

To this effect, the Bank of Algeria is responsible for regulating the monetary circulation, conducting and controlling by all appropriate means, credit distribution, regulating liquidity, sound management of the external financial commitments, regulating the foreign exchange market and ensuring the security and soundness of the banking system.

Article 36 - The Government shall consult the Bank of Algeria on any draft law and on any regulation dealing with finance and money.

The Bank of Algeria may propose the Government any measure entailing a positive effect on balance of payments, price trends, position of public finances and over the development of the national economy in general.

The Bank of Algeria shall report to the Government any fact that may impair the monetary stability.

The Bank of Algeria may ask Banks, Financial Institutions and financial authorities to provide any relevant statistical data and information it deems necessary to assess the evolution of the economic situation, money, credit, balance of payments, and external indebtedness.

The Bank of Algeria shall define the terms and conditions under which credit transactions are carried out with foreign partners and authorizes them except for loans contracted by the State or on its behalf.

The Bank of Algeria shall centralize all relevant information for the control and follow-up of external financial commitments and shall communicate these to the Minister of Finance.

Art.36 bis- The Bank of Algeria shall set the balance of payments and submits the external financial position of Algeria. In this context it may require Banks and Financial Institutions as well as financial authorities and any person concerned, to provide any statistics and information deemed necessary.

Article 37 - The Bank of Algeria shall assist the Government in its relationships with multilateral and international Financial Institutions. As needed, Bank of Algeria may represent the Government in its relations with said institutions as well as at international conferences.

The Bank of Algeria shall take part in the negotiation of international payment agreements, exchange and clearing arrangements and shall be responsible for implementing such arrangements

The Bank of Algeria shall conclude any technical arrangement related to practical terms of completion of said agreements. Any implementation of said arrangements shall be carried out by the Bank of Algeria on behalf of the State.

TITLE II

MONEY ISSUING

Article 38 - The Bank of Algeria shall issue the fiduciary money subject to the coverage requirements determined by regulation issued in accordance with paragraph a) of Article 62 below. Money coverage includes the following elements:

- Gold ingots and gold coins,
- Foreign currencies,
- Treasury Bonds,
- Rediscounted bills, repurchase agreements or collateral.

TITLE III

OPERATIONS

Article 39 - The gold reserve held by the Bank of Algeria is the property of the State. The Bank of Algeria may carry out any transaction on gold, in particular, purchase, sale, loan and pledge transactions, in cash or forward.

Assets in gold may be used as a pledge for any advance intended for effective management of the external public debt.

In such case, the Council of Money and Credit is made aware and the President of the Republic duly informed.

Article 40 - The Bank of Algeria may purchase, sell, discount, rediscount, put in or take on auction, hold in or put in pledge, place or receive as deposits any payment instrument denominated in foreign currencies as well as any other assets expressed in foreign currencies.

The Bank of Algeria shall be responsible for the management and investment of foreign exchange reserves. In that context, it may take up a loan and subscribe to financial instruments denominated in foreign currencies and regularly quoted as investment grade in international financial markets.

The Council of Money and Credit shall determine the terms and conditions of the reserve management in compliance with Article 62, paragraph n) below.

Article 41 - The terms and conditions related to transactions carried out by the Bank of Algeria as regards rediscount, purchase and reverse transactions and advances against securities in domestic currency are determined by regulation issued by the Council of Money and Credit. The outstanding transactions on public bonds carried out by the Central Bank as provided for in the above-mentioned articles shall be set up according to the objectives of the monetary policy.

Article 42 - The Bank of Algeria may grant advances to banks against gold coins and ingots or against foreign currencies and private and public bills.

The term of these advances should by no means exceed one year.

Article 43 - The Bank of Algeria may grant Banks for a maximum of one year credits on current accounts. Such credits shall be guaranteed by collateral in the form of Treasury Bills, gold, foreign currencies or securities eligible for discount, pursuant to the relevant regulations issued by the Council of Money and Credit.

Article 44 - As provided for in the articles above, the borrower shall subscribe in favour of the Bank of Algeria the commitment to reimburse at maturity the amount of the credit granted.

A regulation issued by the Council of Money and Credit shall precisely state the terms and conditions of enforcement of this article as well as those of Article 43 above.

Article 45 - The Bank of Algeria may within the limits and in accordance with the terms and conditions specified by the Council of Money and Credit intervene on the money market and namely purchase and sale public and private bills eligible for rediscount or for advances.

Under no circumstances may these transactions be carried out in favour of the Treasury or the issuing local authorities.

Article 46 - On a contractual basis and within a maximum limit amount equal to ten per cent (10%) of the ordinary receipts of the State recorded during the preceding budgetary year, the Bank of Algeria may grant the Treasury current account overdrafts, the total duration of which may not exceed 240 days during a calendar year, whether they are consecutive or not.

The Bank of Algeria shall charge a management fee for these authorized overdrafts.

The rate and terms of such shall be determined by an agreement with the Minister of Finance.

These loans advances shall be reimbursed before the close of each budgetary year.

The Bank of Algeria shall also be authorized to exceptionally grant to the Treasury an advance exclusively intended for the active management of the external public debt.

The terms and conditions related to the implementation of this advance as well as its repayment, namely the repayment schedule, shall be set through conventions between the Central Bank and the Treasury with communication to the Council of Money and Credit. The President of the Republic shall be duly informed.

Article 47 - The Bank of Algeria may discount or take pension bills and secured bonds subscribed to the order of Treasury accountants and maturing within three (3) month.

Article 48 - The Bank of Algeria shall hold assets with the Postal Checking centre (CCP), corresponding to its needs as normally projected.

Article 49 - The Bank of Algeria shall be the financial agent of the Government as concerns all its cash, bank and credit transactions.

The Bank of Algeria ensures free of charge the book-keeping of the current account of the Treasury and carries out free of charge any credit or debit operation of mentioned account. The credit balance of the current account of Treasury is bearing interest at a rate of 1% below the one applied to the debit balance. The rate shall be set by the Council of Money and Credit.

The Bank of Algeria ensures free of charge:

- the placement with the public of loans issued or guaranteed by the Government;
- the payment, concurrently with the cashier of Public Treasury, of stock coupons on instruments issued or guaranteed by the Government.

Article 50 - The Bank of Algeria may carry out:

- financing services for the borrowings of the Government as well as the safekeeping and management of securities belonging to the latter.

For the local administration and the public institutions:

- the financing services and the investment of their loans;
- the payment of coupons on instruments issued by them;
- the transactions provided for in Article 49 above.

Article 51 - The Bank of Algeria may carry out all bank transactions with Banks and Financial Institutions operating in Algeria and with any foreign central bank.

The Bank of Algeria may deal with banks operating abroad only on operations in foreign currencies.

Article 52 – Any Bank operating in Algeria must keep a creditor current account with the Bank of Algeria for settlement purposes in respect of payment systems.

Article 53 - The Bank of Algeria may invest its equity capital:

- a) - in real estates in compliance with Article 54 below;
- b) - in securities issued or guaranteed by the Government
- c) - in financing transactions carrying a social or national interest;
- d) - and in securities issued by financial institutions ruled by special legal provisions after obtaining an authorization from the Minister of Finance.

Total amount of investments performed by virtue of paragraphs c) and d) hereinbefore may not exceed 40% of its equity capital unless authorized by the Council of Money and Credit.

Article 54 - The Bank of Algeria may for its own requirements purchase, have built, sell and exchange real estate. Such transactions are subject to an authorization from the Board of Directors and must be financed from the equity capital only.

Article 55 - To ensure a cover against its doubtful or nonperforming claims, the Bank of Algeria may:

- take any guarantee especially in the form of a pledge or a mortgage;
- purchase by a mutual agreement or a forced sale any personal or real estate property. Assets thus acquired should be disposed of within a period of two (2) years unless they are used to meet operational requirements.

Article 56 - The Bank of Algeria shall ensure the good running, efficiency and security of payment systems.

The rules governing the payment systems shall be enacted through regulations of the Council of Money and Credit.

The Bank of Algeria shall ensure the monitoring of the payment systems.

Art .56 bis. The Bank of Algeria shall ensure the security of means of payment other than the fiduciary currency as well as the production and relevance of standards applicable in this field.

The Bank of Algeria may formulate a negative opinion about the introduction of any means of payment especially if the security guarantees are deemed insufficient.

As it may require its issuer to take all appropriate measures aiming at undertaking the corrections.

Any person concerned shall communicate to the Bank of Algeria in order to carry out these missions the relevant information relating to payment methods and associated technical features.

Article 57 - Costs connected with the payment systems operation shall be chargeable to participants.

In this respect, pricing set by participants to their clients shall be supervised by the Bank of Algeria.

The terms of application of this paragraph shall be specified by a regulation from the Council of Money and Credit.

BOOK IV

THE COUNCIL OF MONEY AND CREDIT

TITLE I

COMPOSITION OF THE COUNCIL OF MONEY AND CREDIT

Article 58 - The Council of Money and Credit hereinafter referred to as the "Council" shall be composed of:

- members of the Board of Directors of the Bank of Algeria;
- two person selected for their competence in the field of economic and monetary affairs.

Article 59 - The two persons shall be appointed members of the Council by Decree of the President of the Republic.

They shall freely participate in the deliberations and votes of the Council.

Article 60 - The Council shall be chaired by the Governor who shall convene and set the agenda of council meetings. The council shall establish its rules and procedures. Decisions shall be taken by the simple majority of votes. In the event of a tie, the Chairman has the casting vote.

The Council shall hold at least four ordinary meetings a year and may be convened as often as necessary on the initiative of the Chairman or of two (2) members of the Council who shall propose afterwards an agenda. The attendance of at least six (6) members of the Council is required for holding meetings. No member of the council may give mandate to be represented at meetings of the Council.

The council shall determine the attendance fees of its members as well as the terms of reimbursement of eventual costs incurred by its members.

The Council may set up consultative committees and shall define their assignments.

Article 61 - The obligations provided for in Article 25 hereinbefore are binding upon members of the Council. The same obligations shall be bidding upon any person whose services the Council may use in any capacity whatsoever.

TITLE II

ATTRIBUTIONS OF THE COUNCIL

Article 62 – The Council shall be vested with the powers of a monetary authority in fields dealing with the:

- a) - issuing and covering of money as provided for in Articles 4 and 5 of this order;
- b) - terms and conditions governing operations of the Central Bank, namely those concerning discount, auction, pledge on private and public securities and operations on precious metals and foreign currencies;
- c) – definition, conduct, monitoring and assessment of monetary policy. With this aim in view the Council shall determine monetary targets regarding particularly the evolution of monetary and credit aggregates, shall decide on monetary policy instrumentation as well as the setting up of prudential rules regarding the money market and shall ensure that the information is disseminated on the market in order to prevent default risks;
- d) – new saving and credit products.
- e) – the production of standards, the operating and safety of payment systems;
- f) - terms and conditions related to the approval and the setting up of Banks and Financial Institutions as well as the installation of their networks namely the setting

of the minimum capital required for Banks and Financial Institutions and the terms and conditions of their liquidation;

g) - terms and conditions for the opening in Algeria of representative offices of foreign Banks and Financial Institutions;

h - rules and ratios applicable to Banks and Financial Institutions namely as concerns the covering and the spreading of risks, liquidity and solvency and of risks in general;

i) - protection of customers of Banks and Financial Institutions especially when dealing with these customers;

j) - accounting rules and standards applicable to Banks and Financial Institutions taking into account developments at the international level occurring in this area and conditions and deadlines for transmission of accounts, statistical and accounting statements, reports to all entitled parties especially to the Bank of Algeria;

k) - technical conditions governing the exercise of the banking profession, the consultancy and brokerage professions in the area of banking and finance;

l) - setting the objectives of the exchange rate policy and exchange regulation process;

m) – exchange control regulations and organization of the exchange market;

n) - management of foreign exchange reserves.

o) –rules of good conduct and ethics applicable to Banks and Financial Institutions.

The Council shall make the following individual decisions:

a) the approval for the opening of Banks and Financial Institutions, the amendment of their status and the withdrawal of the approval;

b) the approval for the opening of representative offices of foreign banks;

c) the delegation of powers regarding the implementation of the exchange regulations;

d) those relating to the enforcement of the regulations enacted by the Council.

The Council shall exercise its powers under this order by issuing regulations.

The Council shall hear the Minister of Finance at his request. The Council shall be consulted by the Government whenever the latter is addressing issues pertaining to money or credit or which could potentially have repercussions on the monetary situation.

Article 63 - Within two days following their approval by the Council and prior to their promulgation, the Governor transmits all draft regulations to the Minister of Finance who shall have a period of ten (10) days to send a request for modification.

The Governor shall then convene the Council within a five (5) day period and submit the proposed modification.

The subsequent decision of the Council, whatsoever, becomes enforceable.

Article 64 - The regulation being enforceable shall be promulgated by the Governor and published in the “Journal Officiel” of the People’s Democratic Republic of Algeria.

The regulations are enforceable against third parties as soon as they are published.

In urgent cases, regulations shall be published in two (2) daily newspapers edited in Algiers and shall thenceforth become enforceable against third parties as soon as this formality is fulfilled.

Article 65 – Once a regulation is promulgated and published as provided for in Article 64 above, only the Minister of Finance shall have the right to formulate a motion for cancellation before the “Conseil d’Etat” –state council-. Said right shall not be subject to suspensive enforcement.

Under the penalty of preclusion, the appeal should be submitted within a sixty (60) day period as from the date of publication.

Decisions related to banking activities shall be promulgated by the Governor.

Decisions taken pursuant to paragraphs a), b) and c) shall be published in the “Journal Officiel” of the People’s Democratic Republic of Algeria. Other decisions shall be notified in accordance with the code of civil procedures.

An appeal for cancellation shall be the only available recourse against decisions taken by virtue of Article 62 therein regarding banking activities.

Said right of appeal shall be available only to natural and legal entities directly concerned by the decision.

Under the penalty of preclusion the appeal should be submitted within sixty (60) days following the date of publication or notification as applicable of the decision without prejudice to the provisions of Article 87 therein after.

BOOK V
BANKING ORGANIZATION

TITLE I

DEFINITIONS

Article 66 - Banking operations shall include the collection of funds perceived from the public, credit operations and the availability of means of payment to customers as well as managing said means of payment.

Article 67 – Shall be considered as funds received from the public, those collected from third parties, notably in the form of deposits with the right to dispose of them, for one's own purpose, provided that they will be handed back.

For the purpose of the present order, shall not be considered as funds collected from the public:

- funds received or deposited in account by shareholders holding at least, 5% of the capital or by executive directors and managers;
- funds from equity loans.

Article 68 - In the sense of this Order, a credit operation shall be any act whereby in return for financial compensation a person provides or promises to provide funds to another person or undertakes the commitment to sign in favour of such a person an endorsement, caution or guarantee.

Are considered credit operations lease operations with purchase options, notably credit lease. The council shall exercise its powers in relation with the operations referred to in this Article.

Article 69 – Means of payment shall include all instruments allowing a person to transfer funds regardless of the support or the technical process used.

TITLE II

OPERATIONS

Article 70 - Banks alone shall have the authority to carry out all the operations provided for in Articles 66 through 68 therein before. These operations fall within their usual professional practice.

Article 71 - Financial institutions may neither receive funds from the public nor manage means of payment nor put such at the disposal of their clients.

Financial institutions may carry out any other related operations.

Article 72 - Banks and Financial Institutions may carry out all the following related operations:

-foreign exchange transactions;

-transactions related to gold, precious metals and coins;

-investment, underwriting, purchase, management, custody and sale of securities and all financial products;

-consulting and assistance services with regard to asset management;

-consulting, management and financial engineering and in general all services aiming at facilitating the creation and the development of Companies or infrastructure creation in compliance with the relevant legal provisions.

These operations shall not exceed the limits set by the Council of Money and Credit.

Article 73 – As an exception to the provisions concerning underwriting, Banks and Financial Institutions may collect from the public funds to be invested in equities such as shares, investment certificate, stock ownership, partnership or other, in conformity with all legal terms.

Said funds shall be subject to the following conditions:

- 1) they shall not be considered as deposits in the sense of Article 67 mentioned above as they remain property of third parties;
- 2) they shall not bear interest;
- 3) they shall be deposited until the date of their investment in a special account opened with the Bank of Algeria and related to each planned investment;
- 4) a contract must be signed between the depositor and the depository stating precisely:

-the name, the purpose, the capital, the head office of the company that shall receive the funds;

-the project or program requiring these funds;

-the conditions of profit and loss sharing;

-the conditions of transfer of shares;

-the conditions of amortization of shares by the Company itself;

-the conditions under which the Bank or Financial Institution shall return funds to third parties in the event the equity investment is not achieved.

5) the equity investment must be achieved within a period of six (6) months as from the date of the first instalment by shareholders. This period may be preceded by another six (6) month period in case registrations are collected without payment;

6) should the equity investment be not completed or should it prove impossible to complete for any reason whatsoever, the Bank or Financial Institution that collected the funds must make such funds at the disposal of their owners within one week following such failure;

7) the Council shall fix through regulations other conditions, namely those related to the default of one or several subscribers;

8) Banks and Financial Institutions shall be entitled to charge an underwriting fee, payment of which shall be due even in case of application of paragraph (6) above as well as an annual management fee, where applicable;

9) These operations shall in addition be subject to the mandate regulations.

Article 74 - Banks and Financial Institutions may acquire and hold equity investment.

In the case of Banks, such equity investment shall not exceed the limits set by the Council of Money and Credit.

Article 75 - Banks and Financial Institutions may not carry out on a regular basis activities other than those referred to in the previous articles unless they are authorized by virtue of regulations issued by the Council.

The activities set forth in the previous paragraph must in any event remain limited relative to the whole range of activities of Banks or Financial institutions. Such activities shall not impede, restrict or distort competition.

TITLE III

PROHIBITIONS

Article 76 - No natural or legal entities other than Banks or Financial Institutions, as the case may be shall engage in operations which are usually undertaken by such entities by virtue of Articles 72 through 74 therein before, excepting foreign exchange transactions carried out in compliance with the regulation enacted by the Council.

Article 77 - The prohibition set forth in Article 76 therein before shall not apply to the Treasury if the latter is entitled to carry out such transactions pursuant to its own texts.

Neither shall the prohibition apply to:

- non profit organisations that as part of their duties or for social reasons grant loans from their own resources at preferential rates to some of their members;
- companies that grant for social reasons advances on salaries or exceptional loans to their employees.

Article 78 - The Council may through regulation grant derogations to the prohibition provided for in Article 76 therein before in favour of housing bodies that accept deferred payment for housing units of which they are promoters. The Council shall determine the conditions and limits related to such operations.

Article 79 - Notwithstanding the prohibition enacted in Article 76 therein before, any Company may:

- as part of its activities grant its contracting parties delays or advance payments;
- proceed to treasury transactions with companies with which it has direct or indirect capital links conferring to one of the related company effective power of control over the others;
- issue vouchers and cards for the purchase from said company of a particular good or service.

Article 80 - Without prejudice to the conditions determined by the Council through regulations governing managerial staff, no one may set up or be a founder of a Bank or Financial institution or member of its Board of Directors either directly or through a representative, head, manage or represent in any capacity whatsoever a Bank or a Financial institution nor be conferred power of signature for such duties:

- if that person has been found guilty of:

- a) crime;
- b) embezzlement, misappropriation of funds, theft, swindle, issuing dud cheque or breach of trust;
- c) purloining made by a public trustees or extorting funds or securities;
- d) bankruptcy;
- e) infringement of legislation and regulations governing foreign exchange;
- f) counterfeiting or use of private, commercial or bank forged statements;
- g) Infringement of corporate law;
- h) concealment of property collected further to these infringements;
- i) any infringement related to drug trafficking, corruption, money laundering and terrorism:

- if that person has been convicted subject to a judgement pronounced by a foreign jurisdiction recognized as “ RES JUDICATA”. This enforceable judgment constitutes according to Algerian Law a condemnation for one of the crimes or misdemeanour provided for in this article;

- if that person has been declared bankrupt or adjudicated as bankrupt or condemned in civil liability as an agent of a bankrupt non corporate body whether based in Algeria or abroad and this for as long as he has not been rehabilitated.

Article 81 - No Company other than a Bank or a Financial Institution shall use a corporate name, a trade mark, an advertisement or in general any expressions making believe that it is a licensed Bank or Financial Institution.

No Financial Institution may suggest that it belongs to a category other than the one for which it has been granted the approval or to make any confusion on this matter.

Representative offices in Algeria of Foreign Banks or Financial Institutions may use the name of the corporate or the firm of home company, specifying the nature of the activities they are authorized to conduct in Algeria.

TITLE IV

AUTHORIZATION AND LICENSING

Article 82 - The setting up of any Bank and any Financial Institution under Algerian Law shall be authorized by the Council on the basis of a file including the results of the inquiry related to compliance with the provisions of Article 80 therein before.

Article 83 - Banks and Financial Institutions under Algerian Law must be set up as Joint Stock Companies. The Council shall assess the opportunity for a Bank or a Financial Institution to take the form of mutuality.

Foreign ownership in Banks and Financial Institutions under Algerian Law may be authorized only through a partnership in which the national resident shareholding shall represent at least 51% of the capital. By national partnership it shall be meant the addition of several partners

Moreover, the State holds a specific action in the capital of Banks and Financial Institutions with private capital by virtue of which it shall be represented without a voting right in corporate bodies.

The procedures for implementing this provision shall be specified by regulation.

Article 84 - The opening in Algeria of representative offices of Foreign Banks must be authorized by the Council.

Article 85 - The opening in Algeria of branches of Foreign Banks and Financial Institutions may be authorized by the Council subject to the principle of reciprocity.

Article 86 - The Council shall define through the issuing of a regulation in compliance with Article 62 of this Order the terms of the agreement that may be entered into, as appropriate, with foreign monetary authorities or central banks as the case may be.

Article 87 - The decisions made by the Council in pursuance of Articles 82, 84 and 85 therein before may be subject to appeal to the State Council only after two refusals. A second request may be filed only ten (10) clear months after notification of rejection of the first request.

Article 88 - Banks and Financial Institutions must possess fully paid capital in cash equal to no less than the amount provided for by regulation issued by the Council in accordance with Article 62 therein before.

Banks and financial institutions with head offices based abroad are required to allocate to their branches in Algeria, capital equal to no less than the minimum required capital for Banks and Financial Institutions as the case may be under Algerian Law.

Banks and financial institutions approved prior to the date of publication of this Order have a two (2) year period to comply with the provisions of this article and the regulation issued for its implementation.

Article 89 - All Banks and Financial Institutions must at any time be able to justify that their assets do exceed liabilities to be reimbursed to third parties by an amount that is at least equal to the minimum capital provided for in Article 88 therein before. A regulation issued by the Council shall determine the terms of application of this article.

Article 90 - Two persons at least must be responsible for actual business policy formulation and the responsibility of management of a Bank or of a Financial Institution.

Banks and Financial Institutions with headquarters abroad must appoint at least two persons to whom they assign responsibility for actual business decisions and for management of their branches in Algeria.

The two appointees must occupy the highest positions in the hierarchy and must have the status of resident.

Article 91 - To obtain the authorization referred to in Article 82 or in Article 84 therein before, applicants shall submit their business plan and the financial and technical resources they intend to implement. They must as well justify the status of the investors and if any of their guarantors.

In any event the origin of the funds must be proven.

Applicants shall submit the list of key management and as the case may be the draft statutes of the Company under Algerian Law or those of the foreign Company as well as the internal organization. They shall certify the respectability and the qualification of managers as well as their experience in banking.

The applicant institution shall have the responsibility to achieve its development objectives under conditions consistent with the proper functioning of the banking system while providing a good quality service to clients,

Article 92 Once the authorization provided for in Article 91 therein before is granted the Company under Algerian Law may be incorporated and may request its approval to operate, as the case may be, as a Bank or as a Financial Institution.

The approval shall be granted provided that the Company fulfils all the conditions required of a Bank or Financial Institution pursuant to this Order and the implementing regulations as well as eventual special conditions to which authorization is coupled.

The branches of Foreign Banks and Financial Institutions authorized by virtue of Article 88 therein before shall be approved after fulfilling the same requirements.

The approval shall be granted by decision of the Governor and published in the "Journal Officiel" of the People's Democratic Republic of Algeria.

Article 93 - The Governor shall keep an updated list of Banks and Financial Institutions.

These lists shall be published each year in the "Journal Officiel" of the People's Democratic Republic of Algeria.

Any amendment shall be published in due form.

Article 94 - Amendments to the statutes of Banks and Financial Institutions not pertaining to the corporate purpose, the share capital or the stock ownership shall be subject to prior approval by the Governor.

Any transfer of shares or equity related securities by a Bank or by a Financial Institution shall be subject to prior approval from the Governor under the conditions provided for by a regulation issued by the Council.

Any transfer of shares or of equity related securities which is not carried out on the national territory and in accordance with the laws and regulations in force shall be null and void.

Shareholders of Banks and Financial Institutions are not authorized to pledge their shares or equity related securities.

The State has a right of pre-emption on any transfer of shares or of equity related securities of a Bank or of a Financial Institution.

Any amendments to the statutes of foreign Banks or foreign Financial Institutions that have branches operating in Algeria should be subject to the approval of the Council in order to become enforceable when the amendment is pertaining to the corporate purpose.

The terms of application of the two preceding paragraphs are specified through regulations, if need be.

Article 95 - Without prejudice to the sanctions that may be imposed by the Banking Commission under its attributions, the withdrawal of the approval shall be the sole prerogative of the Council:

- a) upon a request from the Bank or the Financial Institution;
- b) without consultation:
 - 1) when the conditions under which the approval was granted are no longer met;
 - 2) when the approval has not been used for over a period of twelve (12) months;
 - 3) when the activity for which the approval was granted, has ceased for six (6) months.

TITLE V

ORGANIZATION OF THE PROFESSION

Article 96 - The Bank of Algeria shall set up an Algerian Bankers Association requiring the membership of Banks and Financial Institutions operating in Algeria.

The purpose of the Association shall be to represent the joint interests of its members, namely with public authorities, provide information and promote awareness of its members and the public.

The Association shall examine all issues relevant to the banking activity, namely improving banking and credit techniques, fostering competition, combating barriers to competition, introducing new technologies, organizing and managing services of common interest, training staff and maintaining relations with representatives of employees. The Association may be consulted by the Minister of Finance or the Governor of the Bank of Algeria on all matters pertaining to the profession. The Association may recommend - as part of the deontological rules of the profession - either to the Governor or to the Banking Commission as appropriate that sanctions be imposed on one or several of its members.

The Council of Money and Credit shall approve the statutes of the Association and any amendment thereof.

BOOK VI
CONTROL OF BANKS AND FINANCIAL INSTITUTIONS

TITLE I

**LIQUID ASSETS AND SOLVENCY - CREDIT REGISTRY -
PROTECTION OF DEPOSITORS**

Article 97 - Banks and Financial Institutions shall under the terms and conditions defined in the regulations issued by the Council be compelled to observe management standards intended to guarantee their liquidity and their solvency towards depositors and third parties as well as a balanced financial position.

Failure to comply with the obligations instituted by virtue of this Article shall trigger application of the procedure provided for in Article 114 of this Order.

Art.97 bis - Banks and Financial Institutions shall be compelled under the conditions defined by regulations adopted by the Council to set up an efficient internal control aiming at ensuring in particular:

- The control of their activities and the efficient use of their resources;
- The good running of internal processes particularly those contributing to safeguard assets and to ensure transparency and traceability of banking operations;
- The reliability of financial information;
- The appropriate consideration of all risks including operational risks.

Art.97 ter - Banks and financial institutions shall be compelled under the conditions defined by regulations adopted by the Council to set up an efficient compliance control system aiming at ensuring:

- The compliance with laws and regulations;
- The compliance with procedures

The non-observance of the obligations instituted under articles 97-97 bis and 97 ter shall result in the application of the procedure set forth in article 114 of this Order

Article 98 - The Bank of Algeria shall organize and manage a credit registry of enterprises, a credit registry of households and an overdue credits registry.

The credit registry is a service that centralizes risk, is in charge of collecting data from each Bank and from each Financial Institution, namely, the name of the beneficiaries of credit, the nature and credit limits granted, the amount of use of credit, the amount of credits outstanding and guarantees taken for each credit.

Banks and Financial Institutions shall be compelled to adhere to the credit registries. They must provide them information mentioned in the paragraph 1 of this Article.

The Bank of Algeria shall communicate to each Bank and Financial Institution upon request the data collected concerning their customers.

Information provided by credit registries to Banks and Financial Institutions shall be used only as part of the granting and management of loans. Such information shall in no case be used for other purposes namely business development or marketing

The Council shall set up pursuant to article 62 of this Order the regulations organizing the functioning of the credit registries and their financing by Banks and Financial Institutions that shall bear direct costs only.

The overdue credits registry is governed by the statutory legislation and is connected to the payment systems supervised by the Bank of Algeria

Article 99 - When the position of a Bank or Financial Institution requires it the Governor shall request the major shareholders of said Bank or Financial Institution to provide the latter with the necessary financial support.

The Governor may also enlist the support of all Banks and Financial Institutions to put in place the necessary measures so as to protect the interests of depositors and third parties, to ensure the proper functioning of the banking system and safeguard the reputation of the banking place.

TITLE II

AUDITORSHIP

CONVENTIONS WITH THE MANAGERS

Chapter I

Auditors

Article 100 - Each Bank or Financial Institution, as well as any branch of foreign Bank or Financial Institution shall appoint after consulting the Banking Commission on the basis of its fixed criteria, at least two (2) auditors listed on the Order of chartered accountants and auditors .

Article 101 – In addition to their legal obligations the auditors of Banks and Financial Institutions shall be required to:

– immediately report to the Governor any infringement committed by the Company audited in accordance with this Order and the regulations issued by virtue of its provisions;

- present to the Governor of the Bank of Algeria a special report on their audit. Such report shall be submitted to the Governor within (4) months from the closing of each fiscal year;
- present to the General Assembly a special report on any facilities granted by the company to any of the natural or legal entity referred to in Article 104 of this Order. As regards branches of Foreign Banks and Foreign Financial Institutions, said report shall be submitted to their representatives in Algeria;
- forward to the Governor of the Bank of Algeria a copy of their reports to be presented to the General Assembly of the company.

Article 102 - The auditors of Banks and Financial Institutions shall fall under the jurisdiction of the Banking Commission which may impose on them the following sanctions, without prejudice to further disciplinary or criminal prosecution:

- 1) – a blame;
- 2) - a ban from proceeding further with the audit of a Bank or Financial Institution;
- 3) – a ban from exercising the functions of auditor of Banks and Financial Institutions for a period of three fiscal years.

No credit may be directly or indirectly granted to the auditors by the Bank or the Financial Institution they are auditing.

As part of the disciplinary actions, the procedure provided for in Article 114 bis shall apply.

Chapter II

Accounting obligations

Article 103 - Banks and Financial Institutions shall be compelled to draw up their accounts on a consolidated basis according to the conditions specified by the Council.

All Bank or Financial Institution must publish their annual accounts in the “Bulletin Officiel des Annonces Légales Obligatoires -BOAL-” within six (6) months following the closing of the fiscal year, according to the conditions specified by the Council. Other publications may also be required.

The Banking Commission is exclusively entitled to exceptionally grant Banks and Financial Institutions any relevant time extension not exceeding six (6) months on the basis of supporting elements submitted in support of their request for extension.

Without prejudice to the provisions mentioned above, Banks or Financial institution shall transmit prior to publication an original copy of the annual accounts to the Banking Commission.

The Banking Commission is empowered to order institutions concerned to publish corrected versions in case inaccuracies or omissions are identified in the documents published.

The Banking commission may bring to the attention of the public any information it deems necessary.

Chapter III

Conventions with Managers

Article 104 – A Bank or a Financial Institution may grant within a limit of twenty five percent (25%) of its initial equity capital, credits in favour of a Company in which it holds an equity stake.

It is forbidden for a Bank or Financial institution to grant credits to its managers and to its shareholders.

In the sense of the present article, managers shall mean founders, executive directors, representatives and persons of signing authority.

The managers' and shareholders' husbands and wives and parents, up to the first degree of kinship are assimilated to them.

TITLE III

BANKING COMMISSION

Article 105 - A Banking Commission, hereinafter referred to as “the Commission”, is established and entrusted with:

- monitoring the compliance by Banks and Financial Institutions of the legal and regulatory provisions applicable to them;
- sanctioning any detected failure.

The Commission shall examine the operating conditions of Banks and Financial Institutions and ensures the soundness of their financial position.

The Commission shall ensure compliance with rules of good professional conduct.

The Commission shall record, if necessary, any infringement committed by unlicensed persons engaging in the business of a Bank or Financial Institutions and impose on

them disciplinary sanctions provided for in this order, without prejudice to further civil and criminal prosecution.

Article 106 – The Banking Commission shall include:

- the Governor as Chairman;
- three (3) members appointed for their banking, finance and accounting expertise.
- two (2) magistrates on temporary leave, one from the Supreme Court selected by the first chairman of such Court, the other from the State Council - Conseil d'Etat - selected by the President of this Council, after consulting the High Council of Magistracy.
- One representative of the “Cours des Comptes” selected, by the President of this Court, among the top advisers.
- One representative of the Minister of Finance.

The President of the Republic appoints the members of the Commission for a five (5) year period.

Article 25 of this Order applies to the chairman and the members of the commission.

The Commission shall be provided with a general secretariat. The Board of Directors of the Bank of Algeria shall set up its assignments, methods of organization and functioning, upon proposal from the Commission.

Art.106 bis. The remuneration of the members of the Banking Commission shall be fixed by Decree. It shall be chargeable to the Bank of Algeria.

At the end of the term of their office, members of the Banking Commission, magistrates or officials, shall return to their administration of origin.

At the end of the term of their office, due to retirement or death, members of the Banking Commission or possibly their heirs, shall receive an allowance equal to two years of salary which shall be chargeable to the Bank of Algeria excluding any other amount paid by the latter. This measure shall also apply to members of the Banking Commission who, except for cases of dismissal due to serious fault, shall not integrate any employment remunerated by the State.

At the end of their mandate and during a two year period, members of the Banking Commission shall neither manage nor work for an Institution under the authority or supervision of the Banking Commission nor for a Company under such Institution, nor act as agents or advisors for such Institutions or Companies.

Article 107 - The decisions of the Banking Commission shall be taken by a majority of votes. In case of a tie vote, the chairman shall have the casting vote.

The decisions of the Banking Commission related only to the designation of a provisional Executive Director or a liquidator and to disciplinary sanctions shall be subject to a judicial appeal.

The appeal shall be made within sixty (60) days, as from the date of notification. Failing to do so, it shall be considered as preclusion.

Decisions shall be notified through extrajudicial act or in accordance with the code of civil and administrative procedure.

Appeals shall fall within the competence of the State Council and shall not be subject to a suspensive enforcement.

Article 108 - The Commission is empowered to conduct on site and off site control of Banks and Financial Institutions.

The Bank of Algeria shall be responsible for organizing on behalf of the Commission, such controls through its agents.

The Commission may entrust any person for such a mission.

The Banking Commission shall hear the Minister of Finance upon his own request.

Art.108 bis –The Bank of Algeria may initiate any operation of investigation in case of an emergency. It shall communicate the results of these investigations to the Banking Commission.

Article 109 - The Commission shall organize the schedule of controls.

The Commission shall determine the list, the presentation format and deadlines for submission of the documents and information it deems appropriate.

The Commission is empowered to request Banks and Financial Institutions any information, clarifications or justifications required for completing its mission.

The commission may request from any relevant person communication of any documents or any information.

The Commission is not bound by professional secrecy.

Article 110 - The Commission shall extend investigations to the equity investments and financial relations between the legal entities which directly or indirectly control a Bank or a Financial Institution as well as the subsidiaries of the latter.

In the framework of international conventions, controls may be extended to include branches and subsidiaries of Algerian companies based abroad.

The results of on-site controls may be communicated to the Boards of Directors of companies under Algerian law and to representatives in Algeria of branches of foreign Company including auditors.

Article 111 - When a Company subject to control of the Commission has failed to comply with rules of good professional conduct, the Commission, after allowing managers of such Company to present any relevant explanations may address a warning to said company.

Article 112 - When the position of a Bank or a Financial Institution justifies it, the Commission may call upon such to take within a specific time limit any measures liable to restore or strengthen its financial soundness or to correct its management methods.

Article 113 - The Commission may appoint a temporary administrator entrusted with all the powers required for the administration and management of the Company concerned or of those of its subsidiaries in Algeria and who may declare a suspension of payments.

Such appointment shall be made either at the request of the managers when they consider they are no longer able to carry out their duties correctly or at the initiative of the Commission when in its opinion it considers that the management of the Company can no longer be ensured properly or when one of the sanctions referred to in Article 114 below, paragraphs 4 and 5 has been imposed.

Article 114 - If a Bank or Financial Institution that has infringed a legal or regulatory provision related to its activity has not complied with an injunction or has disregarded a warning, the Commission may impose one of the following sanctions:

- 1- a warning;
- 2- a blame;
- 3- the ban from carrying out certain operations and any other restrictions relating to their activities;
- 4- the temporary suspension of one or several managers appointed or not as a provisional administrator;
- 5- the termination of employment of one or several of these same persons appointed or not as a provisional administrator;
- 6- the withdrawal of the approval.

Moreover, the Commission may impose either as a substitute or in addition to the sanctions mentioned above, a financial penalty the maximum amount of which shall not exceed the minimum capital amount which is required from a Bank or a Financial Institution. The Treasury collects the corresponding amounts.

Art. 114 bis – When the Banking Commission gives a ruling, it shall advise the entity concerned by extrajudicial act or through any other means addressed to its legal representative of the facts alleged against such entity.

It shall also inform the legal representative of the concerned entity that he may examine at the Headquarter of the Banking Commission the documents liable to prove the recorded infringements.

The legal representative shall submit his observations to the President of the Banking Commission within (08) eight days as from the date of receipt of the letter.

The legal representative of the entity concerned shall be convened according to the same previous methods of procedure in order to be heard by the Banking Commission. He may be assisted by a counsel.

Article 115 - Any Bank or Financial Institution under Algerian Law that has been subject to a withdrawal of its approval shall enter liquidation.

Shall go into liquidation as well the branch of a Foreign Bank or Financial Institution based in Algeria subject to a withdrawal of its approval.

The commission shall appoint a liquidator who shall be entrusted with all the powers of administration, management and representation.

During the liquidation period, the Bank or Financial Institution:

- may carry out only operations that are strictly necessary for the clearing of its financial situation;
- must indicate that it - the Bank or Financial Institution - is in a liquidation process;
- shall remain subject to the control of the Commission.

Art. 115 bis - The Banking Commission may put into liquidation and appoint a liquidator to any entity that carries out on an irregular basis, operations reserved to Banks and Financial Institution, or infringes any of the prohibitions provided for in Article 81 of this Order.

Article 116 - The Commission shall determine the terms of the temporary administration and those of the liquidation.

Art. 116 bis – The President of the Commission shall address on a yearly basis to the President of the Republic a report drawn up by the Banking Commission relating to the supervision of Bank and Financial Institution.

TITLE IV

PROFESSIONAL SECRECY

Article 117 – Shall be bound to professional secrecy subject to penalties provided for in the penal code:

- any member of the Board of Directors, any auditor and any person who in any capacity whatsoever is involved or has been involved in the management of a Bank or Financial Institution or who is or has been the employee of such;

- any person who is or has been involved in the supervision of Banks or Financial Institutions under the terms and conditions of this order.

Subject to the express provisions of the law, secrecy is opposable to all authorities except:

- Public Authorities responsible for the appointment or designation of executive directors of Banks and Financial Institutions;

- Legal Authorities acting in the course of criminal proceedings;

- Public Authorities compelled to communicate information to competent international institutions, namely in the framework of the actions undertaken to fight corruption, money laundering and the financing of terrorism;

- The Banking Commission or the Bank of Algeria acting on behalf of the latter in compliance with Article 108 above.

The Bank of Algeria and the Banking Commission may transmit information to the authorities in charge of supervising Banks and Financial Institutions in other countries, provided there is reciprocity and that said authorities are bound to professional secrecy with the same guarantees as in Algeria. The liquidator of a Bank or a Financial Institution may also be recipient of the information necessary to perform his duties.

TITLE V

GUARANTEE OF DEPOSITS

Article 118 - Banks shall be required to contribute to the financing in national currency of a bank deposits guarantee fund established by the Bank of Algeria.

Each bank shall be required to deposit in the guarantee fund an annual insurance premium equal to a maximum of one per cent (1%) of the total amount of its deposits.

The Council shall set up each year the amount of the premium referred to in the paragraph above and the amount of the maximum guarantee granted to each depositor.

The deposits of a person with the same bank shall be deemed, for the purpose of this paragraph to be a single deposit even if denominated in various currencies.

Said guarantee shall be activated only in case of a Bank defaulting on its payments.

Said guarantee shall not cover inter-bank advances.

TITLE VI

MISCELLANEOUS PROVISIONS

Article 119 – Minors are eligible to open passbook accounts without prior authorisation of their legal representative. They may also withdraw without said authorisation but only after reaching sixteen (16) years old the amounts reported on the passbook accounts thus opened ,except in the case their legal representative makes an opposition notified in the form of extra judicial deed.

Art.119 bis – Notwithstanding the cases of check book and bank suspension, any person who has been denied by local Banks the opening of a deposit account and thereby is not holder of any account may request Bank of Algeria to designate a Bank with which the person may open such account

The Bank may restrict the services connected with the opening of such account to cash transactions only.

Art. 119 ter – Without prejudice to the provisions of Article 119 bis above, Banks shall put at the disposal of their clients within reasonable deadlines, adequate means and instruments of payment.

Banks shall inform on a regular basis their clients of their position with respect to the Bank and shall hold at their disposal any relevant information relating to Bank conditions.

Credit offers shall meet requirement of transparency and clearly state any conditions pertaining thereto.

Commitment subscribed by an individual is likely to be terminated within 8 days as from the date of the contract signature.

Article 120 - Accounts opened with a Bank may be individual, collective, with or without a joint liability or undivided. Said accounts may be used as collateral in favour of a Bank by a simple private deed.

Art. 120 bis- Banks and Financial Institutions shall be compelled to strictly observe the rules of good conduct as part of the achievement of their business purpose.

Subject to the penalties provided for in section 114 above, Managers of any Bank or Financial Institution shall ensure the compliance of the actions of their institution to ethics and ethical rules of the profession.

Article 121 - In order to guarantee the payment of capital, interests and costs of all claims due to Banks or Financial Institutions or assigned to them as collateral as well as to guaranty the execution of any relevant liability on their behalf by pledge, endorsement, or guarantee; said companies shall benefit of the privilege on all properties, claims and assets held in accounts.

Such privilege shall rank immediately after that of employees, Treasury and social insurance funds and shall be exercised as from:

- the notification by registered letter with acknowledgement of receipt of the seizure to the third party debtor or to the holder of real property, claims, or assets deposited in accounts;
- the date of formal notice given in the same forms in other cases.

Article 122 – Allocations as collateral for debt to Banks and Financial Institutions and the assignment of receivables by them or in their favour are considered complete by the simple notification they transmit to the debtor either by registered letter with acknowledgement of receipt or by a dated legal act of a private deed establishing the collateral or the assignment of receivables.

Article 123 – Pledge of collateral in favour of Banks and Financial Institutions may be carried out by a simple private deed duly registered.

Registration of such pledge is carried out according to the legal provisions applicable in this respect.

Article 124 - In default of payment at maturity of amounts due to them, Banks and Financial Institutions may, notwithstanding any opposition and fifteen (15) days after a summons has been notified to the debtor by extra judicial deed, obtain through simple request addressed to the president of the Court an order to proceed with the sale of any goods pledged in their favour and the assignment of the proceeds of said sale be allotted to them without any formal procedure, in repayment of capital, interests on arrears, and expenses related to due amounts.

The same provisions shall apply if Banks and Financial Institutions exercise privileges vested in them by laws and regulations in force on securities, equipment, movable property or goods.

The provisions of this article shall also be applicable:

- to movable property held by the debtor or by third parties on his behalf;
- to claims falling due held by the debtor on third parties including all assets held in accounts.

BOOK VII

FOREIGN EXCHANGE AND CAPITAL MOVEMENTS

Article 125 – Shall be considered for the purposes of this Order as residents the natural and legal persons whose main centre of economic activity is in Algeria.

Shall be considered for the purposes of this Order as non residents, the natural and legal persons whose main centre of economic activity is located outside Algeria.

Article 126 - Residents in Algeria shall be authorized to transfer capital abroad to finance economic activities in foreign countries complementary to their business of producing goods and services in Algeria.

The Council shall determine the terms and conditions for the implementation of this Article and shall grant the required authorizations pursuant to said conditions.

Article 127 - The Bank of Algeria shall organize the foreign exchange market according to the exchange control policy set up by the Council and in compliance with international commitments.

Multiple exchange rates for the Dinar are not permitted.

Article 128 - A joint Bank of Algeria - Ministry of Finance Committee shall be in charge of supervising the implementation of the external indebtedness strategy and the management policy of foreign assets and external debt. The Committee is composed of two members appointed by the Governor and the Minister of Finance respectively.

Article 129 – Financial flows with foreign countries must not have the effect, either directly or indirectly, of creating in Algeria any situation whatsoever that may be linked to a monopoly, cartel or agreement. Any practice conducive to such situation is prohibited.

Article 130 - Any Company under Algerian Law, exporter, concessionary of the mining sector or of the energy sector of the state must repatriate and transfer to the Bank of Algeria the proceeds of its exports in accordance with laws and regulations in force.

BOOK VIII

PENAL SANCTIONS

Article 131 - The Chairman, Executive Directors or General Managers of any Bank or Financial institution who in bad faith knowingly use the property or the credit of the company they knew was contrary to the interests of said company for own benefit or in favour of another Company or Enterprise in which they hold an interest, either directly or indirectly, shall be liable to a prison sentence of five (5) up to ten (10) years and to a fine ranging from five million Dinars (5,000,000 AD) up to ten million Dinars (10,000,000 AD) without prejudice to the imposition of more severe penalties.

The same penalties shall apply to the Chairman, the Executive Directors or the General Managers of a Bank or Financial Institution who in bad faith knowingly use powers or votes vested in them in their official capacity they knew were contrary to the interests of the company, for personal gain or favour another Company or enterprise in which they

hold interest directly or indirectly, without prejudice to the imposition of more severe penalties.

The culprit may also be deprived for one year at least and five years at the maximum from exercising one or several of the rights mentioned in Article 14 of the criminal code and a local banishment may be applied to him.

Article 132 - The Chairman, the Executive Directors or the General Managers of a Bank or Financial Institution who embezzle, dissipate or misappropriate to the prejudice of the owners, possessors or holders of funds, banknotes or all other instruments containing or establishing obligation or discharge handed over to them in the form of a deposit, pledge or loan, shall be sentenced to one (1) up to ten (10) years prison and to a fine of five million Dinars (5,000,000 AD) up to ten million Dinars (10,000,000 AD).

The culprit may also be deprived for one year at least and five years at the maximum from exercising one or several of the rights mentioned in Article 14 of the criminal code and a local banishment may be applied to him.

Article 133 - In the cases mentioned in Articles 131 and 132 above and when the value of the assets embezzled, dissipated or misappropriated equals or exceeds ten million Dinars (10,000,000 AD), the sentence imposed shall be a life sentence and a fine amounting to twenty million Dinars (20,000,000 AD) up to fifty million Dinars (50,000,000 AD).

Article 134 - Any person acting on his own or on behalf of a legal entity infringes one of the provisions of Articles 76, 80 and 81 of this Order is liable to the relevant sanctions punishing swindling.

A Court may in addition order the closure of the Company when the infringement to Article 76 or to Article 81 of this order occurred.

A Court may also order the judgement be published in full or extracts thereof in designated newspapers and be displayed in places it shall determine. Relevant costs being at the expense of the convicted party without such exceeding the maximum of the fine incurred.

Article 135 – Any person condemned by virtue of article 134 above for infringement of the article 80 above of this order shall be barred from working in any capacity whatsoever in a Bank, a Financial Institution or at any branch thereof.

In case of violation of this prohibition, the offender and his employer shall incur penalties imposed for swindling.

Article 136 - Any Executive Director, Manager of a Bank or Financial Institution, any person or auditor working for such enterprise who further to a summons fails to comply with the request for information from the Banking Commission or impedes said Commission in any manner whatsoever in the fulfilment of its duties or knowingly provides inaccurate information, shall be liable to a prison sentence of one (1) year up to three (3) years and a fine of five million Dinars (5,000,000 AD) up to ten million Dinars (10,000,000 AD).

Article 137 - Executive Directors and Managers of Banks and Financial Institutions and the persons working for these enterprises shall be liable to a prison sentence of one (1) year up to three (3) years and a fine of five million Dinars (5,000,000 AD) up to ten million Dinars (10,000,000 AD) in the event they:

- knowingly impede audits and controls of auditors or, further to a formal summons refused to provide all the relevant documents for the exercise of their duties, namely all contracts, accounting documents and register of minutes of meetings;

- fail to draw up the inventory, establish the annual accounts within the timeframe specified by law;

- fail to publish the annual accounts in accordance with the terms and conditions provided for in Article 103 of this Order;

- knowingly provide false information to the Bank of Algeria.

Article 138 - Customers of Banks and Financial Institutions who commit or assist to commit one of the acts prohibited by Articles 133 and 134 above shall incur the penalties provided in said Articles.

Article 139 - Any infringement to the provisions of BOOK VI above and of the regulations issued for their enforcement shall be subject to one (1) month up to six (6) months prison sentence and to a fine of up to 20% of the value of the investment.

Article 140 – The Governor may in his official capacity bring a civil action ex officio in any procedure.

At any point in the proceedings, the court may seek from the Banking Commission any relevant advices and information.

Article 141 - Regulations issued under the amended and completed Law N°90-10 of April 14th, 1990, mentioned above shall remain in force until their substitution by regulations made under the present Order.

Article 142 - All provisions to the contrary shall be revoked, in particular the amended and completed Law 90-10 of April 14th, 1990, mentioned above.

Article 143 - This Order shall be published in the “Journal Officiel” of the People’s Democratic Republic of Algeria.

Done in Algiers, Ramadhan 16th, 1431 corresponding to August 26th, 2010.