

Dépôt
Annexe

CENTRAL
BANKING
LEGISLATION



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CENTRAL BANKING LEGISLATION

A collection of
Central Bank, Monetary and Banking Laws



Statutes and related materials
selected and annotated by

HANS AUFRICHT

Preface by Per Jacobsson

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INTERNATIONAL MONETARY FUND

WASHINGTON D.C.

MEXICO

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Publication of Statutes and Decrees

Acts of Congress, decrees, regulations, and orders are published in the *Diario Oficial*. There is a three-volume collection of laws, *Veinte Años de Legislación Mexicana*, covering the years 1931-1950, with supplements, edited by Suinaga and Luján. *Código de Comercio Reformada*, edited by Manuel Andrade (10th ed., 1956, with loose-leaf supplements) contains legislation and regulations relating to money and banking.

The Organic Law of the Bank of Mexico¹

PRELIMINARY PROVISIONS

Art. 1. The joint-stock company founded by charter of September 1, 1925 under the name of the Bank of Mexico, which name it shall retain, shall be governed by this Law.

Art. 2. The Bank shall have indefinite duration.

Art. 3. The Bank shall have its domicile in Mexico City and may establish branches or agencies and appoint correspondents.

Art. 4. The capital of the Bank shall be fifty million pesos. It may be increased in accordance with such terms as are set forth in the By-Laws. It shall be represented by registered shares, fully paid up in cash, with a nominal value of 100 pesos each.

The shares shall be divided into two series, Series A, which shall at all times represent 51% of the capital of the Bank and may be subscribed only by the Federal Government, and Series B, which shall be subscribed by credit institutions under Articles 6 and 7 of this Law.

The Bank shall issue the shares representing the unsubscribed part of the authorized capital and shall keep them in its vaults until duly subscribed and paid in full.

Art. 5. Series A shares shall be nontransferable, and in no case may there be a change in their nature or in the rights with which this Law endows them.

Series B shares may be transferred or pledged as security only with the consent of the Bank, which shall be obligated to buy the shares of which it does not authorize the transfer or pledging, paying for them their nominal value and returning them to the vault where unsubscribed shares are kept. The text of the present article must be copied on the back of each share.

Art. 6. The following shall be obligated to subscribe shares of the Bank of Mexico:

I. Mexican companies holding authorization from the Federal Government to receive bank deposits of money from the public in general;

¹The original Law was published in the *Diario Oficial* of May 31, 1941. The version given here is the Law as amended to June 1, 1960; for the Spanish text, see *Código de Comercio Reformado*, ed. by Manuel Andrade (Mexico, D.F., 10th ed., 1956, with loose-leaf supplements), vol. 2, Apéndice Número 15, pp. 817-838 bis 5. For the Spanish text of the By-Laws of the Bank of Mexico (adopted on February 25, 1948) as amended, see *ibid.*, Apéndice Número 16, pp. 839-862 bis vta.

II. Branches or agencies of foreign banks authorized to operate in the Republic.

The subscription of shares of the Bank is optional for credit institutions not included in the above enumeration, but such institutions, to take part in the operations reserved by this Law to associated institutions, must be shareholders of the Bank under the terms of the following article.

National credit institutions shall not be obligated to subscribe shares of the Bank of Mexico.

Art. 7. Institutions and companies that are obligated to be shareholders of the Bank shall subscribe Series B shares in proportion to their paid-up capital and capital reserves, in such ratio as the Bank may prescribe under general regulations.

In the case of institutions organized as joint-stock companies with variable capital, the nonwithdrawable capital shall be considered to be paid-up capital.

FUNCTIONS OF THE BANK

Art. 8. The Bank of Mexico shall perform the following functions:

- I. Regulate the issue and circulation of currency, and foreign exchange;
- II. Operate as a reserve bank vis-à-vis institutions associated with it and act as clearing house for them;
- III. Set up and manage such reserves as may be required for the above purposes;
- IV. Review the decisions of the National Banking Commission where they affect the above purposes;
- V. Act as financial agent of the Federal Government in foreign and domestic credit operations and in the floating and servicing of public loans, and take charge of fiscal services for the Federal Treasury;
- VI. Participate, as representative of the Government and with its guarantee, in the International Monetary Fund and the International Bank for Reconstruction and Development, and deal with these organizations.

ISSUE OF NOTES, MINTING OF CURRENCY AND THE METALLIC RESERVE

Art. 9. The Bank of Mexico, to the exclusion of any other person or entity, shall have the power to issue notes under Article 28 of the General Constitution of the Republic, in conformity with the provisions of this Law.

Art. 10. The Bank may manufacture its own notes. The By-Laws shall specify the data that such notes must contain, as well as their denomina-

tions. The notes shall bear the facsimile signatures or autographs of a member of the Board, the Cashier of the Bank, and an inspector of the National Banking Commission. The Board of Directors shall determine the other characteristics of the notes with the approval of the Ministry of Finance.

Art. 11. The notes of the Bank of Mexico shall be legal tender throughout the Republic for their face value and without limitation as to the amount of the payment.

Art. 12. The public offices of the Federation, the States, and the municipalities shall be obligated to receive without limitation such notes and coins as the Bank may place in circulation, under the foregoing articles, in payment of all kinds of debts, taxes, services and duties.

Art. 13. The Nation shall at all times be answerable for the value of such notes and coins as the Bank may place in circulation.

Art. 14. The Bank shall exchange at sight the notes and coins that it places in circulation, without distinction as to coins or notes of the same or other denominations, without limitation and at the request of the holder.

Art. 15. The Bank of Mexico shall be empowered exclusively to order the minting of coins, as well as to regulate their circulation in conformity with the needs of the public.

Coins, whatever their denomination, shall be issued exclusively through the Bank of Mexico or through such offices or institutions as its Board of Directors may designate for the purpose.

Coins minted by order of the Bank shall have such denominations, legal tender status and other characteristics as may be conferred on them by law.

Art. 16. The Director of the Mint, under his strictest responsibility, shall observe the decisions issued by the Bank under the foregoing article, whatever orders he may receive to the contrary and whatever the authority whence they come.

Art. 17. Neither the Federal Government nor the State or municipal authorities may in any case issue documents that might circulate as currency, whatever their character, origin and denomination; and they shall also be obligated to prevent, within their own jurisdiction, the issue of such documents by other institutions or persons.

Art. 18. The Bank shall at all times keep a reserve sufficient to maintain the value of the peso.

The amount of this reserve, estimated in accordance with Article 22, shall in no case be less than 25% of the amount of notes in circulation and sight obligations in national currency of the Bank, excluding the account in national currency of the International Monetary Fund.

Any gold, foreign exchange and silver in excess of the amount mentioned in the foregoing paragraph shall be included in the account "Authorized Items."

Art. 19. The reserve referred to in the foregoing article shall consist of gold and silver, coined or in bars, or foreign exchange:

- I. Gold and foreign exchange to an amount never less than 80% of the reserve; and
- II. Silver for the remainder.

The foreign exchange included in the reserve may remain a part thereof only if its use is not restricted in the country it represents.

Such metals and foreign exchange as form the reserve must be free of all encumbrance and must be the property of the Bank, without restriction, direct or indirect. Of the gold, silver and foreign exchange owned by the Bank, this reserve may include only the net balance, i.e., the remainder after deduction of all real liabilities in gold or foreign exchange of the Bank, even if not expressly guaranteed.

Art. 20. The following are foreign exchange for the purposes of this Law:

- I. Foreign banknotes and coins;
- II. Checks, payment orders, acceptances, drafts, bills of exchange and other commercial paper at not more than seven days' sight, signed with first-class signatures and payable abroad in foreign currency and by foreign enterprises;
- III. Deposits withdrawable on demand or within a period or on notice of not more than fourteen days, maintained at first-class foreign banks and also payable in foreign currency;
- IV. The difference between the subscription of the Mexican Government in the International Monetary Fund and the balance thereof payable by the Bank, when such balance is lower than the subscription.

Art. 21. The gold and silver set aside for the reserve, as well as such gold and silver as the Bank may acquire on account of its operations, may be deposited in custody with such first-class foreign banks or institutions as may be designated by the Board of Directors.

Art. 22. Such gold, silver, foreign exchange and subsidiary coin as the Bank may acquire under this Law shall be shown on the books with the following values:

- I. Gold and foreign exchange representing real liabilities of the Bank in gold or foreign currency, at their commercial value;
- II. Gold and foreign exchange not included above, at their commercial value, the Board of Directors retaining the right to value it at cost price should this be lower than the market price;
- III. Minted silver not computed in the reserve and silver for minting, at its monetary value.
- IV. Remaining silver, at such inventory value as may be set by the Board of Directors, provided it does not exceed the prevailing world market price; and
- V. Subsidiary coin of copper-nickel and of bronze, at its monetary value.

Art. 23. The Bank of Mexico, prices being equal, shall have priority over any other purchaser in such sales of gold or foreign exchange as may be made by associated institutions. These shall be obligated to inform it of their positions in gold and foreign exchange, at its request, and to transfer to it, at its request, at such prices as may be quoted for the public in general on the market, any quantity of gold or foreign exchange, or sight or time credits at other Mexican or foreign banks in excess of their obligations in the same currencies. Should such items not have been quoted on the date of the transfer, such transfer shall be made at the price that served as basis for the last sale of these items made by the institution in question. Failure to comply with this provision shall be subject to an administrative fine of 5,000.00 pesos, to temporary suspension of operations of the infringing company, or to forfeiture of its charter, as decided by the Ministry of Finance according to the gravity of the case.

OPERATIONS OF THE BANK

Art. 24. The Bank, under such conditions as may be fixed by its Board of Directors and in accordance with this Law, may:

- I. Buy and sell gold and silver, provided, however, that the value of its holdings of the latter, excluding silver coins and silver for minting, does not exceed 25% of the value of its holdings of gold and free foreign exchange;
- II. Buy and sell foreign exchange and execute foreign exchange swaps, provided the other contracting party does not have the right to liquidate the operation on a date other than that agreed on in each case;

Conclude bilateral contracts for the future purchase or sale of gold or foreign exchange, subject to the condition stated in the foregoing paragraph;

III. Acquire or discount bank acceptances on foreign countries and negotiate the commercial paper thus acquired;

IV. Accept from the public in general sight or time deposits in foreign currency;

V. Accept sight or time deposits in Mexican or foreign currency from the Federal Government, the Federal District and Territories, and the Governments of the States and municipalities, and from enterprises subordinate to the Federal Government in which it participates, as well as the other deposits expressly provided for in this Law. The Bank may pay interest on the deposits it receives under this Law, subject to such limitations as may be prescribed for deposit banks in the General Law on Credit Institutions;

VI. Issue time deposit certificates with maturity of not more than one year or less than three months;

VII. Acquire or discount drafts or bills of exchange on Mexico, provided that their maturity does not exceed seven days' sight, negotiate the paper thus acquired, and sell drafts or bills of exchange on Mexico;

VIII. Discount for associated credit institutions such bills of exchange, promissory notes and warehouse pledge notes to order arising from operations related to the negotiation of merchandise, the acquisition, negotiation or manufacture of industrial products, or the cultivation or negotiation of agricultural products, or related to livestock-raising, as bear the signature of the discounting institution and another signature of recognized solvency;

Documents may also be discounted that arise from the operations referred to in the foregoing paragraph, even if the last requirement mentioned therein is not verified, provided that in addition to bearing the signature of the discounting institution they are guaranteed by documents having the characteristics stated in Subsections (c), (d) and (e) of Section X, or in Section XV of this article, or by easily marketable merchandise on deposit in general warehouses. The amount of the documents shall in no case exceed 80% of the value of the guarantees. The Bank may negotiate the documents thus acquired;

IX. Acquire commercial paper to order originating in any of the operations mentioned in the foregoing section, bearing the signature of an associated institution, and meeting the other requirements of that section, and negotiate the paper thus acquired;

X. Open credits and grant loans to national credit institutions and associated institutions on the following items:

(a) The paper mentioned in Section VIII of this article;

(b) Documents meeting the requirements of Sections XV and XVI of this article;

(c) Bank deposit certificates, obligations guaranteed by securities, mortgage debentures, general bonds, mortgage bonds and certificates of participation in this type of document; provided that in each case the documents are not only paid up to date in respect of interest and amortization but also were issued or guaranteed by a credit institution; the certificates of participation must be issued by an institution authorized to effect fiduciary operations;

(d) Certificates issued by the General Treasury of the Federation, issued with or without discount, but in the latter case bearing interest and with a period of maturity not longer than that remaining until the end of the current fiscal year, provided that they can legally be accepted in payment of certain imposts, duties, taxes or participations not allocated for the fulfillment of any other obligation within the same fiscal year and the yield of which is adequate, according to the budget estimates that shall be communicated to the Bank for the purpose at the beginning of each fiscal year; the Bank may not effect operations of this type while it holds unredeemed certificates from previous years;

(e) Debentures or bonds issued or guaranteed by the Federal Government, or issued by the Department of the Federal District, with maturity of not more than fifteen years and with amortization and interest paid, on a permanent basis and under a law or contract-law, in adequate degree, out of the yield of certain duties, taxes, participations or imposts the direct collection of which is entrusted to a fiduciary institution, and provided that they are up to date in payment of amortization and interest;

(f) Documentary bills of exchange covering goods in transit;

In all cases referred to in this section, the credit may not exceed 80% of the value of the guarantee;

XI. Hold sight or time deposits with national or foreign banks in the following cases:

(a) Those mentioned in Section III of Article 20;

(b) Those strictly necessary for the service of correspondents;

(c) Those that must be held for account and order of the Federal Government or of a specific customer of the Bank;

- (d) Those maintained under the last paragraph of Section XXIV of this article;
 - (e) The gold and silver deposits authorized in Article 21; and
 - (f) Those made in urgent cases at associated institutions of recognized solvency to assist them in meeting extraordinary withdrawals of deposits, until such time as they are able to examine their portfolios in order to issue the documents necessary to cover the granting of credit to them;
- XII. Buy, sell and subscribe shares of associated credit institutions, without exceeding 15% of the paid-up capital of each company, and undertake to place them;
- XIII. Buy and sell the documents referred to in Subsection (c) of Section X;
- XIV. Buy and sell the Treasury certificates and debentures or bonds of the Federal Government referred to in Subsections (d) and (e) of Section X of this article, or subscribe them directly;
- XV. Buy and sell securities, with the exception of shares, having a constant market, this being understood to mean those whose buying and selling prices on securities markets have not in general differed from each other by more than 3% over the last six months. These documents must also be up to date in respect of payment of interest and amortization, where applicable;
- XVI. Acquire or discount the interest coupons of the securities described in Subsections (c), (d) and (e) of Section X and in Section XV of this article, and negotiate the coupons thus acquired;
- XVII. Engage in borrowing and lending operations with securities covered by Section X, Subsections (c), (d) and (e), and Section XV of this article;
- XVIII. Issue cashier's checks and letters of credit against payment of the value of the same, and buy and sell travelers checks in Mexican and foreign currency;
- XIX. Obtain loans or credits with guarantee of such commercial paper, securities, gold and foreign exchange as it possesses;
- XX. Grant credits and deal in general with other institutions or central banks or establishments having the aim of international co-operation, and acquire shares of the same; and act as correspondent or agent. In the case of reciprocal credits arranged with other central banks or with banking institutions established with aims of international cooperation, it may certify, accept, guarantee or pay unsecured paper, allow overdrafts and conclude

contracts on current account under Articles 302 to 310 of the General Law on Credit Instruments and Credit Operations;

- XXI. Buy its own shares in cases of the duly decreed reduction of capital and others expressly provided for by law;
- XXII. Invest up to 20% of its authorized capital and its reserve funds in the installation of its offices, the acquisition of real estate and equipment for its own use, or, where pertinent, in the subscription or purchase of shares or participations in companies owning such real estate;
- XXIII. Acquire real estate other than that mentioned in the foregoing section, accept mortgages in its favor or acquire them, acquire merchandise from mercantile or industrial enterprises and valuables that cannot form part of its assets, under this Law, when necessary to accept them in payment or as guarantee of the repayment of credits legally granted;
- XXIV. Grant surety bonds or guarantees in the following cases:
- (a) When no other person or institution can provide them, because of their amount;
 - (b) Provided that the Bank would derive significant benefit from the grant of the counterguarantee;
 - (c) If the surety bond or guarantee is applied for by organizations or enterprises in which the Federal Government participates or intervenes;
- The guarantee shall be for a specific amount and shall be granted specifically by means of the special deposit of an equal or larger amount in cash with the Bank of Mexico or with a first-class Mexican or foreign institution;
- XXV. Rent safety-deposit boxes in its vaults;
- XXVI. Act as clearing house for the associated institutions, under the General Law on Credit Institutions, organize and administer this service in Mexico City and in places where it has branches, and conclude with its associates arrangements for the reduction to a minimum of payments in cash;
- XXVII. Act as trustee when this function has been entrusted to it by law or in cases of obvious public interest, provided that approval is obtained from the Ministry of Finance.

Art. 25. The Bank may perform only the acts and operations authorized by this Law, or connected therewith or consequent thereon, or connected with or consequent on the functions it must perform under Article 8.

Art. 26. The Board of Directors, taking into account the economic position of the Republic, shall fix by general regulations the rate or rates of

interest and the periods applicable to discounts, loans and credits granted by the Bank under this Law, on the understanding that the guarantees cannot consist of gold, foreign exchange, foreign securities or foreign currency. When the guarantees consist of securities from among those listed in Section X (c) of Article 24, the credit institution issuing or guaranteeing them must be different from the one granting the discount or obtaining the credit or loan.

Art. 27. The Bank of Mexico shall establish freely the general rules on the order in which operations with associated institutions must be effected, according to their maturity or guarantees, and may also set limits on the general volume of credit it grants, the different types of operations according to their maturity or guarantees, and lines of credit for each of the associated institutions.

Only in exceptional cases and for one time only may it authorize the extension, renewal or replacement of a credit or paper not paid at maturity, always provided that the Bank's interest is adequately protected.

It shall be expressly prohibited to grant discounts, loans or credits representing permanent or semipermanent operations, whatever their maturity.

Art. 28. In operations with collateral in the form of documents, credits, securities and merchandise concluded in any form by the Bank, the Bank shall have the right:

- I. To consider the credit as due and proceed to collect it if the value of the guarantee has so decreased that it is inadequate to cover the amount of the credit, plus the margin concerned, unless, within the period set for the purpose by the Bank, the person obligated furnishes additional collateral to the satisfaction of the Bank, or the debtor pays the part of the credit that the pledge does not cover, plus the margin concerned. The Bank must return such amounts as it has collected in advance on account of interest on the part of the credit that has been paid;
- II. To realize the securities or credits pledged as collateral, either directly or through a broker, or through two merchants, at its option, in cases in which the law authorizes the sale of the guarantee before the guaranteed obligation becomes due or when such obligation becomes payable and the debtor does not pay its amount at the first request.

Art. 29. When it is necessary for the Bank to accept or award itself in payment of its credits real property or real rights, credits or securities that it cannot hold among its assets under this Law, or merchandise, mercantile or industrial establishments or rural property, it shall be obligated to sell them as soon as possible, and if after two years from their acquisition the

credits have not been collected or the property sold, it shall sell them at auction, unless as a result of special circumstances the Ministry of Finance authorizes the extension of the above-mentioned period for a maximum of one more year.

Art. 30. Mortgages in favor of the Bank under Section XXIII of Article 24 shall become payable in not more than two years. The Bank may not renew the operation or grant extensions to its debtors, and on expiration of the period of maturity of the mortgage credits granted, under this article and Section XXIII of Article 24, the mortgage guarantee must be realized immediately.

The maturity of mortgages drawn up in favor of the Bank for the loans it grants its employees and staff members against the appropriate aid fund for the construction or purchase of their houses shall not exceed twenty years.

Art. 31. Such mortgages and other accessory rights and privileges as, without being mentioned in Article 24, may be acquired by credit institutions as collateral on the credits and documents therein listed shall not be transmitted to the Bank of Mexico on account of the operations authorized in the said article unless the management of the Bank, because of the circumstances of the case, considers it necessary; but, even if they are not formally transferred to the Bank of Mexico, such rights and privileges shall also guarantee the credit in favor of the Bank, with priority over any other creditor of the debtor institution, which shall be obligated to maintain them with the diligence commonly exercised in business of its own, as well as to assert such rights when the guaranteed credit expires, being civilly liable vis-à-vis the Bank of Mexico for any diminution or loss of such security for which it is to blame.

Art. 32. Credit institutions and auxiliary organizations shall not charge their customers interest, premiums or discounts lower than a minimum or higher than a maximum that the Bank of Mexico shall be authorized to set at any time in respect of the operations it effects with its customers.

Such decisions as may be taken by the Bank under the foregoing provisions shall be applied uniformly without prejudice to the Bank's power to set different general rules for the different areas or localities it may specify. In any case, the Board of Directors shall hear the Association of Bankers of Mexico and the National Banking Commission before issuing any such rules.

The infraction of these provisions by the credit institutions or auxiliary organizations referred to shall give rise to the imposing, through administrative procedure, of a fine of 5,000.00 pesos or the temporary suspension of the operations of the infringing company, or the forfeiture of its concession, when intent to deceive has been administratively pronounced by the Ministry of Finance after obtaining the opinion of the Bank of Mexico.

Art. 33. The Bank of Mexico shall not be obligated, vis-à-vis the associated institutions endorsing or signing the documents referred to in Article 24, Sections VIII and IX, to present such documents for acceptance or payment, or, as the case may be, to protest them or give the aforesaid institutions the notice prescribed in Article 155 of the General Law on Credit Instruments and Credit Operations. Consequently, the omission of these formalities shall in no case give rise to the forfeiture of such rights as the Bank may have against the associated institutions under the said documents; but the Bank shall hold these documents at the disposal of the said institutions in the manner provided for in the By-Laws, to enable them to maintain their rights against the other signatories.

The provisions of Chapter VI of the Law on Bankruptcy and Suspension of Payments shall not be applicable to such operations or arrangements as the Bank of Mexico may conclude with associated institutions under the present Law to meet an extraordinary withdrawal of deposits.

Art. 34. Credit institutions and auxiliary organizations issuing or guaranteeing bonds, certificates or debentures, or accepting or guaranteeing order paper, shall observe such limits as the Bank of Mexico, in the exercise of its functions, may set for the issue and circulation of this type of document.

The aforesaid limits shall always be general in nature, even if established separately for each of the categories of document that it may be expedient to formulate, and in any case they shall be set by the Bank with the approval of the Ministry of Finance and hearing the boards of directors of the securities markets and the institution concerned.

Application of these limits to pending issues and the withdrawal from circulation or temporary absorption of documents already issued, if necessary, shall conform to such rules as the Bank of Mexico may formulate in each case, taking into account the financial position, credit, resources and other circumstances of the institutions concerned, and after hearing them.

Infraction of the decisions of the Bank of Mexico by the institutions concerned shall give rise to the imposition by the Ministry of Finance of a fine of up to 5,000.00 pesos or to the suspension of operations of the company.

Art. 35. Institutions which, under the General Law on Credit Institutions, receive sight, time or savings deposits shall maintain with the Bank of Mexico in Mexican currency a noninterest-bearing deposit proportional to the amount of their obligations of this type and the rest of their current liabilities; this deposit shall not be less than 5% or more than 20%, as determined by the Bank of Mexico. However, when Mexico's economic position makes it appear advisable, the Bank of Mexico, by decision of the Ministry of Finance, may raise the proportion to 50%.

For sight and time deposits in foreign currency, the Bank, should it consider it advisable in view of the exchange position, may set a percentage

higher than the 20% referred to in the foregoing paragraph and may also, in this regard, allow the deposit with the Bank of Mexico to be made in foreign exchange.

The decisions issued under the foregoing two paragraphs by the Bank and, as the case may be, by the Ministry of Finance, shall be general in nature but may be applied individually to a specified type of deposit or banking district or locality as specified in the decisions themselves.

The credit or debit balances of the depositing credit institution shown by operations of the clearing house shall be credited or debited to the deposits with the Bank of Mexico.

The Bank of Mexico may charge penal interest of not less than 12% annually on the debit balances of institutions which fail to make the deposits mentioned in the foregoing paragraphs or to supplement them when indicated, or which dispose of a part thereof.

Failure to comply with the provisions of this article may furnish grounds for a declaration of forfeiture of the concession of the institution involved.

Art. 36. The associated institutions shall furnish the Bank of Mexico with all such data and information as it may request of them concerning the operations they propose to it. They shall also be obligated to declare under their own liability that they have taken all necessary precautions to verify the solvency and reliability of the signatures offered and to assure themselves that the proposed credit transaction meets all requirements set by this Law.

The Bank of Mexico may at any time ask to be given the information which served as the basis of the declaration by the institution concerned mentioned in the foregoing paragraph.

Art. 37. The associated institutions shall furnish the Bank of Mexico, when the latter so requests, with the data necessary for assessing their financial position. The furnishing of false data shall be grounds for liability and shall be subject to such penalty as may be specified in the General Law on Credit Institutions.

OPERATIONS WITH THE FEDERAL GOVERNMENT AND OTHER AUTHORITIES

Art. 38. The Bank of Mexico shall be the depository of all funds of which the Federal Government does not make immediate use. It shall also be in charge of the remittance and collection of funds of all offices of the Government and the service of the public debt at home and abroad, and shall act as the Government's agent for all collections and payments to be made abroad, as well as for the banking operations required by the public services, unless any of these functions is assigned by law to another credit institution.

In places where it has no branch or agency, the Bank of Mexico may designate another credit institution as agent for collection, remittance or payment of Government funds.

Art. 39. The Bank shall keep a general account for the Treasury to which it shall credit or debit all amounts it receives or pays for account of the Federal Government, such account being governed by the following rules:

I. The Bank shall make payments or transfers from this account to subsidiary accounts only with authorization or a signed order from the Treasurer of the Federal Government, to whom it shall consider this power to be expressly delegated.

II. No objection to any debits made to the account of the Federal Government in conformity with the requirements of the foregoing section may ever, for any reason whatsoever, be validly asserted against the Bank of Mexico.

Art. 40. The Bank of Mexico may grant credits and make loans only to the Federal Government, whether in the form of unsecured credits or with collateral, or on the items mentioned in Article 24, Section X (d) and (e). It may also effect with the Federal Government the operations of discount, purchase, subscription of securities or documents signed or issued by it, and in general the operations mentioned in Article 24, Sections II, III, VII, XVI and XVII.

Documents bearing the signatures of banking, commercial and industrial enterprises or of public services belonging in whole or in part to the Nation, provided that they have their own independent assets, shall be acceptable for the operations mentioned in Article 24.

Art. 41. The Bank may take charge of the issue, purchase and sale of securities of the Federal Government, for account of the same.

Art. 42. The Bank of Mexico shall not be obligated to provide the Federal Government with more services than are expressly provided for in the present Law, or to give it its guarantee. Neither shall it be obligated to render any service whatever to the authorities of the Federal District, the Territories, States and municipalities, or to grant them credits or guarantees.

Art. 43. Funds owned or managed for any reason by departments, offices, organizations and enterprises subordinate to the Federal Government, or in which it participates or intervenes, shall be deposited with the Bank of Mexico in an account separate from that kept for the Government itself.

Art. 44. The compensation received by the Bank for such services as it renders the Federal Government under this Law shall be subject to a contract with the Ministry of Finance and Public Credit.

ADMINISTRATION AND SUPERVISION

Art. 45. The administration of the Bank and the exercise of its prerogatives and functions shall be entrusted to a Board of Directors and a Director General.

The Board of Directors shall hold the fullest powers to execute acts of ownership, acts of administration and acts of litigation and collection, with all general powers and with such special ones as may be required by special clauses under the law; it may execute or sign credit instruments, waive proceedings for relief [*juicio de amparo*], and at its discretion delegate its powers to the Director General.

The Board shall have such other specific powers as are stated in the By-Laws.

Art. 46. The Board of Directors shall be composed as follows:

The Series A shares shall appoint five regular members and five alternates, and the Series B shares four regular members and four alternates, irrespective of the number of shares of this series subscribed, with the understanding that such segment of Series B representing at least 15% of the paid-up capital of the institution shall be entitled to appoint a regular and an alternate member. A single institution cannot designate more than one regular and one alternate member. Members shall remain in office for two years and may be re-elected.

Art. 47. Only persons connected with Mexican banking, industrial or commercial circles may be members of the Board of Directors.

Art. 48. In no case may the following be members:

I. Persons elected to a post by popular vote, for their entire term of office according to law, even though they are not performing the duties thereof because of leave of absence or for any other reason;

II. Persons holding positions with or employed by the Federal Government, the States, the Federal District, the Territories or the municipalities, except in the teaching profession;

III. Such other persons as may be specified in the By-Laws.

Art. 49. Decisions of the Board shall be taken by majority vote. The Board shall appoint its President, who shall cast the deciding vote in case of a tie. The Director General shall be appointed by the Board. The Board, at the suggestion of the Director General, shall appoint one or

more Assistant Directors. Both the Director and the Assistant Directors of the Bank shall be Mexican citizens in full enjoyment of their rights. The position of Director General, Assistant Director, officer, or employee of the Bank is incompatible with that of member of the Board.

Art. 50. The Assistant Directors, officers and employees of the Bank, as well as correspondents and agents in Mexico and abroad, shall have such duties as are assigned them by the Director General, to whom they shall be directly subordinate.

Art. 51. It shall be the responsibility of the Director General to appoint the staff of the Bank.

Art. 52. Operations in foreign exchange and negotiations on the securities market shall be entrusted to an executive committee to be called the Exchange and Securities Commission. It shall consist of three Series A Directors, who shall be designated by the Board of Directors and shall function by majority vote. The Commission shall set the international exchange rate and its margins of operation; it shall decide on the rules to govern the purchase and sale of gold, foreign exchange and silver and the proportion of foreign exchange to gold to be contained in the reserve, and be responsible for decisions on handling all exchange resources of the institution. It shall also determine what action the Bank shall take on the securities market by buying and selling, classifying securities and specifying the amount of operations, prices and margins of operations.

Without prejudice to reporting to the Board later, the decisions of this Commission shall be executed immediately.

The Board shall be empowered to delegate others of its powers to committees composed of Directors or to the Director General, with the exception of those that under this Law are subject to the veto of the Minister of Finance and Public Credit.

Art. 53. The Director or an Assistant Director designated by him shall attend the meetings of the Board of Directors and the Exchange and Securities Commission.

Art. 54. The Director General shall be responsible for the administration of the Bank and its legal representation, with all powers specified in the By-Laws and such others as the Board may delegate to the said officer.

Art. 55. Supervision of the Bank shall be entrusted to a regular and an alternate Auditor appointed by the Series B shareholders. The Auditor may attend meetings of the Board of Directors.

Each series of shares shall also designate a Certified Public Accountant currently acting in his professional capacity, who must certify the balance

sheets and other statements published, auditing the former and assuring himself of the agreement of the latter with the books. The Accountants thus appointed shall have the fullest powers to review the accounts, acts, papers and documents of the institutions and may initiate vis-à-vis the Director General and the Board all changes and amendments which in their judgment should be made in the accounting system of the Bank.

The Auditors and Accountants shall remain in office for one year, counted from one ordinary general meeting of shareholders to the following one, and may be re-elected.

Art. 56. Persons not qualified to be members of the Board under this Law may not serve as Auditor.

Art. 57. Directors shall be entitled to a fee of one hundred pesos for each meeting of the Board, or of the committees they attend. They may collect no amount whatsoever as bonus, nor may they participate in the profits of the Bank.

The ordinary general meeting that approves the balance sheet shall fix the remuneration of the Auditor.

Art. 58. The Board of Directors shall specify the salary of the Director General, as well as the pay of the Accountants, when approving the annual budget of expenditures, the Director being responsible for setting the salaries of the remaining staff members in accordance with the general budget appropriation.

The Board may also grant an annual bonus to the officers and employees of the Bank in proportion to the pay they have received during the financial year, but the amount of such bonus may not exceed 30% of the annual amount of such pay. In no case may officers or employees collect any other bonuses.

Art. 59. The Director General, the Assistant Directors, the members of the Board, and the Auditors of the Bank may not be shareholders and shall not be obligated to guarantee its administration.

PROFITS AND RESERVES

Art. 60. At the close of each financial year, the Bank's assets shall be estimated in accordance with the applicable provisions of this Law and of the General Law on Credit Institutions. When this has been done, net profits shall be determined, charging to the profit-and-loss accounts and, as the case may be, to the special funds discussed in the following article, amortization and depreciation according to this Law and the General Law on Credit Institutions.

After determination of the amounts of profits in accordance with the

foregoing paragraph and deduction of the amount payable as tax on profits, the balance shall be distributed as follows:

I. There shall be set aside 10% for the ordinary reserve fund until it totals the same amount as the authorized capital.

II. The amount necessary to pay a dividend of up to 6% to Series B shareholders shall be set aside from the remainder.

III. Such amount as may be agreed on by the general meeting after hearing the Board's report on the subject shall be set aside from the remainder for the fund for assistance to employees and to officers. Other special reserve funds may also be added to, if the general meeting so agrees and in amounts specified by it.

IV. The remainder shall be turned over to the Federal Government.

Art. 61. With the profits derived from the minting of coins and with the penal interest referred to in Article 35, the Bank shall form a special reserve fund for contingencies and a supplementary stabilization fund, which shall have the following purposes:

I. The special reserve fund for contingencies shall be charged directly at the end of each financial year with the debit balances of the profit-and-loss accounts concerned with investment in commercial paper, credits, authorized items other than metal and foreign exchange, and securities and property in liquidation, including depreciation thereon, but not the corresponding general expenses.

II. The supplementary stabilization fund shall be charged directly, when the Board so decides, with the debit balances of the profit-and-loss accounts concerned with operations in metal and foreign exchange, not including the corresponding general expenses. This fund, when they occur, shall be charged with expenditures originating in the minting of coins and their issue.

Art. 62. Any difference between the cost of silver for minting and the inventory value assigned it shall be credited directly to the supplementary stabilization fund. This difference shall not be considered a profit of the Bank for tax purposes.

The funds referred to above shall be credited, when necessary, with such resources as the Federal Government may allocate for this purpose, and the amount shall be turned over to the Government only in case of the liquidation of the Bank.

Art. 63. The Bank's financial year shall begin January 1 and end December 31 of each year.

Art. 64. Within sixty days of the close of the Bank's financial year, the Bank shall prepare the balance sheet and the profit-and-loss account

for that year and submit them for review by the Accountants, the National Banking Commission and the Auditor, and for approval by the general meeting of shareholders, together with a report on the work for the financial year and a proposal for distribution of profits, to be prepared by the Board of Directors.

The general balance sheet and the Board's report to the meeting shall be published within five days from the meeting.

The Auditor shall receive the above documents for review at least fifteen days before the meeting at which they are to be discussed.

Art. 65. The Bank's balance sheet shall contain the following data, separate from such other information as it may provide:

Assets:

- I. Monetary reserve;
- II. Funds set aside for deposits and obligations in foreign currency;
- III. Banking correspondents in Mexico;
- IV. Minted coins and silver in process of minting;
- V. Foreign acceptances at more than seven days;
- VI. Deposits with foreign banks at more than fourteen days;
- VII. Discounts and commercial paper;
- VIII. Credits payable by associated institutions;
- IX. Authorized items;
- X. Real property, furniture and fixtures.

Liabilities:

- I. Notes in circulation;
- II. Time deposit certificates;
- III. Sight obligations and deposits;
- IV. Time obligations and deposits;
- V. Obligations and deposits in foreign currency;
- VI. Paid-up capital;
- VII. Ordinary reserve fund and other funds.

The amount of coins in circulation shall be stated at the foot of the balance sheet.

Art. 66. The Bank shall be obligated to publish, in addition to the end-of-year general balance sheet, a consolidated statement of account as of the

last day of each month, which shall be published within fifteen days from its date.

GENERAL PROVISIONS

Art. 67. Deposits to be made for suspension of the act appealed against in proceedings for relief [*juicios de amparo*] instituted against tax collections of the Federal Government and the States or municipalities, and in general deposits to be made in cash under the laws, regulations or contracts of Federal authorities, shall be made with the Bank of Mexico.

Art. 68. Public-service enterprises and companies shall maintain with the Bank of Mexico the deposits they receive from their consumers, customers or subscribers. Failure to comply with this requirement shall, as regards the remedy to be prescribed, be tantamount to failure to obey the lawful mandate of a competent authority.

Art. 69. The Nation shall at all times be directly responsible for:

- I. The deposits made at the Bank of Mexico under Articles 43, 67 and 68;
- II. The investments made by the Bank in the following securities, by purchase or subscription, as the case may be, or by adjudication or acceptance in payment:
 - (a) Shares of national institutions, credit unions and auxiliary institutions;
 - (b) Certificates, bonds and debentures issued or guaranteed by the above-mentioned institutions;
- III. The contribution of the Bank to the International Monetary Fund and its subscription to the International Bank for Reconstruction and Development.

Art. 70. The relations of the Bank of Mexico with the Federal Government shall be handled through the Ministry of Finance.

Art. 71. The Minister of Finance and Public Credit shall be empowered to veto decisions of the Board of Directors and of the Exchange and Securities Commission, in the manner specified in the By-Laws, when they refer to:

- I. The general rules governing operations which affect the volume and composition of the money supply;
- II. The general rules governing the purchase and sale of gold;
- III. The general rules governing operations and investments in foreign exchange and in documents or paper payable in foreign currency;

IV. The obtaining of loans guaranteed by securities, gold, foreign exchange or silver owned by the Bank, and the deposits in gold and silver that the Bank makes abroad under this Law;

V. The deposits made in urgent cases with associated institutions to assist them in meeting an extraordinary withdrawal of deposits, under Article 24, Section XI (f);

VI. The determination of the deposits that the associated banks must maintain with the Bank of Mexico under Article 35, and in the cases mentioned in Articles 32, 34 and 73.

Art. 72. The Ministry of Finance and Public Credit shall inform the Bank concerning the transactions of the Treasury, the position of collections, expenditures and indebtedness, and shall give it other information concerning the position of public finances.

Art. 73. The decisions of the National Banking Commission affecting the functions of the Bank of Mexico shall, before they are put into effect, be approved by the Bank's Board of Directors.

Art. 74. Where no provision is made in this Law concerning the organization and operations of the Bank, the By-Laws approved by the general meeting and the applicable internal regulations shall be observed.

The General Law on Credit Institutions and the General Law on Mercantile Companies shall be applicable to the extent that they are not incompatible with the provisions and the system of the present law.

TRANSITIONAL ARTICLES

First. The Law of August 28, 1936, as amended, and all relevant prior provisions are hereby repealed.

Second. The privilege granted the Bank of Mexico by Article 28, as amended, of the Law of August 25, 1925 shall continue in respect of credits granted before the Law of April 12, 1932 and the extensions or renewals of such credits granted or that may be granted by the Bank, until collected in full.

Third. The Bank may retain such property, credits and assets as it now holds even though they do not meet the requirements of this Law, and the Ministry of Finance shall decide which are to be liquidated, fixing the period for doing so.

Fourth. The present members of the Board of Directors shall continue in office for their full terms and may be re-elected.

Fifth. The present Law shall enter into effect on the date of its publication in the *Diario Oficial* of the Federal Government.