

Dépôt  
Annexe

CENTRAL  
BANKING  
LEGISLATION

Volume II. Survey

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# CENTRAL BANKING LEGISLATION

A collection of  
Central Bank, Monetary and Banking Laws

## INTERNATIONAL MONETARY FUND MONOGRAPH SERIES

- No. 1. Central Banking Legislation: A Collection of Central Bank, Monetary and Banking Laws, selected and annotated by Hans Aufricht (1961)
- No. 2. The Fund Agreement in the Courts, by Joseph Gold (1962)
- No. 3. International Monetary Problems, 1957-1963, by Per Jacobsson (1964)
- No. 4. Central Banking Legislation: A Collection of Central Bank, Monetary and Banking Laws; Volume II, Europe, selected and annotated by Hans Aufricht (1967)

Volume II: Europe

Statutes and related materials  
selected and annotated by  
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*Preface by Pierre-Paul Schweitzer*

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## Publication of Statutes and Regulations

Statutes, regulations, treaties, and public notifications of other measures are published in the *Boletín Oficial del Estado*.

## The Bank of Spain Law, 1962<sup>1</sup>

NOTE:—The Bank of Spain (Banco de España) received its name by virtue of a Law of January 28, 1856 making it the successor to the Banco de San Fernando, which had been established on July 9, 1823. The Bank took on the character of a bank of issue by virtue of a Decree of March 19, 1874. Other significant phases in the legal history and institutional status of the Bank are marked by the Laws of July 14, 1891, May 13, 1902, and December 29, 1921, and by the Law of December 31, 1946 and the supplementary Decree of July 24, 1947. The Bank is presently governed by Decree-Law No. 18 of June 7, 1962.

Law No. 2 of April 14, 1962<sup>2</sup> prescribed the foundations for the credit and banking system, which will make it possible to adapt the new monetary and credit policies to the new circumstances and prospects of the Spanish economy.

A most important part of the reform is the nationalization of the Bank of Spain, in which are centered such essential functions as the issue of legal-tender notes, the implementation of monetary policy in accordance with the directives of the Government, the control and supervision of private banks, the regulation of the money market and, at the proper time, the supervision of foreign payments [*el movimiento de pagos exteriores*] and the formation of gold and foreign exchange reserves.

The organization of the Bank of Spain, as established in the present Decree-Law, meets the fundamental demand for constant adaptation to ever-changing circumstances so as to enable the Bank to meet in good time the general requirements of the economy and to maintain its dynamic stability.

To achieve these objectives, it was necessary to make the Bank of Spain more independent in its operations, fashioning its Board of Directors in such a way as to give it a flexible spirit of enterprise with the independence of viewpoint derived from the devotion of full time by each of its members to the work of the Bank, in recognition of the importance of their functions.

Control and inspection of private banks, as well as centralization of

<sup>1</sup> Decreto-Ley 18/1962, de 7 de junio, de nacionalización y reorganización del Banco de España (Decree-Law No. 18 of June 7, 1962 on the Nationalization and Reorganization of the Bank of Spain). The Law was published in the *Boletín Oficial del Estado* of June 13, 1962 and therefore entered into force on that date.

<sup>2</sup> The text of Law No. 2 of April 14, 1962 is given below, pp. 622-634.

general monetary and credit statistics, are essential instruments to enable the Bank of Spain to fulfill its functions as a central bank and bankers' bank and at all times to act as an agency for regulating economic policy through the functions and powers assigned to it in this field.

The creation of the Central Risk Information Department will enable the Bank of Spain to be the guiding and supporting organ of the private banks in respect of credit policy, in accordance with the directives issued by the Government.

To strengthen the powers of the Bank of Spain vis-à-vis the private banks, the present Decree-Law assigns to the Bank functions which were heretofore entrusted to the General Administration of Banks, Stock Exchanges and Investments, wherewith closer cooperation between the central bank and the private banks is sought, which will no doubt be reflected in a more flexible and fruitful service for the economy of Spain.

A Decree-Law nationalizing the Bank of Spain could not omit precise norms to define the scope of the Bank's activities, its open market operations, and the important functions of a consultative and informative nature which it must have as the center of monetary and credit policy, in its double capacity as implementing agent of general government policy and central bank and bankers' bank, and as the organ for receiving and directing to the attention of the public authorities the vicissitudes and needs of the economy in order to meet them as the circumstances of the moment require.

In order to achieve a unity of viewpoint that will allow the Government at all times to know the economic situation and to take timely measures, the necessary ties shall be established between the Bank of Spain, the Institute for Medium-Term and Long-Term Credit and the Credit Institute for Savings Banks, both through the presidency of these institutions being held by the Governor of the Bank of Spain and through the presence of one of the Deputy Governors of the Bank on the boards of these Institutes.

The creation of the new banking and credit structure is obviously urgent in order to adapt the Spanish economy to its new prospects and problems, which in turn require immediate introduction of suitable implementing instruments for the success of the State's economic policy.

THEREFORE, in using the power contained in Article 13 of the Law of the Cortes, and having heard the Commission referred to in Article 10 of the Law on the Legal Regime for the State Administration, on the motion of the Council of Ministers at its meeting of May 11, 1962, I ORDER:

Nature and legal status.

**Art. 1.** The Bank of Spain shall be a public corporation [*entidad de derecho público*] with juridical personality and full legal capacity. It shall be subordinate to the Government through the Ministry of Finance.

The initial assets and liabilities of the new institution shall consist of the capital and reserves of the bank which is being nationalized, whose assets and liabilities it shall take over.

**Art. 2.** The Bank of Spain shall be responsible for the issue of legal-tender notes and for their regulation and administration; it shall act as Treasurer for the State and as financial agent in respect of the debt of the State and of the Treasury, and shall perform such other services, permanent or temporary, as the Treasury may stipulate by appropriate agreements; it shall perform all the functions appropriate to its capacity as a bankers' bank; it shall carry out commercial operations appropriate to banks of that class, with private institutions or enterprises, in the exceptional cases referred to in Article 27 of the present Decree-Law; it shall inform and advise the Government on matters of money and credit and shall exercise functions pertaining to supervision and inspection of private banks and the other functions entrusted to it by law. Purpose.

Wherever private banks are mentioned in this Decree-Law, and for its purposes, the term is considered to include the Banco Exterior de España.

The supervising of foreign payments and the centralizing of the gold and foreign exchange reserves shall be transferred to the Bank of Spain; however, the functions assigned by existing legislation to the Spanish Foreign Exchange Institute shall continue to be performed under the same ministry as at present, the decision being left to the Government as to when to transfer those functions and such other operative functions as the Government may decide upon, once the circumstances now prevailing in foreign trade have disappeared.

**Art. 3.** The Bank of Spain shall have, on the technical level, an autonomous organization. It shall be governed in its organization and functions by this Decree-Law, by the By-Laws and by special provisions; in its operations it shall be governed first of all by the same rules and, in addition, by those rules of private law which are applicable to the case in question. Organization.

The Bank of Spain shall be considered to be included in the provisions of Article 5 of the Law of December 26, 1958 on the Legal Regime for Autonomous State Entities.

The Bank of Spain shall be exempt from any kind of direct tax, assessment or other charge by the State, provinces or municipalities.

**Art. 4.** The Governor of the Bank of Spain shall be the head of the Governor. Bank's administration and shall be the Bank's legal representative.

He shall act as Chairman of the General Council and of the Board of Directors of the Bank. He may delegate such functions as he sees fit to the Deputy Governors.

He shall be appointed and may be dismissed freely by the Council of Ministers.

**Art. 5.** There may be more than two Deputy Governors, to be called First, Second and Third, as the case may require. The Deputy Governors shall be technical officers and may not be removed, except for reasons of discipline, for a period of three years. They may be reappointed. Deputy Governors.

They shall be appointed by the Council of Ministers on the proposal of the Minister of Finance. They shall assume the directive functions which the Government assigns to them.

When the position of Governor is vacant, or in the absence of the Governor, he shall be replaced by the Deputy Governors in the proper order.

General  
Managers.

**Art. 6.** The General Managers, in the number provided in the By-Laws, shall be appointed by ministerial order, on the recommendation of the Board of Directors. They shall perform, on direct instructions of the Deputy Governors, the functions of management, administration and implementation entrusted to them by the Deputy Governors, and shall be required to carry out, and ensure that the staff carries out, all statutory and regulatory provisions, as well as the instructions issued by the Governor, the Deputy Governors and the Board of Directors. They may be required to attend the meetings of the Board of Directors without the right to vote, for the purpose of providing information. They may be dismissed only as provided in the By-Laws.

Board of  
Directors.

**Art. 7.** The Board of Directors of the Bank of Spain shall be composed of the Governor, the Deputy Governors, and three members of the General Council of the Bank, designated by the Minister of Finance from among those included in Article 8(c). The members shall be appointed for a period of two years and may be dismissed at any time by decision of the Minister of Finance.

The Board of Directors shall be presided over by the Governor.

Resolutions shall be taken by a majority of votes. In case of a tie, the Chairman shall cast the deciding vote.

The Board of Directors shall have as Secretary, without the right to vote or to be heard, the person performing that function in the Bank of Spain.

General Council

**Art. 8.** The General Council shall be constituted as follows:

- (a) The Governor as Chairman;
- (b) The Deputy Governors;
- (c) Five members designated freely by the Government, on the proposal of the Minister of Finance, representing the general interests of the national economy;
- (d) Two representatives of the private banks, proposed by the High Banking Council;<sup>3</sup>

<sup>3</sup> The High Banking Council was established by virtue of Art. 50 of the Law of December 31, 1946 on the Banking System. As of September 1, 1966 it was composed as follows: the Undersecretary of the Treasury and Public Expenditures (chairman); one Deputy Governor of the Bank of Spain; and

- (e) One representative of the Institute for Medium-Term and Long-Term Credit;
- (f) One representative of the Credit Institute for Savings Banks;
- (g) Four representatives of the Syndical Organization;
- (h) One representative of the employees of the Bank of Spain, with at least twenty years of service, proposed by the bank staff.

The appointment of the representatives referred to in items (d), (e), (f) and (h) of the preceding paragraph shall be made by the Minister of Finance, with the prior authorization of the Council of Ministers, on the proposal of the organizations or agencies which they are to represent. They may be dismissed at any time by order of the Minister of Finance.

The General Council shall be convened and presided over by the Governor. Resolutions shall be taken by a majority of votes and in case of a tie the Chairman shall cast the deciding vote.

**Art. 9.** Authority in monetary and credit matters is vested in the Government, which, through the Minister of Finance, shall issue to the Bank of Spain and the various credit organizations the directives to be complied with at each stage in the specific implementation of monetary and credit policy in the manner best suited to the interests of the country.

Powers of  
Government.

**Art. 10.** The Minister of Finance shall, in agreement with the Council of Ministers, without prejudice to the powers conferred on him by this text and other statutory provisions:

- (a) Prescribe the general rules for the Bank's actions as implementing agent, in the sphere of its competence, of the monetary and credit policy of the Government;
- (b) Prescribe the rules to which the Bank must adapt itself in the exercise of its functions in regard to supervision and inspection of private banks;
- (c) Fix the rates of interest applicable to the Bank's operations;<sup>4</sup>

five representatives nominated by the national banks, three by the regional banks, two by the local banks, and two by organizations of banking employees. Foreign banks must also be represented, but may not vote.

<sup>4</sup> The Minister is also responsible for determining minimum and maximum interest rates in respect of all banking transactions by virtue of Law No. 13 of March 18, 1966, the text of which follows:

"Article 43 of the Law of December 31, 1946 on the Banking System empowers the Minister of Finance, on a prior report from the High Banking Council, to set forth the maximum interest rate payable on current accounts, deposits and other similar operations, and likewise to establish the minimum rates of interest and commissions on credit operations and the conditions for their application; the intention in doing this was above all to regulate competition between the various banks by setting limits

Powers of  
Minister of  
Finance with  
respect to Bank  
of Spain.

- (d) Determine the Bank's action with respect to the purchase and sale, for its own account, of bonds and other securities on the open market;
- (e) Approve the Bank of Spain's balance sheet and accounts for the fiscal year, which shall be accompanied by a report issued by a committee of the General Council to which inspection of the accounts of the Bank shall be entrusted. This committee shall be appointed annually by the Government, on the proposal of the Minister of Finance.

#### DUTIES AND FUNCTIONS OF GOVERNING ORGANS OF BANK OF SPAIN

Duties of Governor.

**Art. 11.** The Governor shall be head of the administration of the Bank, its legal representative, and its liaison with the Government through the Minister of Finance.

within which this competition should have play. However, it is opportune to use the establishment of interest rates not only in this limited sense, as a regulator of healthy competition, but in the service of monetary policy, in which the delimitation of such rates constitutes a fundamental instrument. For this, it is essential that it be possible to determine not only the minimum, but also the maximum, amount of the interest and commissions on credit operations, so that, without detriment to its flexibility, and within the assigned limits, the banking system as a whole may serve the purposes that monetary policy may require at any time.

"In view of the above, and in accordance with the draft prepared by the Spanish Cortes,

"I DECREE:

"Sole Article. Article 43 of the Law of December 31, 1946 on the Banking System shall be replaced by the following:

"Art. 43. It shall be the responsibility of the Minister of Finance, on a prior report from the Bank of Spain and from the High Banking Council:

'(A) To set forth the maximum interest rate payable on current accounts, deposits and other similar operations.

'(B) To establish the maximum and minimum rates of interest and commissions for credit operations and the conditions of their application. In every case, the difference between the two interest rates must be determined in relation to the cost of money. However, variations may be authorized in the rates and conditions in specific localities or for certain sectors or activities of the national economy when special circumstances make it advisable.

'A prior report shall be required from the Syndical Organization and from the National Economic Council for the matters to which Paragraphs (A) and (B), above, refer.

'(C) To determine the style in which the balance sheets and extracts from the profit and loss accounts of the banks and bankers operating in Spain are to be drawn up and published.

'(D) To formulate general rules of an obligatory nature concerning the distribution of the banks' dividends.

'(E) To make provision for the creation of clearinghouses.'

"Done at the Palace of El Pardo on March 18, 1966.

FRANCISCO FRANCO"

He shall represent the Bank of Spain vis-à-vis the Institute for Medium-Term and Long-Term Credit and the Credit Institute for Savings Banks.

He shall decide all questions not reserved for the Board of Directors and shall see to the carrying out of its resolutions. He may delegate his functions to the Deputy Governors as he sees fit.

#### Art. 12. The Board of Directors shall:

- (a) Decide, taking into account the instructions received from the Ministry of Finance, on the measures to be adopted by the Bank in the exercise of its function as a bankers' bank and as an organ for supervising and inspecting private banks.
- (b) When the general interest so requires, determine by what advance measures, within the Bank's sphere of action and having regard for the security of its operations, the Bank can best assist credit institutions which, having acted in accordance with good banking practice, find themselves in cash difficulties as a result of a general crisis or for other reasons;
- (c) Decide on the credit operations with the Treasury and other agencies of the public sector, with due regard to the provisions of Article 21 of this Decree-Law;
- (d) Report on such matters as are assigned to the Bank of Spain by law;
- (e) Decide on the other operations to be carried out by the Bank in the cases referred to in Article 28;
- (f) Issue the reports within the Bank's sphere of competence concerning special rediscount limits for private banks in cases where this is appropriate in conformity with the laws and regulations on the subject;
- (g) Direct the administration of the Bank and appoint the staff, subject to the provisions of the By-Laws, and fix their remuneration.

#### Art. 13. The General Council of the Bank shall have the following functions:

- (a) To keep itself informed of the conduct of the business of the Bank and its operations;
- (b) To discuss and formulate the conclusions concerning the annual balance sheet and the operating accounts of the Bank that must be submitted with the balance sheet and operating accounts to the Minister of Finance;
- (c) To advise the Government in respect of those monetary and credit problems on which its advice is solicited;

Functions of Board of Directors.

Functions of General Council.

(d) To act as consultative organ of the Government and of the Board of Directors on matters submitted to it by them.

It may also submit to the Government, through the Minister of Finance, reports and opinions on the general situation of monetary and credit policy, considering in these reports such solutions as can be technically adopted.

The resolutions of the General Council shall be taken by a majority of votes.

The General Council shall meet at least once a month, when summoned by the Governor.

#### FUNCTIONS OF BANK OF SPAIN AS ADVISOR AND AS IMPLEMENTING AGENT OF MONETARY AND CREDIT POLICY

Advisor to Government.

**Art. 14.** The Bank of Spain shall be the advisory organ of the Government on monetary and credit matters and shall inform the Government, through the Minister of Finance, both on questions on which its opinion is required and on those questions on which it has especially been asked to report. It may also, at its own initiative, submit its opinion to the Government on matters which it considers relevant, within the scope of its advisory functions.

Statistics and information.

**Art. 15.** For statistical purposes, all private banks shall submit to the Bank of Spain a monthly balance sheet within the first fifteen days of the month after that to which the balance sheet refers. The Bank may also request of these institutions, on a confidential basis, specific data on the balance sheet and profit and loss account.

The Institute for Medium-Term and Long-Term Credit and the Credit Institute for Savings Banks shall provide the Bank of Spain with monthly balance sheets covering the operations of official credit institutions and savings banks, respectively.

The Bank of Spain may also request of other entities and institutions data and reports necessary for its statistical studies.

Central Risk Information Department.

**Art. 16.** The Bank of Spain shall establish a Central Risk Information Department in connection with the credit operations of the banks, the savings banks and other credit institutions.

All private banks and credit institutions, regardless of their juridical nature, shall submit periodically to the Bank of Spain all the data on the granting of credits which are required by regulation, in the form to be established. Official credit institutions and savings banks shall submit these data to the Central Risk Department through the Institute for Medium-Term and Long-Term Credit and the Credit Institute for Savings Banks, respectively.

The data which must be reported within the first fifteen days of each calendar month with reference to the operations of the preceding month shall indicate not only the exceptional circumstances which may occur

with respect to the credits, such as insolvency, moratoria, and the like, but shall also indicate the credits which, because of their magnitude, may involve a concentration of risk, for which purpose the rules to be prescribed shall indicate the credit accounts subject to this reporting requirement in terms not only of the capital and reserves of the credit institution, but in terms of the solvency of the borrower.

The data which banks, savings banks and credit institutions submit in conformity with this Article shall be classified, in addition, in terms of the economic or professional activities of the borrower, as well as by geographic areas and maturities.

The Central Risk Department of the Bank of Spain shall prepare, on the basis of the data received, general statistics on credit developments in Spain, and within the banking sector shall notify the private banks of cases where the data compiled from various credit institutions indicate that a special risk may be involved or the prudent limits of credit policy might be exceeded.

Irrespective of this notification of exceptional credit cases, the banks may request of the Central Risk Department background information and reports which they consider necessary for their normal operation, being required to maintain secrecy in respect of banking matters. Infractions of this requirement shall be subject to disciplinary action.

In the notifications which the Bank of Spain handles under the above provisions, the designation of the other credit institutions to which the individual or legal entity is indebted shall be omitted.

The development of the services of the Central Risk Department shall be governed by the rules which shall be prescribed for that purpose by the Minister of Finance on the proposal of the Bank of Spain.

**Art. 17.** The Bank of Spain, as the organ charged with inspecting private banks, shall, with due regard to the rules prescribed by the Minister of Finance:

(a) Order periodic inspections of the private banks in order to verify that the prevailing rules are being followed with respect to the banks' balance sheets, the structure of their accounts, interest and commissions applied to their operations and compliance with the general rules on credit policy;

(b) Notify the boards of managers and directors of banking companies when it considers that the dividend policy applied, while not violating the prescribed rules on the subject, is not appropriate in view of the actual results of their operations and the situation and prospects of their business; if the institution concerned fails to heed the warning, the Minister of Finance, on the proposal of the Bank of Spain, may order that the warning be inserted in the report submitted to the first General Meeting of Shareholders which is held subsequently;

- (c) Order special inspections of a private bank with respect to some phase of its activities, when it sees fit;
- (d) Instruct a bank on the credit policy to be applied by it;
- (e) Propose to the Minister of Finance the penalties to be applied in conformity with the legal rules to be issued on the matter.

The exercise of the function indicated in items (b), (c) and (d) shall be the responsibility of the Governor of the Bank and may not be delegated.

#### OPERATIONS OF BANK OF SPAIN

##### Currency issue.

**Art. 18.** The Bank of Spain shall have the exclusive right to issue bearer notes having legal-tender status.

Determination of the upper limit of the note issue [*circulación fiduciaria*] shall be made by resolution of the Council of Ministers on the proposal of the Minister of Finance. The Bank of Spain shall see that the relevant proposal is submitted to the Minister of Finance in good time, accompanied by a report giving the rationale behind the proposal.

##### Currency exchange.

**Art. 19.** The Bank of Spain may decide to retire from circulation and to exchange notes of a given series or type, after an announcement has been made in the *Boletín Oficial del Estado* and the period for exchange has been indicated.

Notes not presented for exchange within a period of seven years counted from the day following that on which the established exchange period ended shall be considered to have expired.

The amount of these notes shall no longer figure in the liabilities of the Bank, and shall be used for amortization of the Special Debt referred to in Article 23.

##### Operations with Treasury.

**Art. 20.** The Bank shall without charge act as Treasurer of the State and financial agent in respect of the debt of the State and of the Treasury.

The services of intermediary in the State's credit operations, as well as the other services of a permanent or occasional nature rendered by the Bank of Spain to the State, shall be governed by special agreements.

The advances of the Bank to the Treasury shall not exceed twelve per cent of the total annual expenditures authorized for the Central Administration and autonomous agencies, and shall not bear interest.

##### Credit to public sector.

**Art. 21.** Apart from the provisions of the preceding Article, the State may use the Bank's resources for public requirements only by means of a law.

The ceiling for credits which may be authorized by the Bank of Spain for public agencies and national and nationalized enterprises for short-term or seasonal operations shall be fixed by decree, after a report has been made by the National Economic Council.

Excepted are credits to the Treasury for financing the operations of the official credit institutions, which may be authorized by the Council of Ministers, the term and conditions for repayment being fixed. The ceiling for these credits shall be that which corresponds to the increase set each year for the "Investment Bonds" in circulation, and they shall bear interest to be agreed, although the highest rate set for these Bonds may not be exceeded.

**Art. 22.** The Bank of Spain may increase its present investment portfolio only with the express authorization of the Council of Ministers, on the recommendation of the Minister of Finance. Investment portfolio.

The securities in the portfolio may not be sold without the express approval of the Minister of Finance.

**Art. 23.** The Bank shall also maintain in its portfolio until fully amortized the nominal non-interest-bearing bond of the Special Debt now listed among its assets, to which the Laws of March 13, 1942 and December 31, 1946 refer.

The amount of the Bank's net profit shall be used for the amortization of this Special Debt until it is fully repaid. Amortization shall be carried out in the form and on the conditions prescribed in Article 9 of the Law of March 13, 1942.

As the Special Debt referred to in the preceding paragraph is amortized, the Bank of Spain shall acquire assets or securities to serve as the counterpart of notes in circulation in the same amount as the reductions in the asset value of this debt. The carrying out of the transaction referred to in this paragraph shall be at the discretion of the Minister of Finance.

**Art. 24.** The transfer, sale, encumbrance or removal abroad of the holdings in gold and silver of the Bank of Spain may be decided only by law.

**Art. 25.** The Bank of Spain shall keep an account in pesetas in favor of the Spanish Foreign Exchange Institute, with such ceiling as the Government, on the recommendation of the Minister of Finance, may propose. Account of Spanish Foreign Exchange Institute.

The credit account shall bear interest, to be determined by the Council of Ministers on the recommendation of the Minister of Finance, on the excess amount which is represented by the debit balance of the account in relation to the counterpart in pesetas of the gold owned by the Spanish Foreign Exchange Institute.

The Bank and the Institute may also agree to reduce this account by the transfer of gold by the latter to the former.

**Art. 26.** The Bank of Spain may carry out with private banks all operations appropriate to its capacity as a bankers' bank, with due regard to the general norms prescribed by the Minister of Finance. Operations of Bank of Spain with private banks.

Operations with private sector.

**Art. 27.** Operations shall not be carried out directly with private entities, enterprises or individuals except for reasons of public interest, after authorization in each individual case by the Council of Ministers.

Credit operations now outstanding in favor of private persons or enterprises shall be liquidated within five years.

Open market operations.

**Art. 28.** The Bank, independently of the investment portfolio it holds, may acquire, possess and sell bonds and other securities for its own account, and operate with this portfolio for purposes of regulating the money market.

It may also receive bonds of the State Debt and the Treasury for further negotiation.

#### BALANCE SHEET AND PROFITS

Balance sheet.

**Art. 29.** The form of the balance sheet of the Bank of Spain and the accounts which must appear therein shall be approved by the Minister of Finance.

The Bank shall publish its statement of position at least monthly. The statement for the end of the fiscal year shall be published in the *Boletín Oficial del Estado*.

Profit and loss account.

**Art. 30.** At the end of each annual financial period, which shall end on December 31, the Bank shall determine the profit account, and the net profits shall be used to increase the Bank's net worth, taking as the asset counterpart the types of investment which the Minister of Finance, in the interests of the national economy and its expansion, designates as such for each financial period.

Until total amortization of the Special Debt under the Laws of 1942 and 1946, the Bank's net profits shall be used entirely to amortize it.

Continuity.

**Art. 31.** The application to the Bank of Spain of the provisions of this Decree-Law and of the By-Laws to be approved by the Government shall not result in a break in the continuity of its accounts, or in a substitution of debtor or creditor in its debits or credits of any kind, or in a change or modification of the ownership or control of its assets and rights.

Disqualifications.

**Art. 32.** The Government, on the recommendation of the Minister of Finance, shall determine ineligibility for office resulting from incompatibility between holding other public and private offices and those of Governor, Deputy Governor or members of the Board of Directors of the Bank.

#### TRANSITIONAL PROVISIONS

**First.** The Governor, with the Board of Directors, shall draft and submit to the Minister of Finance the By-Laws by which the Bank of

Spain shall be governed. Final approval shall be given by a Decree approved in the Council of Ministers on the recommendation of the Minister of Finance.

**Second.** Until the new general By-Laws are approved, the present Statutes and By-Laws [*Estatutos y Reglamento*] shall govern insofar as they are not changed by the present text.<sup>5</sup>

**Third.** The Minister of Finance is authorized to prescribe the necessary provisions with respect to the organization and functioning of the Bank of Spain in its transition from the present regime to that established in the present text.

#### ADDITIONAL PROVISION

The State is acquiring for cancellation all shares representing the Nationalization capital of the Bank of Spain, which is hereby nationalized.

The fair price of these shares shall be paid by the State to the shareholders, in the amount, form and periods established in the first of the Final Provisions of Law No. 2 of April 14, 1962 on the Foundations for the Credit and Banking System.<sup>6</sup>

#### FINAL PROVISIONS

**First.** The Ministry of Finance shall finance the credit necessary for the payments which have to be made under the Additional Provision of this Decree-Law in connection with the Final Provisions of Law No. 2 of April 14, 1962 on the Foundations for the Credit and Banking System.<sup>6</sup>

**Second.** This Decree-Law, which shall be reported immediately to the Cortes, shall enter into force on the date of its publication in the *Boletín Oficial del Estado*,<sup>7</sup> the Articles of the Law of December 31, 1946 on the Banking System, and other provisions on the subject, being revoked insofar as they are contrary to the present text.

Thus I order by the present Decree-Law, done in Madrid on June 7, 1962.

FRANCISCO FRANCO

<sup>5</sup> New general By-Laws had not yet been issued at the time this material on Spain was being prepared for publication.

<sup>6</sup> See below, pp. 633-634.

<sup>7</sup> June 13, 1962.