

中央銀行專著選譯叢書 NO. 4

各國中央銀行法選輯(續編)

Collections of Central Bank Acts of Selected Countries (Volume 2)

《中英對照本》

中央銀行法務室編印
中華民國九十八年四月

序

中央銀行為國家貨幣政策之制定及執行機關，肩負物價及金融穩定之責任，並以經濟長期成長為目標，追求全民最高福祉。各國中央銀行於組織定位、決策架構、職掌及管理，因應該國憲政體制、政府組織設計、金融制度、監理政策及金融實務等各項因素，有不同發展及特色，其間多有可供我國中央銀行制度參考借鏡之處。


本行曾於 65 年間由經濟研究處編印「各國中央銀行法選譯」一書，並續於 81 年、82 年間增刊二輯。其後，本行法務室有鑒於多數國家中央銀行法之修正，乃重行編印，選譯歐、亞、美洲及大洋洲等 14 個國家中央銀行法，於 92 年、93 年分別出版中文版及中英對照版。

為便於各界對不同國家中央銀行制度之比較，本行法務室爰增譯未收錄於 92 年版之歐洲已開發國家及歐、亞部分新興經濟體中央銀行法共 10 國，編印「各國中央銀行法選輯（續編）」，中文版及中英文對照版同時付印，並均收錄

各國中央銀行法選譯（續編）

於「中央銀行專著選譯叢書」出刊，敬祈各界先進續予指教。

中央銀行 總裁

 謹識

中華民國 98 年 4 月 13 日

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一、BANCA D'ITALIA
STATUTE 2006
義大利銀行法

BANCA D'ITALIA STATUTE 2006

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TITLE III THE BANK'S BRANCHES

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BANCA D'ITALIA STATUTE 2006

TITLE I CONSTITUTION AND CAPITAL

ARTICLE 1

The Bank of Italy is an institution incorporated under public law.

In performing their functions, the Bank of Italy and the members of its decision-making bodies shall act autonomously and independently in observance of the principle of transparency and may not seek or accept instructions from other public or private-sector entities.

As the central bank of the Italian Republic, the Bank of Italy is an integral part of the European System of Central Banks (ESCB). It shall perform the tasks and functions entrusted to it in that capacity in compliance with the statute of the ESCB. It shall pursue the objectives assigned to the ESCB under Article 105(1) of the Treaty establishing the European Community (Treaty).

The Bank of Italy shall issue banknotes in accordance with Article 4(1) of Legislative Decree no. 43 of 10 March 1998. It shall perform the other tasks assigned to it by law and engage in banking activities instrumental to its functions.

ARTICLE 2

The Bank of Italy shall have its registered office in Rome.

It may have branches, which shall be divided into main branches and local branches.

The geographical distribution and powers of main branches and local branches shall be established in a resolution of the Board of Directors.

ARTICLE 3

The capital of the Bank of Italy shall be € 156,000 and shall be divided into registered shares of € 0.52 each, the ownership of which is governed by law.

義大利銀行法

2006 年修正施行

第 1 章 設立與資本

第 1 條

義大利銀行（以下簡稱本行）係依據公法所設立之機構。為執行本行職責，本行及決策委員會之成員應獨立自主運作並遵循透明性原則，不應尋求或接受來自其他公私部門之指示。

本行為義大利共和國之中央銀行，係歐洲中央銀行體系（以下簡稱 ESCB）之部分成員。本行應執行依 ESCB 之法令所委託之任務及職責，並追求 ESCB 依據歐洲共同體條約（以下簡稱條約）第 105 條第 1 項規定所訂目標。

本行應依據 1998 年 3 月 10 日第 43 號法令第 4 條第 1 項規定發行鈔券。本行應執行法律所規定之其他任務及從事有助於發揮其功能之銀行業務。

第 2 條

本行總行設於羅馬。

本行得設分行，分行應區分為主要分行及地區分行。

主要分行及地區分行地域之分佈及職權，應由理事會建立裁決機制處理之。

第 3 條

本行資本為 156,000 歐元，全部資本分為股份，每股 0.52 歐元，均為記名式，其所有人以法律所規定者為限。

The shares may be transferred, acting on a proposal from the Directorate, only with the prior consent of the Board of Directors, preserving at all times the autonomy and independence of the Bank and a balanced distribution of the shares.

ARTICLE 4

The shares shall be represented by registered certificates.

Transfers of shares must be evidenced by endorsement, certified by a notary public, of the original certificate, which must be presented to the Head Office of the Bank, which shall issue a new certificate in the name of the transferee and, in the case of a partial transfer, a new certificate in the name of the transferor. The transferee may exercise the related shareholder rights only from the time the transferred certificate is presented.

TITLE II ADMINISTRATION OF THE BANK

ARTICLE 5

The central decision-making bodies of the Bank are:

- a) the shareholders' meeting;
- b) the Board of Directors;
- c) the Board of Auditors;
- d) the Directorate;
- e) the Governor;
- f) the Director General and the Deputy Directors General.

SHAREHOLDERS' MEETING

ARTICLE 6

Shareholders' meetings shall be ordinary or extraordinary. Extraordinary shareholders' meetings shall decide on amendments to this statute; ordinary shareholders' meetings shall decide on all the matters specified by the statute. Shareholders' meetings shall be convened by the Board of Directors, including upon a motivated request from the Board of Auditors or shareholders who have held 20,000 or more shares for at least three months. Shareholders' meetings held at the Head Office shall be chaired by the Governor; those held at a main branch shall be chaired by the chairman of the board of regents of that main

本行股份之轉讓，應隨時維持本行之獨立自主性及股權分散原則，並應經執行理事會之提案及理事會之事前同意，始得為之。

第 4 條

本行股份應為記名式憑證。

讓與人於轉讓時須背書，並經公證人公證，其原始憑證應提交總行，換發以受讓人為所有人名義之股權憑證；如為部分轉讓，應就剩餘部分換發以讓與人為所有人名義之憑證。受讓人自轉讓之憑證提交總行時起，得行使股東之相關權利。

第 2 章 行政管理

第 5 條

本行主要決策單位如下：

- a) 股東會。
- b) 理事會。
- c) 監事會。
- d) 執行理事會。
- e) 總裁。
- f) 總經理及副總經理。

第 1 節 股東會

第 6 條

股東會分為常會及臨時會。常會決定法定事項；臨時會決定法令修正案。

股東會由理事會召集之；並得由監事會或持有 20,000 股以上股份及至少三個月之股東提案請求召集；股東會於總行召開時，由總裁擔任主席；股東會於主要分行召開時，由

branch or, in his absence, the senior regent in terms of appointment or, if this is the same, of age.

The date and the agenda of shareholders' meetings shall be announced to shareholders in a notice published in the *Gazzetta Ufficiale* of the Italian Republic at least fifteen days before the date fixed for the meeting.

ARTICLE 7

The annual ordinary general meeting of shareholders shall be held at the Head Office not later than 31 May to approve the annual accounts, the allocation of profits, the distribution of the income earned on the reserves and, where necessary, the election of the members and chairman of the Board of Auditors. It shall determine the emoluments of the members of the Board of Directors and the Board of Auditors, the regents of the main offices and the councillors of the local branches.

The agenda, set by the Board of Directors, must also include all the proposals presented to it by the end of March, in a request signed by one or more shareholders who have held 5,000 or more shares for at least three months. Proposals not on the agenda may not be discussed, but the meeting may decide that they be put on the agenda of a subsequent meeting.

ARTICLE 8

If it is not possible to complete the agenda on the day set, the chairman may adjourn the meeting to the next day.

If a quorum is not duly formed on the second day, the resolutions adopted on the first day shall continue to be valid. A new meeting must be convened to discuss the remaining items on the agenda in accordance with the procedure specified in Article 10.

ARTICLE 9

Shareholders who have held 100 or more shares for at least three months shall have the right to attend shareholders' meetings.

Shareholders entitled to attend shall have one vote for every 100 shares held up to 500 shares and one vote for every 500 shares held over and above the first 500, provided they have held the shares for not less than three months.

In no circumstances may any shareholder cast more than 50 votes.

其評議委員會主席擔任主席，主席缺席時，由資深評議委員擔任之；評議委員資歷相同時，由年長者擔任之。股東會之召開日期及議程，應於開會前十五日，以登載於義大利政府公報之方式通知股東。

第 7 條

股東常會應於每年 5 月 31 日前於總行召開，認可年度決算、盈餘分派、公積收入分派，並於必要時，選任監事會主席及成員。理事會與監事會成員、主要分行評議委員及地區分行委員之報酬，亦由股東常會決定之。

理事會所訂定之議程應包含於同年 3 月底前，經持有 5,000 股以上股份及至少三個月之股東連署所提之全部議案。未經列入議程之議案得不予討論，但股東會得決議將其列入後續會議之議程中。

第 8 條

於股東會開會當日無法完成所有議程者，主席得將會議延至次日續行。

於次日續行之會議，如未達法定最低出席人數，原開會首日所通過之議案仍生效力。理事會應依第 10 條所定程序重新召開會議，討論原議程中尚未完成之議案。

第 9 條

持股 100 股以上且至少三個月之股東，始有權出席股東會議。

前項股東持股 100 股以上、500 股以下者，每百股有一表決權；持股逾 500 股者，每 500 股有一表決權；惟持股期間均不得少於三個月。

每一股東不得超過五十表決權。

Each shareholder entitled to attend may be represented by his legal representative or another person, other than a member of the Board of Directors of the Bank or of the Board of Auditors, bearing a special proxy form with the signature certified by the manager of a main or local branch of the Bank.

A participant may not represent more than two shareholders.

ARTICLE 10

The ordinary shareholders' meeting shall be duly constituted when at least one third of the shareholders, holding one fifth or more of the Bank's capital, are present.

If a quorum of shareholders or shares is not reached, the meeting shall be postponed for not less than eight nor more than fifteen days from the first call. At the second call the meeting shall be duly constituted regardless of the number of shareholders present and the number of shares represented.

The postponement of the meeting shall be announced in the *Gazzetta Ufficiale* in the interval between the first meeting and the second, with the information that the convocation is a second call.

In the meeting at the second call resolutions may not be adopted on matters other than those on the agenda of the meeting at the first call.

ARTICLE 11

The extraordinary shareholders' meeting shall be duly constituted when at least one half of the shareholders, holding one third or more of the Bank's capital, are present. If these conditions are not met, the meeting shall be reconvened in the manner specified in Article 10.

ARTICLE 12

The minutes of shareholders' meetings held at the Head Office shall be drawn up by a notary public and shall be signed by the end of the month following that of the meeting by the chairman thereof and by two shareholders chosen by the meeting.

ARTICLE 13

The shareholders' meeting shall be convened, in the manner specified in Articles 6, 7 and 8, at the main branches when the object is the election of members of the Board of Directors.

有權出席股東會之股東得出具由本人簽署，並經主要或地區分行經理驗證之委託書，委託其法定代表人或本行理監事會成員以外之第三人出席股東會。

每一受託出席股東會者，其委託之股東不得超過二人。

第 10 條

股東常會應有 1/3 以上之股東人數，且持有本行資本總額 1/5 以上股份之股東出席，始為合法召集。

如出席股東人數或股份數未達前項標準者，股東常會應延自首次開會日起算 8 至 15 日內再舉行。第二次會議之召集，不受出席股東人數及股份數之限制。

會議之延期應於首次開會日及第二次開會日之期間內登載於政府公報，並註明本次會議為第二次召集。

第二次會議不得就首次會議議程所列議案以外之事項做成決議。

第 11 條

股東臨時會應有半數以上之股東人數，且持有本行資本總額 1/3 以上股份之股東出席，始為合法召集。出席股東人數或股份數未達標準時，應依前條所定方式重新召集會議。

第 12 條

於總行召開之股東會，其議事錄應由公證人草擬，並於股東會結束後之次月月底，由股東會之主席及股東會所選定之二位股東簽署。

第 13 條

股東會於主要分行召開時，如涉及理事會成員之選任者，應依第 6 條至第 8 條所定方式為之。

The meeting shall be duly constituted when at least one fifth of the shareholders, holding one tenth or more of the capital, are present. If a quorum of shareholders or shares is not reached, the meeting shall be postponed in accordance with the procedure laid down in Article 10.

The role of secretary of the meeting shall be performed by the secretary of the board of regents or, in his absence, by a person present at the meeting appointed by the chairman thereof.

Where the number of directors to be elected is equal to half the Board membership or more, their election shall be entrusted to a single shareholders' meeting to be held at the Bank's Head Office in accordance with the procedures laid down for ordinary shareholders' meetings. At such meetings, a separate vote shall be taken for each main branch.

ARTICLE 14

Resolutions obtaining a majority of the votes of the shareholders present shall be valid.

Elections shall be by secret ballot. Only persons who receive an absolute majority of votes shall be considered elected.

BOARD OF DIRECTORS

ARTICLE 15

The Board of Directors shall consist of the Governor and thirteen directors elected by shareholders' meetings held at the main branches of the Bank.

Each director shall serve for a term of five years and may be re-elected not more than twice.

The Director General shall participate in the meetings of the Board but, unless he is standing in for the Governor, only in an advisory capacity.

The Deputy Directors General shall attend the meetings of the Board as observers and one of them, chosen by the Board, shall act as secretary and draw up the minutes.

Acting on a proposal from the Governor, the Board of Directors may establish one or more ad hoc advisory committees amongst its members.

ARTICLE 16

The Board of Directors shall hold its meetings at the Head Office and shall be convened and chaired by the Governor.

前項股東會應有人數 1/5 以上股東，持有本行資本總額 1/10 以上股份出席，始為合法召集。出席股東人數或股份數未達標準者，應依第 10 條所定程序重新召集會議。

股東會之秘書由執行理事會秘書擔任；執行理事會秘書出缺時，由股東會主席指定一出席人員擔任。

應選理事人數達理事會成員半數以上者，其選舉應委由總行依常會所適用之程序召開單一股東會辦理之；會議中應由各主要分行分別進行表決。

第 14 條

股東會之決議應有出席股東超過半數同意，始生效力。

選舉採秘密投票；其當選採絕對多數決。

第 2 節 理事會

第 15 條

理事會由總裁及於本行各主要分行召開之股東會所選出之十三位理事組成。

理事任期為五年，任期期滿得連選連任二次。

總經理除代理總裁出席外，應以諮詢人員身分出席理事會議。

副總經理應列席理事會議，並由理事會選定副總經理一名擔任秘書，負責草擬會議紀錄。

理事會得依總裁之提案，選任其成員，組成一個以上之特別諮詢委員會。

第 16 條

理事會於總行召開，由總裁擔任召集人及主席。

The meetings of the Board of Directors shall be ordinary or extraordinary. The former shall be held at least once every two months; the latter whenever the Governor considers it necessary or upon a motivated request from at least three members of the Board.

The Board shall be duly constituted when at least seven of the members are present, not counting the Governor or his substitute.

Resolutions shall be passed by an absolute majority of those present. The Governor or his substitute shall vote only in the event of a tie. Resolutions shall be passed by a form of open voting or, when they concern persons, including lists, by secret ballot.

The minutes and excerpts from the resolutions of the Board of Directors shall be authenticated by the Governor or his substitute and by the secretary.

ARTICLE 17

Pursuant to Articles 19(7) and 19(8) of Law no. 262 of 28 December 2005, the appointment of the Governor, his reappointment and his removal from office in the cases provided for by Article 14(2) of the statute of the ESCB shall be enacted by means of a decree issued by the President of the Republic, acting on a proposal from the President of the Council of Ministers following the adoption of a resolution by the Council of Ministers after hearing the opinion of the Bank of Italy's Board of Directors.

In order to express the opinion referred to in the previous paragraph, the Board of Directors shall be convened and chaired by the senior member in terms of appointment or, if this is the same, of age. The opinion, approved by a qualified majority of two thirds of the members of the Board, shall be issued for the purposes of the resolution of the Council of Ministers.

The Board of Directors, acting on a proposal from the Governor, shall appoint the Director General and the Deputy Directors General, reappoint them and remove them from office for the reasons given in Article 14(2) of the statute of the ESCB. For the adoption of these measures, the Board shall be convened in extraordinary session. The Board must also be convened for these purposes upon a written request from at least two thirds of the Board members, not counting the Governor. In such cases the meeting must take place not more than twenty days from the request.

Without prejudice to the second paragraph, the resolutions referred to in this article must be adopted with at least two thirds of the Board members present, excluding the Governor in the cases referred to in the second paragraph, and with the affirmative vote of at least two thirds of those present.

理事會議分為常會及臨時會。常會每二個月至少舉行一次；臨時會於總裁認為有必要時，或於三位以上之理事提案要求召開時舉行。

理事會之合法召開除總裁或其代理人外，至少應有七位理事出席。

決議應有出席理事過半數同意。總裁或其代理人僅得於表決可否同數時投票。決議採公開投票，但涉及個人時，採秘密投票。

理事會作成之決議，其會議紀錄及摘要應經總裁或其代理人及秘書之確認。

第 17 條

依據 2005 年 12 月 28 日第 262 號法案第 19 條第 7 款及第 8 款規定，總裁之任命以及依歐洲中央銀行體系法第 14 條第 2 款所規範之續任及免職，應由內閣總理根據內閣會議於聽取本行理事會意見做成決議後，提請義大利共和國總統發布命令始生效力。

理事會為表達前項所稱之意見，應由最資深之理事召集會議並擔任主席；資歷相同者，由較年長者任之；並於經理事 2/3 以上之同意後，向內閣會議提出。

理事會應依總裁之提議，任命總經理及副總經理，並依歐洲中央銀行體系法第 14 條第 2 款所定事由為續任命或免職。為處理總經理及副總經理之任免案，理事會應依據 2/3 以上理事（不含總裁）之書面請求，並自請求日起二十日內召開臨時會。

本條有關之決議，應有 2/3 以上理事（於第 2 項之情形，應不含總裁）出席會議，並經出席理事 2/3 以上同意。

The appointment, reappointment and removal from office of the Director General and the Deputy Directors General must be approved by a decree of the President of the Republic acting on a proposal from the President of the Council of Ministers in agreement with the Minister for the Economy and Finance after consulting the Council of Ministers.

ARTICLE 18

The Board of Directors shall be charged with the general administration, management supervision and internal control of the Bank.

In conformity with legislative and regulatory provisions and, in the case of resolutions referred to in points 9) and 10), in compliance with the statute of the ESCB and the provisions adopted by the European Central Bank (ECB), the Board shall:

- 1) examine and approve, acting on a proposal from the Directorate, the draft annual accounts and resolve to submit them to the Board of Auditors and the shareholders' meeting for final approval. After consulting the Board of Auditors, it shall decide on the dividend to be paid to shareholders;
- 2) approve the annual expenditure budget;
- 3) authorize contracts involving the disposal of real estate for a consideration exceeding 1 million and settlements, compositions with creditors and assignments in respect of claims exceeding € 200,000, and express its opinion on all other contracts and legal actions which, because of their importance, the Governor considers should be submitted to it for approval;
- 4) approve the Bank's internal regulations;
- 5) determine the staffing levels, recruit and dismiss employees;
- 6) approve agreements negotiated with trade unions;
- 7) adopt resolutions regarding the geographical configuration and general organizational structure of the Bank;
- 8) appoint and remove from office regents at the main branches and councillors at the local branches and determine their number and which of them are to act as examiners;
- 9) appoint the Bank's foreign correspondents;
- 10) determine the rules and terms and conditions for the Bank's operations;
- 11) set the annual limit on donations to charity and contributions to initiatives of public interest;
- 12) decide upon all other matters concerning the general administration of the Bank not specifically entrusted to the shareholders' meeting which the Governor considers should be submitted to it.

總經理及副總經理之任免，應由內閣總理徵詢內閣意見，並經經濟部長及財政部長同意後，提請總統發布命令始生效力。

第 18 條

理事會負責本行之一般行政事務、經營管理及內部控制。為遵守法令規定、歐洲中央銀行體系法及歐洲中央銀行通過之法規，本行應：

- 1) 依理事提案審查及同意年度決算報表，並提交監事會及股東會請求最終認可。於徵詢監事會意見後，理事會應決定股息分派。
- 2) 認可歲出預算。
- 3) 批准超過 1,000,000 歐元之不動產處分契約及設定、與債權人之和解協議及超過 200,000 歐元之債權轉讓，並對於經總裁認定具有重要性之所有其他合約與法律行為表示意見。
- 4) 認可本行內規。
- 5) 決定職員之職務等級、聘僱及解僱等事宜。
- 6) 認可與貿易組織之協議。
- 7) 議決有關本行之地域分佈及組織架構。
- 8) 任免主要分行之評議委員、地區分行之委員，並決定其人數及充任檢查員。
- 9) 指派本行駐外人員。
- 10) 決定本行經營之規則及條件。
- 11) 設定每年捐贈慈善機構及公益團體之限額。
- 12) 決定經總裁認定不須特別向股東會提出之本行其他一般行政事務。

The Board shall be informed by the Governor of the material facts regarding the administration of the Bank, and in particular:

- of the content of the Bank's multi-year plan;
- of the annual results of expenditure commitments;
- of the results of internal audits;
- of the investment of liquid balances, reserves set up under this statute and provisions for supplementary staff pensions.

BOARD OF AUDITORS AND EXAMINERS

ARTICLE 19

The Board of Auditors shall consist of five auditors, including the chairman; there shall be two alternates. The members of the Board of Auditors shall remain in office for three years and may be re-elected not more than three times.

The Board of Auditors shall perform, directly at the Head Office and either directly or through examiners at the main branches and the local branches, checks on the administration of the Bank with regard to observance of the law, this statute and the Bank's general regulations. It shall carry out accounting checks, without prejudice to the activity of the external auditors referred to in Article 38, examine the annual accounts and express its opinion on the distribution of the annual dividend.

The members of the Board of Auditors shall attend the meetings of the Board of Directors.

Where necessary the Board of Auditors shall report its own observations and any received from the examiners to the Governor.

The members of the Board of Auditors shall be paid a fixed fee established by the shareholders' meeting, in addition to the reimbursement of expenses.

ARTICLE 20

There may not be more than four examiners at each main or local branch.

Examiners shall monitor the activity of the main or local branch at which they are appointed.

On instructions from the Board of Auditors, they shall carry out checks on the holdings of cash, which must be audited completely by two of them at least once every three months.

總裁應提報理事會有關本行行政上之重要事項，尤其是：

- 本行數年計畫內容。
- 年度支出情形。
- 內部監理情形。
- 投資流動餘額，以及依據增補人員退休金規定設立之準備金。

第 3 節 監事會及檢查員

第 19 條

監事會由包括主席在內之五名監事組成；並置二名後補監事。監事會成員任期三年，得連選連任三次。

監事會在總行應以直接執行之方式，在主要分行及地區分行應以直接或透過檢查員之方式，查核本行在經營上對法規遵循之情形；並應於不牴觸第 38 條所定外部監事之行動下，實施會計檢查，以查核年度帳務及針對股息之分派簽注意見。

監事會成員應出席理事會會議。

監事會於必要時，應向總裁報告自己或來自檢查員之查核意見。

監事會成員享有依股東會所訂定之固定報酬，並另支給特別費。

第 20 條

每一主要分行或地區分行之檢查員以四位為限。

檢查員應負責監督其所配置之主要分行或地區分行之營運。

檢查員應依監事會之指示，每三個月至少實施一次現金核核。

They shall transmit to the Board of Auditors, for communication to the Governor where appropriate, proposals and observations which they believe useful for the operation of the Bank, at the same time informing the branch manager and, at the main branches, also the board of regents.

DIRECTORATE

ARTICLE 21

The Directorate shall consist of the Governor, the Director General and three Deputy Directors General.

The Directorate shall have authority to adopt measures of external significance regarding the exercise of the public functions entrusted by law to the Bank or to the Governor in pursuit of the Bank's institutional aims, other than decisions falling under the authority of the ESCB.

Within the scope of its authority, the Directorate may grant mandates to managers of the Bank, establishing how they are to be performed, for the adoption of measures that do not require discretionary assessments, such as clarifications, fact-findings and others that merely involve the acknowledgement of facts, circumstances and qualifications.

ARTICLE 22

The Governor or, in the event of his absence or inability to act, the Director General, shall convene the Directorate and set the agenda whenever he considers this necessary or upon a motivated request from one of the other members of the Directorate indicating the matters to be dealt with.

The meetings of the Directorate shall be chaired by the Governor or, in the event of his absence or inability to act, the person who stands in for him as provided for in Articles 25 and 26; the quorum shall be three members.

Decisions shall be adopted by the majority of the votes of those present; in the event of a tie, the Governor shall have the casting vote. Minutes shall be kept of each meeting.

Every other rule of procedure for meetings shall be decided by the Directorate in an ad hoc resolution.

Measures adopted by the Directorate shall be issued in an act signed by the Governor or by one of the other members as provided for in Articles 25 and 26, with a reference to the collegial decision containing the reasons for the measure.

In cases of necessity and as a matter of urgency, measures referred to in Article 21 may be adopted by the Governor or by one of the other members as provided for in Articles 25 and 26. Such measures shall be ratified by the Directorate at the first possible meeting.

檢查員應將有利於本行營運之提案及查核報告送交監事會與總裁作適度溝通，同時應知會分行經理；如為主要分行，並應知會其評議委員會。

第 4 節 執行理事會

第 21 條

執行理事會成員包括總裁、總經理及三位副總經理。

除 ESCB 當局之決定外，執行理事會為追求本行設立之目標，有權採取外部之重要性措施，以執行法律賦予本行或總裁關於公共目的之職責。

執行理事會得於其職掌範圍內，同意授權本行經理建立執行之原則，俾以採用不具裁量性之措施，如澄清、發掘事實及其他僅涉及事實、狀態與資格之認定等事項。

第 22 條

總裁缺席或不能視事時，總經理應於必要時或依執行理事會成員之提議，召集執行理事會及排定議程。

執行理事會由總裁擔任主席，總裁缺席或不能視事時，由第 25 條及第 26 條所定代理人擔任主席。其開會之最低人數為三人。

議案之決議應有出席成員半數以上同意；表決可否雙方同數時，總裁應行使投票權。會議應作成議事錄。

其他議事規則應由執行理事會以特別決議議決之。

執行理事會通過之議案應附具相關理由，由總裁或第 25 條及第 26 條所定人員之一簽署後發布實施。

於必要或急迫時，有關第 21 條所定措施得由總裁或第 25 條及第 26 條所定人員之一逕予採行。但其後應由執行理事會於最近一次會議中予以追認。

ARTICLE 23

The Directorate may determine, in an ad hoc resolution, the measures or categories of measures, among those referred to in the second paragraph of Article 21, to be adopted by means of the approval of written proposals submitted by departments in the manner specified in the following paragraphs. For the adoption of such measures, the competent organizational units of the Bank shall transmit precise and reasoned proposals for decisions simultaneously to each member of the Directorate.

If approved in writing by all the members within five days of the day of their delivery, the measures proposed shall be considered to have been adopted by the Directorate on the day of the last approval.

Failing such approval or at the express request of one of the members, the adoption of such measures shall be discussed and decided in a meeting of the Directorate.

The adoption of measures using the procedure referred to above must be mentioned in the minutes of the first possible meeting.

GOVERNOR

ARTICLE 24

The Governor shall represent the Bank of Italy vis-a-vis third parties in all acts and contracts and in legal actions.

He shall have the duties and powers reserved to the position by the Treaty, the statute of the ESCB and the related Community and Italian implementing provisions.

He shall decide, after consulting the Directorate, appointments, promotions, assignments, transfers and tasks of senior staff and appoint the managers of the main branches and local branches.

He shall submit proposals for decisions to the Board of Directors and provide it with the information specified in Article 18.

All matters not expressly reserved to the Board of Directors or the Directorate by law or this statute shall be entrusted to the Governor.

The Governor's term of office shall be six years; it may be renewed only once.

第 23 條

執行理事會得允許各部門依本條以下各項規定之方式書面提案，並以特別決議決定第 21 條第 2 項規定所採取之措施或其種類。

為使前項措施能獲採納，本行提案單位應傳送清晰合理之提案予每位執行理事會成員，俾利其決定。

如前項提案於送達後五日內，經全體執行理事會成員以書面同意者，應視同意書之最後到達日，業經執行理事會決議通過。

提案如未獲全體執行理事會成員以書面同意或經執行理事會成員之一提出明確要求者，應於執行理事會進行討論及決議。

依前四項程序所採行之措施，應於最近一次執行理事會之議事錄中予以載明。

第 5 節 總裁

第 24 條

總裁對外代表本行執行一切業務、簽約及法律行為。

總裁應依 ESCB 與其他相關共同體之條約、法令及義大利之規定，行使其職權。

總裁應於徵詢執行理事會後，決定高階職員之任用、升職、指派、調遷及任務，並任命主要分行與地區分行經理。

總裁應提案供理事會作成決議，並提供理事會有關本法第 18 條所定資訊。

本法或其他法律未明定屬於理事會或執行理事會職掌之事務，均由總裁掌理之。

總裁任期為六年；僅得連任一次。

DIRECTOR GENERAL AND DEPUTY DIRECTORS GENERAL

ARTICLE 25

The Director General shall have authority for acts of ordinary administration and carry out the decisions of the Board of Directors.

He shall decide, after consulting the Directorate, promotions, assignments, transfers and tasks of members of the staff when this does not fall under the Governor's authority.

Within the scope of his duties the Director General shall represent the Bank, with the right to delegate his authority with the prior consent of the Governor; he may delegate the conclusion of contracts to members of the Bank's staff by means of a simple letter.

The Director General shall assist the Governor in the performance of his duties and shall stand in for the Governor in the event of the latter's absence or inability to act; the signature of the Director General shall be full proof thereof vis-a-vis third parties.

The term of office of the Director General shall be six years; it may be renewed only once.

ARTICLE 26

The Deputy Directors General shall assist the Director General in the performance of his duties and shall stand in for him in the event of his absence or inability to act. Each of them may stand in for the Governor and the Director General in the event of their simultaneous absence or inability to act.

The signature of one of the Deputy Directors General shall be full proof vis-a-vis third parties of the absence or inability to act of the Governor and the Director General.

The term of office of the Deputy Directors General shall be six years; it may be renewed only once.

TITLE III THE BANK'S BRANCHES

MAIN BRANCHES

ARTICLE 27

At each main branch there shall be a board of regents.

The regents shall be chosen from among persons who have a thorough knowledge of the local economy. Depending on the activity of each main branch, the number of regents shall be between seven and fourteen; the branch manager shall be a member of the board.

第 6 節 總經理及副總經理

第 25 條

總經理掌理一般行政事務及執行理事會之決議。

總經理應於徵詢總裁後，決定其他非由總裁決定之職員之任用、升遷、指派、轉調及任務。

總經理於職權範圍內代表本行；其經總裁事先同意後，得授權他人，亦得以書面授權其他行員締結合約。

總經理應於職責範圍內輔佐總裁，並於總裁缺勤或不能視事時代理之；其簽署，對於第三人應有充分效力。

總經理任期為六年；僅得連任一次。

第 26 條

副總經理應於職責範圍內輔佐總經理，並於總經理缺勤或不能視事時代理之。每位副總經理於總裁及總經理缺勤或不能視事時，皆有代理權。

每位副總經理行使前項代理權所為之簽署，對於第三人皆有充分效力。

副總經理任期為六年；僅得連任一次。

第 3 章 本行分行

第 1 節 主要分行

第 27 條

每一主要分行設有一評議委員會。

評議委員由對地方經濟有充分認知之人員中選出。每一主要分行應視其營運情況推選評議委員七至十四人；其分行經理並為評議委員會當然成員。

Regents shall be appointed for six years by the Board of Directors, acting on a proposal from the Governor, and half shall complete their terms of office every three years. They may be reappointed.

The members of the Board of Directors shall be ex officio regents at the main branches where they were elected in addition to the regents referred to in the second paragraph.

Once a year each board of regents shall elect a chairman and a secretary from among its members; they may be re-elected.

ARTICLE 28

The board of regents shall meet once every two months on a general basis and at such other times as the chairman considers necessary, or when three members so request.

The quorum shall be the majority of the members, not counting those acting as examiners, who shall be present in an advisory capacity.

Resolutions shall be adopted by an absolute majority of those voting. In the event of a tie, the chairman or his substitute shall have the casting vote.

Votes concerning persons shall be cast by secret ballot.

ARTICLE 29

The board of regents shall be charged with the administration of the main branch within the limits established by this statute, the opening and closing of the vaults, and the cash audit. To this end it shall establish a roster.

The regent on duty who is responsible for the opening and closing of the cashier's office shall be entrusted with one of the three keys to the vault. In turn he shall deliver the key directly into the hands of the colleague next on duty. Such transfers shall be recorded in minutes signed by the participants.

The board of regents shall ensure that the regulations and instructions of the Head Office are observed. It shall examine and approve the budget of the administrative expenses of the main branch.

LOCAL BRANCHES

ARTICLE 30

Each local branch shall have between four and ten councillors, depending on the activity of the branch. Councillors shall be appointed for six years by the Board of Directors, acting on a proposal from the Governor, and half shall complete their terms of office every three years. They may be reappointed.

評議委員應由總裁提請理事會任命；其任期為六年，半數評議委員並應於每三年輪流任滿；任期屆滿，得續行任命。除依第 2 項所推選之評議委員外，理事會成員亦得依職權擔任主要分行評議委員。

評議委員會應每年一次自其成員中推選主席及秘書各一名，並得連選連任。

第 28 條

評議委員會於一般情形下，應每二個月開會一次；於主席認為必要或經三位評議委員要求時，得另行開會。

開會應有評議委員過半數出席，但其人數不計入以諮詢人員身分出席之檢查員。

議案之通過採絕對多數決。表決可否雙方同數時，主席或其代理人應行使投票權。

表決涉及個人時，應採秘密投票。

第 29 條

評議委員會在本法所定有限之範圍內負責主要分行之行政管理、金庫開關及現金稽核。為達成上開目標，評議委員會應建立值勤名冊。

負責現金辦公室開關之值勤評議委員，應保管三支金庫鑰匙之其中一支。於交班時，應直接交予下位輪值評議委員保管。雙方應將交接情形載明於紀錄簿並簽署。

評議委員會應確保總行規定及指令受遵循；並應檢查及認可主要分行之行政支出預算。

第 2 節 地區分行

第 30 條

每一地區分行應視其營運情況，置委員四至十名。委員由總裁提請理事會任命；任期六年，其中半數於每三年輪流任滿；任期屆滿，並得續行任命。

The councillors shall meet at least twice a year under the chairmanship of the branch manager.

The councillors who act as examiners shall open and close the vaults in the manner specified in the second paragraph of Article 29.

BRANCH MANAGERS

ARTICLE 31

The management of the offices and operations of each main and local branch of the Bank shall be performed by a branch manager on the basis of the rules and instructions issued by the Head Office.

Branch managers shall submit proposals to the Head Office for settlements and compositions with creditors involving debtors of the Bank.

Branch managers shall represent the Bank vis-a-vis third parties, both in legal actions and in acts and contracts concerning the main or local branch in question.

They may sign correspondence and all the transactions of their branch. With the consent of the Director General and on their own responsibility, they may delegate the above-mentioned signing powers to employees of their main or local branch.

Branch managers may be charged with tasks of coordinating the activity of a number of branches within geographical areas and in accordance with procedures and limits established by the Bank's internal regulations.

ARTICLE 32

In the case of the sudden absence or inability to act of the manager of a main branch, the chairman of the board of regents or his substitute shall, where there is no deputy manager, arrange a provisional substitution by taking over the management directly or delegating it to another regent and immediately notify the Head Office.

Where the events referred to in the preceding paragraph occur in local branches, the senior councillor in terms of appointment or, if this is the same, of age among the councillors present shall provisionally take over the management and immediately notify the Head Office.

ARTICLE 33

The Governor, after consulting the Directorate, may at any time appoint an inspector or another employee of the Bank to temporarily take over the management of a main or local branch.

委員每年至少應開會二次，並由其分行經理擔任主席。
擔任檢查員之委員應依第 29 條第 2 項所定方式開關金庫。

第 3 節 分行經理

第 31 條

每一主要分行及地區分行之經營及管理，由分行經理依據總行所發布之規定及指令予以執行。

分行經理應將涉及本行債務人之債權人有關之清算及協議向總行提出建議。

分行經理對外代表本行，包括涉及主要分行或地區分行之簽約、訴訟及一切行為。

分行經理得簽署該分行之文件及所有交易；並得於其職權範圍內經總經理同意後，授權由其主要分行或地區分行之行員行使之。

分行經理在符合本行內部所定之程序及限制下，於其所在區域負有協調各分行活動之任務。

第 32 條

未設副經理之主要分行，其經理因臨時缺勤或不能視事時，評議委員會主席或其代理人應選派臨時代理人，或授權其他評議委員逕予經管，並立即告知總行。

前項情形，發生於地區分行時，應指派資深委員，或於委員資歷相同時，選派其中較年長者暫時經管，並立即告知總行。

第 33 條

總裁於徵詢理事會意見後，得隨時指派檢查員或本行其他行員暫時經管主要分行或地區分行之事務。

Regents, councillors, employees appointed by the Governor and deputy managers who temporarily stand in for managers at main and local branches shall have all the latter's functions and powers.

TITLE IV OPERATIONS OF THE BANK

ARTICLE 34

In order to pursue the objectives and carry out the tasks of the ESCB, the Bank of Italy may take all the actions and carry out all the operations permitted by the statute of the ESCB in accordance with the conditions established in the implementation thereof.

ARTICLE 35

Without prejudice to Article 34, the Bank of Italy may take all the actions and carry out all the operations that allow it to perform in full the other tasks entrusted to it and, within any limits deriving from the application of Chapter IV of the statute of the ESCB, the management of its assets and personnel, both in service and retired. In particular, it may:

- issue bearer instruments;
- issue bank drafts and cheques;
- receive deposits for safekeeping, as security, or subject to other restrictions;
- receive funds on current account, with or without interest, repayable on demand or at a future date;
- negotiate and administer financial instruments;
- acquire and dispose of moveable property;
- construct, acquire and dispose of real estate;
- collect securities payable in Italy or abroad on behalf of third parties and in general perform payment and collection services on behalf and at the risk of third parties.

ARTICLE 36

The Bank of Italy shall act as fiscal agent for the State under special agreements. It may perform other services on behalf of the State under conditions established by the Board of Directors.

經總裁指派之評議委員、委員、行員及暫代主要分行及地區分行經理職位之副經理，具有該分行經理之全部職掌及權限。

第 4 章 本行業務

第 34 條

為追求 ESCB 賦予之目標及任務，本行得採取一切行動，並依照執行過程中所處之情況，從事歐洲中央銀行體系法令所許可之操作。

第 35 條

於不違反前條規定下，本行得採取一切行動及從事委由本行充分執行受託任務之其他業務；並於適用歐洲中央銀行體系法第 4 章所生之限制範圍內，管理其資產及人事，包括現職及退休人員。其具體內容如下：

- 發行無記名支付工具。
- 發行銀行匯票及支票。
- 妥善保管收受之存款，加以保全或遵循其他限制。
- 以有息或無息，並按活期或定期方式償付收受往來帳戶資金。
- 兌付與管理金融工具。
- 取得及處分動產。
- 建造、取得及處分不動產。
- 代表第三人收受可在義大利或國外支付之證券，通常並由第三人承擔代為從事收支服務之風險。

第 36 條

本行依特別協議代理國庫，並得依理事會所訂條件代表國家辦理其他業務。

ARTICLE 37

Advances granted by the Bank of Italy against the pledge of collateral shall not be subject to the provisions concerning the revocability of contracts, payments and guarantees in cases of bankruptcy proceedings.

The securities, other assets or goods pledged shall serve to guarantee any right or title, including those arising from other operations, which the Bank may have vis-a-vis the persons or companies providing the collateral.

Liens established for any reason in favour of the Bank of Italy shall also serve automatically to guarantee up to their full amount any other direct or indirect claim of the Bank, even if it is not liquid and collectible, on the same debtor, whether established before or after the transaction guaranteed.

TITLE V

ANNUAL ACCOUNTS AND REPORT ON ACTIVITY

ARTICLE 38

A set of annual accounts and an inventory of the Bank's assets and liabilities must be prepared each year.

The annual accounts must be submitted to the Board of Auditors not later than 15 April of each year. The Board of Directors, after consulting the Board of Auditors, shall approve the allocation of the profits and the dividend to be distributed to shareholders and paid after approval of the annual accounts by the shareholders' meeting.

The annual accounts of the Bank shall be audited by external auditors in accordance with Article 27 of the statute of the ESCB.

ARTICLE 39

The Board of Directors shall determine the allocation to be made to the ordinary reserve, in an amount up to 20% of the net profit for the year. Shareholders shall be paid a dividend not exceeding 6% of the capital.

The balance, on a proposal from the Board of Directors, may be used to establish special provisions and extraordinary reserves by setting aside up to 20% of the total net profit and to pay an additional amount not exceeding 4% of the capital to the shareholders as a supplement to the dividend. The remaining sum shall be transferred to the State.

The ordinary reserve, if reduced to offset losses or for any other reason, must, except as provided for in Article 40, be reconstituted entirely as soon as possible.

第 37 條

經本行核准之擔保預付款，於破產程序中，不受有關撤銷合約、付款及保證等條款之拘束。

經本行與提供擔保品之個人或公司面談確認後，質押之有價證券、其他資產或動產可提供作為擔保任何權利或所有權，包括由其他業務產生者。

不論是交易前後，亦不論是否具流通性或可讓與性，同一債務人設定予本行之質權，均自動擔保本行直接或間接債權之全部數額。

第 5 章 年度會計與業務報告

第 38 條

本行年度會計及資產負債表應逐年編制。

年度會計應於每年 4 月 15 日前提送監事會。理事會於徵詢監事會意見後，認可股東紅利及股息之分派，並於股東會議認可年度會計後予以支付。

本行年度會計應依歐洲中央銀行體系法第 27 條規定，由外部監事查核之。

第 39 條

理事會應決定於每年盈餘淨值中提出至多 20% 作為普通公積。分派予股東之股息不得超過本行資本總值 6%。

依理事會之提議，餘額得作為特別準備、提撥全部盈餘淨值至多 20% 作為特別公積，以及增撥資本總額 4% 以下之數額分派股東做為股息之補貼。剩餘部分應全數繳交國庫。

普通公積如因撥補虧損或其他原因而短少，除第 40 條所定情形外，應儘可能完全予以回復。

ARTICLE 40

The reserves shall be invested in the manner and forms established by the Board of Directors.

The income arising from the investment of the reserves shall be used to increase the same.

On a proposal from the Board of Directors and with the approval of the ordinary shareholders' meeting, a sum not exceeding 4% of the amount of the reserves as shown in the annual accounts for the preceding year may be set aside from the annual income from the investment of the reserves and distributed to shareholders in addition to the amount provided for in Article 39.

ARTICLE 41

The Bank of Italy shall submit a report to the Parliament and the Government on its activity as provided for by law.

TITLE VI GENERAL PROVISIONS

ARTICLE 42

Neither the members of the Directorate nor any employee of the Bank may perform activities in the interest of banks, financial intermediaries or other entities subject to supervision, engage in commerce, be a director, agent or member of the board of auditors of any company, participate in a general partnership, or, as a general partner, in a limited partnership.

The Board of Directors may nevertheless allow directorships of companies or other entities to be accepted, where this is recognized to be in the interest of the Bank.

On the same grounds it may also allow employees having a grade not higher than that of head of department or a comparable grade to be members of boards of auditors.

ARTICLE 43

Senators and Deputies and other persons holding political office may not be members of the boards of the Bank.

In addition, employees of banks and other entities operating in the field of financial intermediation and persons performing administrative, managerial or control functions therein, managers and employees of the public administration and all persons having a conflict of interest with the Bank in view of their personal situation or professional positions shall be excluded from membership of the Board of Directors of the Bank.

The provisions of the preceding paragraphs shall also be observed for the appointments entrusted to the Board of Directors under point 8 of Article 18 of this statute.

第 40 條

公積應由理事會訂定投資方針及型態。

公積之投資收益仍應列為公積。

經理事會之提議及股東常會之認可，得在前一年度會計所列公積 4% 之數額內，提撥投資收益，並依前條所定數額分派予股東。

第 41 條

本行應主動依法提送報告予國會及政府。

第 6 章 一般條款

第 42 條

執行理事會成員及本行行員均不得為銀行、金融機構或其他受監管機構從事商業活動，擔任任何公司之董事、代表或監事會成員，參加普通合夥或成為有限責任合夥之普通合夥人。

理事會得為本行之利益，接受一般公司或其他機構之指導。基於前項相同之理由，本行亦得許可非部門主管層級或相當層級之行員擔任監事會成員。

第 43 條

參、眾議員及其他政務人員均不得擔任本行理事會成員。除前項人員外，銀行或金融相關機構之員工及負責行政、管理及監控任務之人員、公部門之經理及員工，以及所有因其個人因素或職務關係與本行有利益衝突之人員，均不得擔任本行理事會成員。

前兩項規定，於理事會依本法第 18 條第 2 項第 8 款規定任命之人員，準用之。

ARTICLE 44

The regents of main branches and the councillors of local branches must be domiciled in the region in which they are called upon to perform their office. They shall receive attendance fees, the amount of which shall be established by the shareholders' meeting.

The members of the Board of Directors shall receive an annual allowance for this office established by the shareholders' meeting, in addition to the reimbursement of their expenses.

Regents of main branches, councillors of local branches, members of the Board of Directors and members of the Board of Auditors who come to be in one of the situations referred to in Article 2382 of the Civil Code currently in force shall immediately cease to hold office.

ARTICLE 45

Persons referred to in Articles 42 and 44 shall observe the utmost secrecy in every matter pertaining to the Bank and its dealings with third parties.

TITLE VII TRANSITIONAL PROVISIONS

ARTICLE 46

The members of the Board of Directors and the Board of Auditors who, at the date of entry into force of this statute, have already exceeded the limits for re-election laid down in Articles 15 and 19 respectively shall remain in office until the completion of their current terms of office.

As of the date of entry into force of this statute and until the expiry of the terms of office of the members of the Board of Auditors, the functions of chairman thereof shall be performed by the senior member in terms of appointment or, if this is the same, of age.

ARTICLE 47

Councillors of the local branches holding office at the date of entry into force of this statute shall complete the two-year terms of office provided for by Article 34 of the previous statute.

In order to bring the expiry dates of their terms of office into line with those of the regents of the main branches, Article 30 of this statute shall be applied gradually, as follows:

第 44 條

主要分行評議委員及地區分行委員應居住於其執行職務之所在區域。

主要分行評議委員及地區分行委員可受領出席費；其數額，由股東會定之。

除支給特別費外，理事會成員並可領取年度職務津貼；其數額，由股東會定之。

主要分行評議委員、地區分行委員、理事會及監事會成員有現行民法第 2382 條所定情形之一者，應立即終止其職務。

第 45 條

第 42 條及前條所定之人員，應就有關本行之事務及涉及第三人之事項，絕對保密。

第 7 章 過渡條款

第 46 條

理事會及監事會成員於本法施行日已超過第 15 條及第 19 條分別所定之改選限制者，應留任至現行任期屆滿為止。

自本法生效之日起，至監事會成員任期屆滿為止，其主席之職務應由最資深者擔任，如資歷相同者，由最年長者擔任。

第 47 條

於本法施行日任職於地區分行之委員，應任滿舊法第 34 條所定之二年任期。

為使地區分行委員任期之屆滿日與主要分行評議委員之任期銜接，第 30 條規定應依序適用如下：

- councillors appointed in 2007 shall remain in office for four years;
- councillors appointed in 2008 shall remain in office for six years.

ARTICLE 48

In implementation of Article 19(7) of Law no. 262 of 28 December 2005, the appointments of the members of the Directorate, other than the Governor, in office on 12 January 2006 shall expire upon their completing twelve years as members of the Directorate.

ARTICLE 49

Until the entry into force of the regulation referred to in Article 19(10) of Law no. 262 of 28 December 2005, the Board of Directors, without prejudice to the second paragraph of Article 3 of this statute, shall verify that the purchaser can be related to one of the categories referred to in the second paragraph of Article 3 of the statute of the Bank of Italy in force at 12 January 2006 or in Article 27 of Legislative Decree no. 153 of 17 May 1999.

- 2007 年任命之委員應留任四年。
- 2008 年任命之委員應留任六年。

第 48 條

依 2005 年 12 月 28 日第 262 號法律第 19 條第 7 款之規定，於 2006 年 1 月 12 日所任命之執行理事會成員，除總裁外，應完整履行其十二年任期。

第 49 條

於 2005 年 12 月 28 日施行之第 262 號法律第 19 條第 10 款規定所稱之法規生效以前，理事會在不違反第 3 條第 2 項規定下，應確實查核本行股份轉讓之對象是否與 2006 年 1 月 12 日生效之義大利銀行法第 3 條第 2 項或 1999 年 5 月 17 日第 153 號命令第 27 條所定種類之一相關。

二、De Nederlandsche Bank N.V.
Bank Act 1998
荷蘭銀行法

De Nederlandsche Bank n.v. Bank Act 1998

Chapter I Definitions

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荷蘭銀行法

法務室 顏敏靜 譯

第 1 章 定義

第 2 章 本行之目標、任務及業務

第 1 節 目標及任務

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第 6 章 過渡及最終條款

De Nederlandsche Bank N.V. Bank Act 1998

Edition 2000

New provisions on De Nederlandsche Bank N.V. in connection with the Treaty establishing the European Community (Bank Act 1998)

Act

We, Beatrix, by the grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.

To all to whom these presents shall come, greetings! Be it known:

Whereas We have considered that it is necessary to lay down new provisions regulating the objectives, tasks and activities of De Nederlandsche Bank N.V. in the light of the Treaty establishing the European Community and the establishment pursuant to that Treaty of a European System of Central Banks, of which De Nederlandsche Bank N.V. is an integral part in relation to the tasks and duties which that Treaty confers upon that System;

Now, therefore, by and with the advice of the Council of State, and in joint consultation with Parliament, we have found good to enact as We hereby enact:

CHAPTER I: DEFINITIONS

Section 1

1. For the purposes of this Act and the provisions based on it, the following terms shall be defined as stated below:
 - a. the Bank: De Nederlandsche Bank N.V.;
 - b. Our Minister: Our Minister of Finance;
 - c. the Treaty: the Treaty establishing the European Community;
 - d. the European Central Bank: the European Central Bank as referred to in Article 4A of the Treaty;
 - e. the European System of Central Banks: the European System of Central Banks as referred to in Article 4A of the Treaty;
 - f. the Statute of the European System of Central Banks: the Statute of the European System of Central Banks and of the European Central Bank as referred to in Article 4A of the Treaty.

荷蘭銀行法

(2000 年版)

與「建立歐洲共同體條約」相關之新荷蘭銀行法（1998）

前 言

荷蘭女王 Beatrix（並為 Orange-Nassau 公主），以上帝之恩典敬致讀者：

依「建立歐洲共同體條約」及據此建立之歐洲中央銀行體系賦予之任務及職權，荷蘭中央銀行公股公司為其不可或缺之一部，有必要訂定新法條以規範該行之目標、任務及業務。

爰依據國家諮詢會之建議並經與國會共同商議後，茲頒訂以下規定：

第 1 章 定 義

第 1 條

1. 依本法之目的及其規定，下列名詞定義如下：

- a. 本行：指荷蘭中央銀行公股公司。
- b. 本部部長：指財政部長。
- c. 本條約：指「建立歐洲共同體條約」。
- d. 歐洲中央銀行：指本條約第 4A 條之「歐洲中央銀行」。
- e. 歐洲中央銀行體系：指本條約第 4A 條之「歐洲中央銀行體系」。
- f. 歐洲中央銀行體系條例：指本條約第 4A 條之「歐洲中央銀行體系及歐洲中央銀行條例」。

2. The Bank is an integral part of the European System of Central Banks in respect of the tasks and duties which the Treaty confers upon that System.

CHAPTER II: OBJECTIVES, TASKS AND ACTIVITIES OF THE BANK

Division 1. Objectives and tasks

Section 2

1. In implementation of the Treaty, the Bank's objective shall be to maintain price stability.
2. In implementation of the Treaty, the Bank shall, without prejudice to the objective of price stability, support the general economic policies in the European Community with a view to contributing to the achievement of the objectives of the Community as laid down in Article 2 of the Treaty.
3. The Bank shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 3A of the Treaty.
4. The Bank shall also have the objective of performing tasks other than those referred to in section 3, insofar as these are conferred upon it by or pursuant to the law.

Section 3

1. In implementation of the Treaty, the Bank shall make a contribution, within the framework of the European System of Central Banks, towards the fulfilment of the following tasks:
 - a. to define and implement monetary policy;
 - b. to conduct foreign-exchange operations consistent with the provisions of Article 109 of the Treaty;
 - c. to hold and manage the official foreign reserves;
 - d. to provide for the circulation of money as far as this consists of banknotes;
 - e. to promote the smooth operation of payment systems.
2. In implementation of the Treaty, the Bank shall, within the framework of the European System of Central Banks, contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.

2. 關於本條約賦予歐洲中央銀行體系之任務及職責，本行為該體系之一部。

第 2 章 本行之目標、任務及業務

第 1 節 目標及任務

第 2 條

1. 為履行本條約，本行應以維持物價穩定為目標。
2. 為履行本條約，本行應於不牴觸物價穩定目標之前提下，支持歐洲共同體之一般經濟政策，以使共同體達成本條約第 2 條所訂之目標。
3. 本行應依循自由競爭之開放市場經濟原則，支持有效率之資源分配，並遵守本條約第 3A 條所確立之原則。
4. 本行對於第 3 條以外之任務亦應於法令所定範圍內達成之。

第 3 條

1. 本行應於歐洲中央銀行體系架構下，達成下列任務，以履行本條約之規定：
 - a. 訂定及執行貨幣政策。
 - b. 於符合本條約第 109 條之規定下，進行外匯操作。
 - c. 持有及管理國家外匯準備。
 - d. 鈔券應足供貨幣之流通。
 - e. 促進支付系統之順暢運作。
2. 本行須於歐洲中央銀行體系架構下，促使主管機關順利執行審慎監督信用機構及穩定金融體系之相關政策，以履行本條約。

3. In implementation of the Treaty, the Bank may, in carrying out its tasks and duties under subsections (1) and (2), seek and take instructions exclusively from the European Central Bank.

Section 4

1. The Bank shall have the task of supervising financial institutions in pursuance of the relevant statutory regulations.
2. The Bank shall have the task of promoting the smooth operation of the payment system.
3. The Bank shall have the task of collecting statistical data and producing statistics in pursuance of the relevant statutory regulations.
4. The Bank may perform tasks other than those referred to in this Act, provided that this is in the public interest and that permission has been granted by Royal Decree.

Division 2. Activities

Section 5

The Bank is authorized to perform those activities which are necessary in order to carry out the tasks referred to in sections 3 and 4, including the activities referred to in this division in particular. The Bank shall perform these activities in accordance with the provisions of the Treaty.

Section 6

The Bank is authorized to issue banknotes.

Section 7

The Bank is authorized to assist the European Central Bank in collecting data in pursuance of Article 5 of the Statute of the European System of Central Banks.

Section 8

1. The Bank is authorized to effect transactions in the financial markets, including receiving current-account deposits from account-holders, accepting securities and other documents of value for safe custody, and effecting credit transactions insofar as these are covered by adequate collateral.

3. 本行為執行前 2 項所定任務及職責，僅得尋求並採取歐洲中央銀行之指示，以履行該條約。

第 4 條

1. 本行負有依相關法令監督金融機構之任務。
2. 本行負有促進支付系統順利運作之任務。
3. 本行負有依相關法令蒐集統計資料及製作統計數據之任務。
4. 本行得為公共利益，並經皇家命令之認可，執行本法所定以外之任務。

第 2 節 業 務

第 5 條

本行為達成第 3 條及第 4 條所定任務，有權從事包括本節所定之必要業務行為。本行辦理此類業務時，應遵循本條約規定。

第 6 條

本行有權發行鈔券。

第 7 條

本行應協助歐洲中央銀行蒐集資料，以履行「歐洲中央銀行體系條例」第 5 條規定。

第 8 條

1. 本行有權於金融市場進行交易，包括收取存戶之活存帳戶存款、收受證券及其他有價證券作為保管品，並於足額擔保下從事信用交易。

2. At the request of Our Minister, the Bank shall perform the activities referred to in subsection (1) on behalf of the State and institutions established by law or by Royal Decree.
3. At the request of Our Minister and notwithstanding the provisions of subsection (1), the Bank shall grant the State, whenever Our Minister deems this necessary for the purpose of ensuring the smooth settlement of payments for the account of the State, unsecured overdraft facilities subject to a rate of interest to be agreed between Our Minister and the Bank. The State shall be obliged to repay these overdrafts on the same day as that on which they are granted.

Section 9

The Bank may, after permission has been granted by Royal Decree:

- a. hold participations in the capital of legal entities, institutions and organizations to the extent that such participations have not yet been provided for in or pursuant to the Treaty or by law;
- b. participate in activities performed by legal entities, institutions and organizations to the extent that such participation has not yet been provided for in or pursuant to the Treaty or by law;
- c. perform activities, in the public interest, other than those referred to in this division.

CHAPTER III:

PROVISIONS ON THE MANAGEMENT OF THE COMPANY

Section 10

Article 2: 153 of Book 2 of the Dutch Civil Code shall not apply to the Bank.

Section 11

Provisions contained in Book 2 of the Dutch Civil Code which, when applied to the Bank, would be contrary to the Treaty or the Statute of the European System of Central Banks shall not apply to the Bank. With a view to the implementation of Article 108 of the Treaty, these provisions shall be specified by general administrative order.

Section 12

1. The Bank's Governing Board shall be responsible for managing the Bank. The Governing Board shall consist of a President and at least three and at most five Executive Directors.

2. 於本部部長要求下，本行得代表國家與依法或依皇家命令成立之機構從事前項所定之業務。
3. 依本部部長之要求，本行得於部長認為有確保國庫支付清算順利運作之必要時，依部長與本行合意之利率，提供國庫無擔保透支，不受第 1 項之限制。國家有義務於透支當日清償該透支金額。

第 9 條

本行經皇家命令許可後，得：

- a. 於本條約或法律尚未規定之範圍，持有法人團體、機構及組織之股份。
- b. 於本條約或法律尚未規定之範圍，參與法人團體、機構及組織之業務。
- c. 為公共利益從事本節規定以外之業務。

第 3 章 公司經營之規定

第 10 條

本行不適用荷蘭民法第 2 冊之第 2 條第 153 項規定。

第 11 條

荷蘭民法第 2 冊中適用於本行之規定，如與本條約及「歐洲中央銀行體系條例」相牴觸者，應不適用之。為履行本條約第 108 條之規定，前揭規定應以一般行政命令具體指明。

第 12 條

1. 理事會負責本行之經營；其由 1 名總裁及 3 至 5 名之執行理事組成。

2. The President and the Executive Directors shall be appointed by Royal Decree, each time for a term of seven years. For the purpose of each such appointment, a short list containing the names of three persons shall be drawn up at a joint meeting of the Governing Board and the Supervisory Board.
3. The President and the Executive Directors may be suspended or relieved from office only if they no longer fulfil the conditions required for the performance of their duties or if they have been guilty of serious misconduct.
4. With regard to the tasks and activities performed in order to achieve the objective referred to in section 2(1), the Governing Board shall acknowledge the President's capacity as member of both the Governing Council and the General Council.

Section 13

1. The Supervisory Board shall consist of at least nine and at most twelve members.
2. One member of the Supervisory Board shall be appointed by the Government, each time for a term of four years.
3. The Chairman and the other members of the Supervisory Board shall be appointed by the shareholders, each time for a term of four years, from a list of three nominees for each vacancy, drawn up by the Supervisory Board. In the Chairman's absence, the chair shall be taken by one of the members designated by the meeting as acting Chairman.
4. The Supervisory Board shall supervise the management of the Bank's affairs and adopt the annual accounts. The annual accounts thus adopted shall require the approval of the shareholders.

Section 14

1. On behalf of Our Minister, the person appointed to the Supervisory Board pursuant to the provisions of section 13(2) may, at the request of Our Minister or on his own initiative, and with due observance of Article 107 of the Treaty, obtain from the Governing Board of the Bank data and information about the manner in which the Bank performs its tasks. At the request of Our Minister or on his own initiative, and with due observance of Article 107 of the Treaty, he may communicate his findings to Our Minister.
2. The Governing Board of the Bank shall be obliged at all times to provide the person referred to in subsection (1) at his request with all such data and information as he may deem necessary for the proper performance of his task as referred to in subsection (1), with the exception of data and information which, pursuant to the Treaty or the statutory regulations referred to in section 4, are secret.

2. 總裁及執行理事由皇家命令任命，每次任期為 7 年。理事會及監事會聯席會議須提名 3 人以供任命。
3. 總裁及執行理事僅於其不符執行職務所須條件，或因嚴重不當行為被判決有罪時，始得予以停職或免職。
4. 為達成第 2 條第 1 項規定之目標所執行之相關任務及業務，理事會須認可總裁具有擔任管理委員會及全會成員之資格。

第 13 條

1. 監事會由 9 至 12 名成員組成之。
2. 其中一名監事會成員由政府任命，每次任期 4 年。
3. 監事會主席及其他成員應由股東自監事會所擬每一缺額提名 3 人之名單中指派，每次任期 4 年。主席缺席時，由當次會議選定成員之一代理主席職務。
4. 監事會應監督本行事務之經營，並通過年度會計；經通過之年度會計，應得股東認可。

第 14 條

1. 依第 13 條第 2 項規定，由本部部長任命為監事會之成員，於本部部長要求或本於職權，並遵循本條約第 107 條之規定下，得自本行理事會取得關於本行執行職務方式之資料及資訊；並得於本部部長要求或本於職權，及遵循本條約第 107 條之規定下，將其調查結果通知本部部長。
2. 本行理事會有義務隨時依前項所指監事會成員之請求，提供有關前項適當執行職務所必要之資料及資訊，但該資料及資訊依本條約或第 4 條所指法令定為機密者除外。

Section 15

1. There shall be a Bank Council, consisting of at least eleven and at most thirteen members, namely:
 - a. the member of the Supervisory Board referred to in section 13(2);
 - b. member appointed by the Supervisory Board from among its own members;
 - c. at least nine and at most eleven members each of whom is appointed for a term of four years by the Bank Council.
2. The members referred to in subsection (1), under c, shall be appointed from a short list of at least two nominees for each vacancy, drawn up by the Governing Board of the Bank in such a manner as to ensure that the various sections of society are represented.
3. The Bank Council shall appoint a Chairman from among its members. In the Chairman's absence, the chair shall be taken by one of the members designated by the meeting as acting Chairman. The Bank shall provide secretarial services for the Bank Council.
4. The Governing Board of the Bank and the Treasurer-General or his alternate shall attend the meetings of the Bank Council and may take part in the deliberations.
5. The President of the Bank shall report to the Bank Council on the general economic and financial situation and shall discuss the policy conducted by the Bank with the Bank Council. Other matters raised by one or more of the members in connection with the Bank's objectives, tasks and activities may also be discussed.

Section 16

1. With due observance of the Treaty and after consultation with Our Minister, the Bank shall lay down internal guidelines for the administration of securities, documents of value and those gold and foreign-exchange reserves which have not been transferred to the European Central Bank under Article 30 of the Statute of the European System of Central Banks; in doing so, it shall take due account of the interests of the State.
2. Subject to permission from Our Minister, the Bank has the power to create reserves following the determination of profit. Transfers to and from these reserves shall require the approval of Our Minister.

第 15 條

1. 諮詢委員會由 11 名至 13 名成員組成，即包括：
 - a. 第 13 條第 2 項所定之監事會成員 1 名。
 - b. 由監事會自其成員中指派 1 名。
 - c. 由諮詢委員會指派 9 名至 11 名成員，每名每次任期為 4 年。
2. 前項 c 款所指之成員，自本行理事會所擬每一缺額提名 2 人之名單中指派之，俾以確保社會各界均有代表。
3. 諮詢委員會主席由其成員互相推選之。主席缺席時，於當次会议選定一成員代理主席職務。本行須為諮詢委員會提供秘書之服務。
4. 本行理事會及會計長或其代理人須出席諮詢會議，並得參加審議。
5. 本行總裁應向諮詢委員會報告總體經濟及財經情勢，並與該委員會討論本行採行之政策；經諮詢委員會 1 名以上成員所提有關本行目標、任務及業務之其他事項，亦須進行討論。

第 16 條

1. 本行應依本條約及經諮詢本部部長後，並斟酌國家利益，制訂管理有價證券、重要文件及尚未依「歐洲中央銀行體系條例」第 30 條移轉予歐洲中央銀行之黃金及外匯準備之內部準則。
2. 本行經本部部長許可，即有權於確定收益後提列準備；該準備之轉出及轉入，亦須經部長許可。

Section 17

1. Articles 2:363(6), 2:380, 2:383(2), second sentence, with the exception of the sums outstanding, as well as Parts 3 and 4 of Title 9 of Book 2 of the Dutch Civil Code shall not apply to the Bank. The Bank may, for the purpose *inter alia* of determining the profit, base the valuation of investments, securities and foreign exchange on principles which differ from the provisions of article 2:384(1), second sentence, or 2:384(2), second sentence, of Book 2 of the Dutch Civil Code, provided that this is in conformity with the relevant provisions of Part 14 of Title 9 of Book 2 of the Dutch Civil Code.
2. The Bank may also depart from the provisions of Title 9 of Book 2 of the Dutch Civil Code insofar as the Supervisory Board deems this to be necessary in order to achieve the objectives referred to in section 2.
3. The Bank may also depart from the provisions of Title 9 of Book 2 of the Dutch Civil Code insofar as this is necessary for compliance with instructions as referred to in section 3(3). The Bank shall notify the Supervisory Board forthwith of any such departure.

CHAPTER IV: INFORMATION AND CONFIDENTIALITY

Section 18

1. Our Minister is authorized, with due observance of Article 107 of the Treaty, to request the Bank to provide such data or information, in connection with the tasks and activities performed in order to achieve the objective referred to in section 2(1), as he deems necessary for the purpose of determining the Government's financial and economic policy.
2. The Bank is obliged, with due observance of Articles 10.4 and 38 of the Statute of the European System of Central Banks, to provide Our Minister with the data and information referred to in subsection (1).

Section 19

With regard to the tasks and activities performed in order to achieve the objective referred to in section 2(1), the President of the Bank may, with due observance of Article 107 of the Treaty and Articles 10.4 and 38 of the Statute of the European System of Central Banks, be heard by the First or the Second Chamber of Parliament at their request.

第 17 條

1. 荷蘭民法第 2 冊第 9 章第 3 部分及第 4 部分第 2 條第 363 項第 6 款、第 380 項及第 383 項第 2 款第 2 句等規定（除未償付總額外），均不適用於本行。本行基於收益之目的，於符合荷蘭民法第 2 冊第 9 章第 14 部分相關規定情形下，得以不同於荷蘭民法第 2 條第 383 項第 1 款第 2 句或第 384 項第 2 款第 2 句規定之原則，評估投資、證券及外匯價值之基礎。
2. 本行於監事會認為有達成第 2 條所定目標之必要時，得不遵守荷蘭民法第 2 冊第 9 章之規定。
3. 本行於第 3 條第 3 項所定之必要範圍內，得不遵守荷蘭民法第 2 冊第 9 章之規定，但須通知監事會。

第 4 章 資訊及保密義務

第 18 條

1. 在符合本條約第 107 條之前提下，本部部長於決定政府財政及經濟政策所需時，有權要求本行提供執行職務及業務有關之資料或資訊，以達成第 2 條第 1 項之目標。
2. 本行有義務遵守「歐洲中央銀行體系條例」第 10 條第 4 項及第 38 條之規定，提供本部部長有關前項所指之資料及資訊。

第 19 條

本行總裁應遵守依本條約第 107 條及「歐洲中央銀行體系條例」第 10 條第 4 項與第 38 條之規定，就為達成第 2 條第 1 項目標所執行之相關職務及業務，接受國會第 1 及第 2 議院之質詢。

Section 20

To the extent that this Act provides for the performance of the acts to achieve the objective referred to in section 2(1), anyone who, by virtue of the application of this Act or provisions based on it, performs any duty, shall be prohibited from using or divulging data or information obtained in the performance of that duty in any way beyond or other than that required for the performance of that duty or required by this Act.

CHAPTER V: AMENDMENT OF OTHER ACTS

Section 21

1. The Act on the Supervision of the Credit System 1992 shall be amended as follows:
 - a. The words << imposed on it by section 9(1) of the Bank Act 1948 >> in section 2(1), under a, shall be replaced by the words ‘as conferred upon it in section 3(1), under a, of the Bank Act 1998’.
 - b. The words << imposed on it in section 9(1) of the Bank Act 1948 >> in section 19(1) shall be replaced by the words ‘as instructed in section 3 (1), under a of the Bank Act 1998’.
 - c. The words << section 26 of the Bank Act 1948 >> in section 89 shall be replaced by the words ‘section 24 of the Bank Act 1998’.
2. On the date when stage three of Economic and Monetary Union starts, and if at that date the Netherlands does not have a derogation as referred to in Article 109k of the Treaty, or alternatively on the date when the derogation is abrogated after stage three has started, the Act on the Supervision of the Credit System 1992 shall be amended as follows:
 - a. Section 2(1), a, shall be deleted.
 - b. Section 19 shall be deleted.
 - c. Section 89 shall be deleted.
3. The date referred to in subsection (2) shall be announced by Our Minister in the Staatscourant (Government Gazette).

Section 22

The Financial Transactions Emergency Act shall be amended as follows:

- a. The words << section 16(1) of the Bank Act 1948 >> in section 14 shall be replaced by the words ‘section 8(1) of the Bank Act 1998’.

第 20 條

任何適用本法或依本法規定執行職務之人，就為達成第 2 條第 1 項所定目標之行為，禁止逾越執行該職務所必要，或在與執行該職務或本法所定情形無關之情形下，使用或洩漏因執行該職務而取得之資料或資訊。

第 5 章 其他法律之修正

第 21 條

1. 「1992 年信用體系監理法」修正如下：
 - a. 第 2 條第 1 項 a 款「依 1948 年中央銀行法第 9 條第 1 項規定」，修正為「依 1998 年中央銀行法第 3 條第 1 項 a 款規定」。
 - b. 第 19 條第 1 項「依 1948 年中央銀行法第 9 條第 1 項規定」，修正為「依 1998 年中央銀行法第 3 條第 1 項 a 款規定」。
 - c. 第 89 條「1948 年中央銀行法第 26 條」，修正為「1998 年中央銀行法第 24 條」。
2. 自「經濟及貨幣聯盟」第三階段開始之日起，且荷蘭並無本條約第 109k 條所指之消滅情形，或自第三階段開始後該消滅情形已被廢除之日起，「1992 年信用體系監理法」修正如下：
 - a. 第 2 條第 1 項 a 款應予刪除。
 - b. 第 19 條應予刪除。
 - c. 第 89 條應予刪除。
3. 前項所定日期，由本部部長於政府公報公布之。

第 22 條

「金融交易緊急處理法」修正如下：

- a. 第 14 條所定「1948 年中央銀行法第 16 條第 1 項」之文字，修正為「1998 年中央銀行法第 8 條第 1 項」。

- b. Section 15 shall be deleted.
- c. Section 16 shall be deleted.

Section 23

The following subsection shall be added to section 6 of the Coinage Act 1987:
‘3 The order referred to in subsections (1) and (2) shall be given with due observance of Article 105a(2) of the Treaty establishing the European Community.’

CHAPTER VI: TRANSITIONAL AND FINAL PROVISIONS

Section 24

1. The following subsections shall apply until the date on which the European Central Bank and the European System of Central Banks are established in accordance with Article 109l (1) of the Treaty.
2. Where Our Minister deems this necessary for the purpose of coordinating the Government's monetary and financial policies with the Bank's policy, he shall, having heard the Bank Council, give the Governing Board the directions which are required for the purpose of achieving this goal. Save as provided for in the following subsection, the Governing Board shall be obliged to follow these directions.
3. With regard to a direction as referred to in subsection (2), the Governing Board may lodge an objection. Notwithstanding section 6:7 of the General Administrative Law Act, the term for lodging an objection is three days. Sections 7:2 up to and including 7:9 of the General Administrative Law Act shall not apply. Our Minister shall decide on the objection in accordance with the opinion prevailing in the Council of Ministers.
4. If the decision taken by Our Minister in accordance with the provisions of subsection (3) results in the direction having to be followed, Our Minister shall, provided that the Council of Ministers is of the opinion that it is not against the national interest to do so, publish in the *Staatscourant* (Government Gazette) the objection lodged by the Governing Board and the decision taken by Our Minister in accordance with the provisions of subsection (3).
5. The date referred to in subsection (1) shall be announced by Our Minister in the *Staatscourant* (Government Gazette).

- b. 第 15 條刪除。
- c. 第 16 條刪除。

第 23 條

「1987 年鑄幣法」第 6 條應增加第 3 項：「第 1 項及第 2 項所稱之命令，應依『建立歐洲共同體條約』第 105a 條第 2 項之規定訂定之」。

第 6 章 過渡及最終條款

第 24 條

1. 以下各項規定應適用至歐洲中央銀行及歐洲中央銀行體系依本條約第 109 條規定建立之日止。
2. 本部部長認為有必要就政府之貨幣及金融政策與本行政策進行協調者，得於聽取諮詢委員會報告後，給予理事會達成該目標所須之指示。除有下列各項規定之情形外，理事會有義務遵循該指示。
3. 理事會得對前項之指示提出異議。異議期間為 3 日，為一般行政法第 6 條第 7 項之例外規定。一般行政法第 7 條第 2 項至第 9 項之規定，不適用之。本部部長應根據部長會議之多數決審核該項異議。
4. 本部部長依前項部長會議認為其指示並不違反國家利益之意見，而做成應遵循指示之決定時，並應將理事會提出之異議，及其依前項規定做成之決定，刊登於政府公報。
5. 第 1 項所指之日期，由本部部長於政府公報公布之。

Section 25

1. The Annex to the General Administrative Law Act shall be supplemented by the following:
 - a. Ministry of Finance
 - b. Section 24(2) and (3) of the Bank Act 1998
2. Part I.1 of the Annex to the General Administrative Law Act shall be repealed at the date referred to in section 24(1).

Section 26

Until the date on which stage three of Economic and Monetary Union starts, or alternatively, if the Netherlands has a derogation as referred to in Article 109k of the Treaty on the date on which stage three of Economic and Monetary Union starts, until the date on which this derogation is abrogated, the following sections shall apply instead of sections 1, 2, 3, 14 and 17:

Section 1

For the purposes of this Act and the provisions based on it, the following terms shall be defined as stated below:

- a. the Bank: De Nederlandsche Bank N.V.;*
- b. Our Minister: Our Minister of Finance;*
- c. the Treaty: the Treaty establishing the European Community;*
- d. the European Central Bank: the European Central Bank as referred to in Article 4A of the Treaty;*
- e. the European System of Central Banks: the European System of Central Banks as referred to in Article 4A of the Treaty;*
- f. the Statute of the European System of Central Banks: the Statute of the European System of Central Banks and of the European Central Bank as referred to in Article 4A of the Treaty.*

Section 2

- 1. The Bank's objective is to maintain price stability.*
- 2. Without prejudice to the objective of price stability, the Bank shall support the Government's general economic policy.*
- 3. The Bank shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 3A of the Treaty.*

第 25 條

1. 一般行政法附錄應增訂下列附錄：
 - a. 財政部
 - b. 1998 年中央銀行法第 24 條第 2 項及第 3 項之規定
2. 一般行政法附錄 1 之 1 應於第 24 條第 1 項所定之日起廢止。

第 26 條

於「經濟及貨幣聯盟」第三階段開始之日以前，或荷蘭依本條約第 109k 條規定自第三階段開始之日得暫時適用其法律至廢止之日以前，以下各條暫代本法第 1 條、第 2 條、第 3 條、第 14 條及第 17 條優先適用：

第 1 條

依本法之目的及其規定，下列名詞定義如下：

- a. 本行：指荷蘭中央銀行公股公司。
- b. 本部部長：指財政部長。
- c. 本條約：指「建立歐洲共同體條約」。
- d. 歐洲中央銀行：指本條約第 4A 條之「歐洲中央銀行」。
- e. 歐洲中央銀行體系：指本條約第 4A 條之「歐洲中央銀行體系」。
- f. 歐洲中央銀行體系條例：指本條約第 4A 條之「歐洲中央銀行體系及歐洲中央銀行條例」。

第 2 條

1. 本行之目標為維持物價穩定。
2. 本行應於不牴觸穩定物價目標之前提下，支持政府一般經濟政策。
3. 本行應依循自由競爭之開放市場經濟原則，支持有效率之資源分配，並遵守本條約第 3A 條所確立之原則。

4. *The Bank shall have the additional objective of performing tasks conferred upon it by or pursuant to the law.*

Section 3

The Bank shall have the following tasks for the purpose of achieving the objective referred to in section 2(1):

- a. to define and implement monetary policy;*
- b. to conduct foreign-exchange operations;*
- c. to hold and manage the official foreign reserves;*
- d. to provide for the circulation of money as far as this consists of banknotes;*
- e. to promote the smooth operation of payment systems.*

Section 14

- 1. On behalf of Our Minister, the person appointed to the Supervisory Board pursuant to the provisions of section 13(2) may, at the request of Our Minister or on his own initiative, obtain from the Governing Board of the Bank data and information about the manner in which the Bank performs its tasks. At the request of Our Minister or on his own initiative, he may communicate his findings to Our Minister.*
- 2. The Governing Board of the Bank shall be obliged at all times to provide the person referred to in subsection (1) at his request with all such data and information as he may deem necessary for the proper performance of his task as referred to in subsection (1), with the exception of data and information which, pursuant to the Treaty or the statutory regulations referred to in section 4, are secret.*

Section 17

- 1. Articles 2:363(6), 2:380, 2:383(2), second sentence, with the exception of the sums outstanding, as well as Parts 3 and 4 of Title 9 of Book 2 of the Dutch Civil Code shall not apply to the Bank. The Bank may, for the purpose inter alia of determining the profit, base the valuation of investments, securities and foreign exchange on principles which differ from the provisions of article 2:384(1), second sentence, or 2:384(2), second sentence, of Book 2 of the Dutch Civil Code, provided that this is in conformity with the relevant provisions of Part 14 of Title 9 of Book 2 of the Dutch Civil Code.*
- 2. The Bank may also depart from the provisions of Title 9 of Book 2 of the Dutch Civil Code insofar as the Supervisory Board deems this to be necessary in order to achieve the objectives referred to in section 2.*

4. 本行應於達成上述目標外，執行依法賦予之任務。

第 3 條

本行為達成第 2 條第 1 項所定之目標，負有以下任務：

- a. 訂定及執行貨幣政策。
- b. 進行外匯操作。
- c. 持有及管理國家外匯準備。
- d. 鈔券應足供貨幣之流通。
- e. 促進支付系統之順暢運作。

第 14 條

1. 依第 13 條第 2 項規定，由本部部長任命為監事會之成員，於依本部部長要求或本於職權，得自本行理事會取得關於本行執行職務方式之資料及資訊；並得於本部部長要求或本於職權，將其調查結果通知本部部長。
2. 本行理事會有義務隨時依前項所指監事會成員之請求，提供有關前項適當執行職務所必要之資料及資訊，但該資料及資訊依本條約或第 4 條所指法令定為機密者除外。

第 17 條

1. 荷蘭民法第 2 冊第 9 章第 3 部分及第 4 部分第 2 條第 363 項第 6 款、第 380 項及第 383 項第 2 款第 2 句等規定（除未償付總額外），均不適用於本行。本行基於收益之目的，於符合荷蘭民法第 2 冊第 9 章第 14 部分相關規定情形下，得以不同於荷蘭民法第 2 條第 383 項第 1 款第 2 句或第 384 項第 2 款第 2 句規定之原則，評估投資、證券及外匯價值之基礎。
2. 本行於監事會認為有達成第 2 條所定目標之必要時，得不遵守荷蘭民法第 2 冊第 9 章之規定。

- 3. The Bank has power to invest its authorized capital and its reserves. The earnings accruing from such investments shall be added to the Bank's profits. Any increase or decrease in the value of the assets in which the authorized capital and the reserves are invested shall be credited or debited to the reserves.*

Section 27

1. Banknotes issued by the Bank which are denominated in Dutch guilders shall be legal tender.
2. Articles 229i to 229k of the Dutch Commercial Code shall not apply to banknotes.
3. Rules may be issued by or pursuant to general administrative order in relation to the exchange, withdrawal from circulation and the signing of banknotes by the Bank, and to the information which the Bank shall provide to the public in this respect.
4. The present section or a part thereof shall cease to have effect on a date to be determined by Royal Decree.

Section 28

After the entry into force of section 12 of this Act, the Royal Decrees which are in force pursuant to section 23(1) and (2) of the Bank Act 1948, shall be based on section 12(2) of the present Act.

Section 29

1. The first appointment of the members of the Supervisory Board referred to in section 13(3) shall be made by the shareholders within eight weeks of the date on which this Act takes effect. The members of the Supervisory Board who have been appointed in accordance with section 27 of the Bank Act 1948 shall vacate their office on the same date.
2. Notwithstanding the provisions of section 13(3), the members of the Supervisory Board appointed for the first time as referred to in section 13(3) shall hold office for a term of between one and four years in accordance with a schedule to be drawn up by the Supervisory Board.

Section 30

1. The first appointment of the members of the Bank Council referred to in section 15(1), under c, shall be made by the Bank within eight weeks of the date on which this Act takes effect. The members of the Bank Council who have been appointed in accordance with section 32 of the Bank Act 1948 shall vacate their office on the same date.

3. 本行有權力以經核定之資本及準備金從事投資，其因此而產生之收益，應增列至本行獲利中。上述資產之價值如有任何增減，均須計入準備金之借方或貸方。

第 27 條

1. 本行所發行以基爾德(guilder, 荷蘭貨幣單位)表示面額之鈔券，具法償效力。
2. 荷蘭商業法第 229i 條至 229k 條之規定，不適用於鈔券。
3. 本行得自行或依一般行政命令，訂定有關兌換、收回流通、撤銷簽署本行鈔券及提供大眾相關資訊之規定。
4. 本條之全部或一部規定，於皇家命令所定之日起失其效力。

第 28 條

依 1948 年中央銀行法第 23 條第 1 項及第 2 項規定生效之皇家命令，於本法第 12 條規定生效後，應以現行法第 12 條第 2 項之規定為依據。

第 29 條

1. 依第 13 條第 3 項規定對監事會成員之首次指派，應由股東於本法生效之日起 8 週內完成。依 1948 年中央銀行法第 27 條規定指派之監事會成員，則須於同日辭去其職務。
2. 首次受派之監事會成員，雖依第 13 條第 3 項規定指派之，惟其任期應依監事會所定之期程，分別為 1 年至 4 年。

第 30 條

1. 本行應於本法生效之日起 8 週內，完成依第 15 條第 1 項 c 款規定對諮詢委員會成員之首次指派。依 1948 年中央銀行法第 32 條規定指派之諮詢委員會成員，則須於同日辭去其職務。

2. The members appointed in accordance with the provisions of subsection (1) shall hold office for a term of between one and four years in accordance with a schedule to be drawn up by the Bank Council.

Section 31

After the entry into force of section 9 of this Act, the Royal Decrees based on section 21 of the Bank Act 1948 shall henceforth be based on section 9 of the present Act.

Section 32

The Bank Act 1948 is hereby repealed.

Section 33

The Act of 11 January 1956 containing provisions to implement section 17 of the Bank Act 1948 is hereby repealed.

Section 34

The sections of this Act shall enter into force on a date to be stipulated by Royal Decree; this date may vary for different sections or parts thereof.

Section 35

This Act may be cited as the ‘Bank Act 1998’.

Direct and ordain that these presents shall be published in the Staatsblad (Bulletin of Acts, Orders and Decrees) and that all ministerial departments, authorities, boards and public servants whom it concerns shall enforce strict implementation.

2. 依前項規定首次受派之諮詢委員會成員，應依諮詢委員會所定之期程，任期分別為 1 年至 4 年。

第 31 條

依 1948 年中央銀行法第 21 條規定生效之皇家命令，於本法第 9 條規定生效後，應以現行法第 9 條之規定為依據。

第 32 條

1948 年制定之中央銀行法特此廢止。

第 33 條

與執行 1948 年中央銀行法第 17 條相關規定之 1956 年元月 2 日中央銀行法特此廢止。

第 34 條

本法各條自皇家命令所定之日期生效；其日期得依各別條文或各部分內容，異其規定。

第 35 條

本法得簡稱為「1998 年中央銀行法」。

相關指示及規定應刊登於政府公報（法規、命令、指令之公報），全體行政部門、主管機關、各委員會及有關之公務員並應嚴格遵守。

三、ORGANIC ACT DD. 22
FEBRUARY 1998
OF THE NATIONAL
BANK OF BELGIUM
比利時國家銀行組織法

**ORGANIC ACT DD. 22 FEBRUARY 1998
OF THE NATIONAL BANK OF BELGIUM**

CHAPTER I NATURE AND OBJECTIVES

CHAPTER II TASKS AND TRANSACTIONS

CHAPTER III ORGANS - COMPOSITION - INCOMPATIBILITIES

*CHAPTER IV FINANCIAL PROVISIONS AND REVISION OF THE
STATUTES*

*CHAPTER V TRANSITIONAL AND REPEALING PROVISIONS
- ENTRY INTO FORCE*

比利時國家銀行組織法

法務室 鄭靜馨 譯

第 1 章 性質及目標

第 2 章 任務及業務

第 3 章 組織、成員及任職限制

第 4 章 財務條款及章程修正

第 5 章 過度條款及刪除施行條文

**ORGANIC ACT DD. 22 FEBRUARY 1998
OF THE NATIONAL BANK OF BELGIUM**

**(UNOFFICIAL COORDINATED TRANSLATION dd
28 APRIL 2009)**

Art. 1. -This Act shall govern a matter referred to in Article 78 of the Constitution.

**FIRST CHAPTER
NATURE AND OBJECTIVES**

Art. 2. -The National Bank of Belgium, in Dutch "Nationale Bank van België", in French "Banque Nationale de Belgique", in German "Belgische Nationalbank", established by the Act of 5 May 1850, shall form an integral part of the European System of Central Banks, hereinafter referred to as ESCB, whose Statute has been established by the Protocol relating to it and annexed to the Treaty establishing the European Community.

Furthermore, the Bank shall be governed by this law, its own Statutes and, additionally, by the provisions relating to limited liability companies by shares [societes anonymes - naamloze vennootschappen].

Art. 3. -The Bank's registered office shall be in Brussels.

The Bank shall establish outside offices in locations on Belgian territory where the need for them exists.

Art. 4. - The Bank's share capital, which shall amount to ten million euro, shall be represented by four hundred thousand shares, of which two hundred thousand – registered and non-transferable – shall be subscribed by the Belgian State and two hundred thousand shall be registered, bearer or dematerialised shares. The share capital shall be fully paid up.

Bearer shares, which have already been issued and held on securities accounts as at 1 January 2008, shall be converted into dematerialised shares on this date. Other bearer shares shall be automatically converted into dematerialised shares as they are booked onto securities accounts from 1 January 2008 onwards.

比利時國家銀行組織法

(2009 年 4 月 28 日非官方譯文)

第 1 條

本法規範憲法第 78 條之事項。

第 1 章 性質及目標

第 2 條

- 1 比利時國家銀行荷蘭文稱 Naionale Bank van België，法文稱 Banque Nationale de Belgique，德文稱 Belgische Nationalbank，係依 1850 年 5 月 5 日之法律成立，為歐洲中央銀行體系之一部分。歐洲中央銀行體系係依「歐洲共同體條約」附件相關議定書規定所設立。
- 2 本行應遵守本法及本行章程之規定，並適用股份有限公司有關規定。

第 3 條

- 1 本行設總行於布魯塞爾。
- 2 本行於必要時得於比利時境內設立分支機構。

第 4 條

- 1 本行之資本為 1000 萬歐元，分為 40 萬股。其中 20 萬股為記名且不可轉讓，由國家出資，其餘 20 萬股為記名、無記名或無實體股份。資本額應十足收取。
- 2 無記名股票在 2008 年 1 月 1 日已發行並以證券帳戶持有者，應於當日轉換為無實體股份。其他無記名股票自 2008 年 1 月 1 日起於證券帳戶登錄時，自動轉換為無實體形式。

Except for those belonging to the State, the shares may be converted into registered or dematerialised shares, free of charge, as the owner wishes.

CHAPTER II

TASKS AND TRANSACTIONS

Art. 5.

1. In order to achieve the objectives of the ESCB and to carry out its tasks, the Bank may :
 - operate in the financial markets, by buying and selling outright (spot and forward), or under repurchase agreement or by lending or borrowing claims and marketable instruments expressed in Community or in non-Community currencies, as well as precious metals;
 - conduct credit operations with credit institutions and other money market or capital market participants, with lending being based on adequate collateral.
2. The Bank shall comply with the general principles defined by the ECB for open market and credit operations, including those relating to announcement of the conditions under which such transactions are carried out.

Art. 6. -Within the limits and in accordance with the detailed terms and conditions adopted by the ECB, the Bank may also carry out, inter alia, the following transactions :

- 1° issue and redeem its own loan instruments;
- 2° accept deposits of securities and precious metals, undertake the redemption of securities and act on behalf of other parties in transactions in securities, other financial instruments and precious metals;
- 3° carry out transactions in interest-rate instruments;
- 4° carry out transactions in foreign currencies, gold or other precious metals;
- 5° carry out transactions with a view to the investment and financial management of its holdings of foreign currencies and of other external reserve elements;
- 6° obtain credit from foreign sources and provide guarantees for that purpose;
- 7° carry out transactions relating to European or international monetary cooperation.

- 3 除國家持有之股份外，其他股份得依所有人之要求，無償轉換為記名或無實體。

第 2 章 任務及業務

第 5 條

- 1 為了達成歐洲中央銀行體系之目標及執行本行之任務，本行得：
- 在金融市場以直接買賣（現貨或期貨）、附買回方式或借貸方式買賣以共同體或非共同體貨幣計價之債權、市場性工具，或買賣貴金屬。
 - 與信用機構或其他貨幣市場或資本市場參與者從事信用操作，並以合格擔保為條件，進行放款。
- 2 本行應遵循歐洲中央銀行對於公開市場及信用操作所定之一般原則，包括從事各該交易條件之聲明。

第 6 條

在符合歐洲中央銀行規定之權限範圍及條件下，本行亦得從事下列業務：

1. 發行及贖回本行債券。
2. 接受證券及貴金屬之存放，承作證券之贖回，擔任證券、其他金融工具及貴金屬交易之代理人。
3. 從事利率工具之交易。
4. 從事外幣、黃金或其他貴金屬之交易。
5. 從事本行外匯及其他外部準備之投資及財務管理相關交易。
6. 從國外取得信用額度並為此提供擔保。
7. 從事與歐洲或國際貨幣合作有關之交易。

Art. 7. -The Bank's claims arising from credit transactions shall entail a preferential claim on all securities which the debtor holds in an account with the Bank or in its securities clearing system as his own assets.

This preferential claim shall have the same rank as the preferential claim of the creditor secured with a pledge.

In the event of default on payment of the Bank's claims referred to in the first paragraph, the Bank may, after notifying the debtor in writing that he is in default, take action automatically, without a prior court decision, to realise the securities on which it has a preferential claim, notwithstanding the possible bankruptcy of the debtor or any other situation in which there is concourse as between his creditors. The Bank must endeavour to convert the securities into cash at the most advantageous price and as quickly as possible, account being taken of the volume of the transactions. The proceeds from this conversion into cash shall be allocated to the Bank's claim in respect of principal, interest and costs, any balance remaining after settlement reverting to the debtor.

When the Bank accepts claims as a pledge, as soon as the pledge agreement has been entered into, it is noted in a register kept at the National Bank of Belgium or with a third party appointed for this purpose.

By being recorded in this register, which is not subject to any specific formalities, the National Bank of Belgium's pledge is given a firm date and becomes opposable *erga omnes*, with the exception of the debtor of the pledged claim.

The register may only be consulted by third parties who are considering acceptance of an *in rem* (collateral) right over claims which may be taken as a pledge by the National Bank of Belgium. Consultation of the register is governed by terms to be stipulated by the National Bank of Belgium.

In the event of insolvency proceedings being instituted, as set out in Article 3, paragraph 5 of the Law of 15 December 2004 relating to financial collateral and various tax provisions in relation to *in rem* collateral arrangements and loans relating to financial instruments, to the account of a credit institution having pledged claims to the National Bank of Belgium, the following provisions will apply:

- a) the registered lien of the National Bank of Belgium on claims takes precedence of all other *in rem* collateral subsequently arranged or granted to third parties over the same claims, irrespective of whether or not the debtor of the pledged claims has been notified of the abovementioned liens and whether or not the abovementioned liens have been recognised by the debtor of the pledged claims; in the event that the National Bank of Belgium brings the pledge to the attention of the debtor of the pledged claim, the latter may now only make payment in full discharge to the National Bank of Belgium.

第 7 條

- 1 本行因信用交易而取得之債權，對於債務人於本行帳戶持有之證券或於本行結算系統持有之資產，享有優先權。
- 2 前項優先權與擔保債權之質權具同一順位。
- 3 債務人未能清償第一項之債務時，本行於書面通知債務人違約後，不經法院裁判，亦不論債務人是否可能破產或有任何其他債權人同時求償之情形，得自行變賣本行有優先權之證券。本行應視其交易量，儘速以最有利價格，將證券變現；變賣所得價金，應清償本行債權之本金、利息及費用，剩餘部分返還債務人。
- 4 本行接受債權作為質權之標的時，質權一經設定，應即於比利時國家銀行或指定第三人所保管之登記簿註記之。
- 5 前項登記簿不限形式。本行質權於登記簿註記時，應載明日期；並自即日起，得對抗設定該質權之債務人以外之第三人。
- 6 前項登記簿內容，僅限正考慮接受以本行可能之質權標的作為其債權擔保之第三人，始得查閱；登記簿之查閱事宜，由比利時國家銀行訂定辦法管理之。
- 7 依 2004 年 12 月 15 日金融擔保及各項稅制法第 3 條第 5 項有關金融工具擔保及貸款之規定，向比利時國家銀行設定質權之金融機構，如有發生清償不能之情事時，適用下列各款規定：
 - a) 本行已登記之質權優先於其他任何於同一債權上設定之擔保權利，不論債務人是否被通知本行質權之存在，亦不論該質權是否經債務人之承認，均不影響其效力。本行於通知債務人主張債權時，債務人應向本行全額清償。

- b) third parties acquiring a lien concurrent with that of the National Bank of Belgium, as described in the preceding paragraph, are obliged, in any event, to transfer to the National Bank of Belgium, without delay, the amounts which they have received from the debtor of the pledged claim upon insolvency proceedings being instituted. The National Bank of Belgium is entitled to demand payment of these amounts, without prejudice to its right to damages and interest.
- c) notwithstanding any provisions to the contrary, set-off that might result in the cancellation of all or part of the claims pledged to the National Bank of Belgium is not authorised under any circumstances.
- d) Article 8 of the Law of 15 December 2004 relating to financial collateral and various tax provisions in relation to in rem collateral arrangements and loans relating to financial instruments, shall apply by analogy to the taking of claims as a pledge by the National Bank of Belgium, the words "financial instruments" being replaced by "claims".
- e) the combined provisions of Articles 5 and 40 of the Law relating to mortgages (Loi hypothécaire) do not apply.

Art. 8. -The Bank shall ensure that the clearing and payment systems operate properly and shall make certain that they are efficient and sound.

It may carry out all transactions or provide facilities for these purposes.

It shall provide for the enforcement of the regulations adopted by the ECB in order to ensure the efficiency and soundness of the clearing and payment systems within the European Community and with other countries.

Art. 9. -Without prejudice to the powers of the institutions and organs of the European Communities, the Bank shall implement the international monetary cooperation agreements by which Belgium is bound in accordance with the procedures laid down by agreements concluded between the Minister of Finance and the Bank. It shall provide and receive the means of payment and credits required for the implementation of these agreements.

The State shall guarantee the Bank against any loss and shall guarantee the repayment of any credit granted by the Bank as a result of the implementation of the agreements referred to in the preceding paragraph or as a result of its participation in international monetary cooperation agreements or transactions to which, subject to approval by the Council of Ministers, the Bank is a party. The State shall also guarantee the Bank the repayment of any credit granted in the context of its contribution to the stability of the financial system and guarantee the Bank against any loss incurred as a result of any transaction necessary in this regard.

- b) 於第三人與本行同時取得前款質權之情形，該第三人應於破產程序開始後立即將其自債務人收取之款項轉讓予本行。本行有權要求給付該等款項，且不影響本行之損害賠償及利息請求權。
- c) 不論有無其他相反之規定，抵銷之行使如造成本行質權所擔保之債權全部或一部消滅者，不得為之。
- d) 2004 年 12 月 15 日金融擔保及各項稅制法第 8 條有關金融工具擔保及貸款之規定，於本行設定質權時準用之；其中「債權」一詞應視為該條所稱之「金融工具」。
- e) 上開法律第 5 條及第 40 條有關抵押貸款之規定，於本法不適用之。

第 8 條

- 1 本行應維護結算及支付系統之適當運作，並確保其效率與健全。
- 2 本行得就前項目標從事各項交易或提供所需設備。
- 3 本行應執行歐洲中央銀行採行之規定，確保歐洲共同體內及與其他國家結算及支付系統之效率與健全。

第 9 條

- 1 於不妨礙歐洲共同體各機構及組織職權之範圍內，本行得依與財政部長協議所訂程序，執行比利時應遵守之國際貨幣合作協定；並應提供及收受為執行該協定所需之信用及支付工具。
- 2 基於前項規定，本行執行經部長會議核准之國際協定、參與國際貨幣合作協定或交易，而成為協定或交易當事人時，國家應擔保本行免遭受損失，並保證本行所貸與款項之清償。國家並應保證本行為維持金融系統之穩定所貸與款項之清償，及補償本行因此所為必要交易之損失。

Art. 9bis. - Within the framework set by Article 105(2) of the Treaty establishing the European Community and Articles 30 and 31 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, the Bank shall hold and manage the official foreign reserves of the Belgian State. Those holdings shall constitute assets allocated to the tasks and transactions coming under this chapter and the other tasks of public interest entrusted to the Bank by the State. The Bank shall record these assets and the income and charges relating thereto in its accounts in accordance with the rules referred to in Article 33.

Art. 10. -The Bank may, on the conditions laid down by, or by virtue of, law, and subject to their compatibility with the tasks within the domain of the ESCB, be entrusted with the performance of tasks of public interest.

Art. 11. -The Bank shall act as State Cashier on the conditions determined by law.

It shall be entrusted, to the exclusion of all other Belgian or foreign bodies, with the conversion into euros of the currencies of States not participating in Monetary Union or of States which are not members of the European Community borrowed by the State.

The Bank shall be informed of all plans for the contracting of foreign currency loans by the State, the Communities and the Regions. At the request of the Bank, the Minister of Finance and the Bank shall consult together whenever the latter considers that these loans are liable to prejudice the effectiveness of monetary or foreign exchange policy. The terms and conditions of this giving of information and this consultation shall be laid down in an agreement to be concluded between the Minister of Finance and the Bank, subject to approval of this agreement by the ECB.

Art. 12. -The Bank shall contribute to the stability of the financial system. For all decisions and transactions made in the context of its contribution to the stability of the financial system, the Bank shall enjoy the same degree of independence as that determined by Article 108 of the Treaty establishing the European Community.

The Bank may further be charged with the gathering of statistical information or with the international cooperation relating to any task referred to in Article 10.

第 9 條之 1

在「歐洲共同體條約」第 105 條第 2 項及「歐洲中央銀行體系與歐洲中央銀行條例議定書」第 30 條及第 31 條之架構下，本行應持有及管理本國之外匯準備。本行所持有之準備資產得運用於執行本章規定之目標及交易，或國家為其他公共利益賦予本行之任務。本行應依第 33 條所定規則，將該等資產及其收入支出，記載於會計帳上。

第 10 條

本行得依法律規定之條件或授權，並於不違反歐洲中央銀行體系職掌任務之範圍內，賦予執行公共利益之任務。

第 11 條

- 1 本行應依法律規定之條件擔任政府之出納。
- 2 本行對於將國家借貸之非貨幣同盟或非歐洲共同體會員國貨幣轉換為歐元有專屬權利。
- 3 國家、文化社區及自治行政區有締結外幣借貸合約之計畫時，應通知本行；本行認為該等貸款將妨礙貨幣或外匯政策之有效性時，得要求財政部長與本行諮商；其通知及諮商之條件，由財政部長與本行協議訂之，並經歐洲中央銀行核准之。

第 12 條

- 1 本行應維持金融系統之穩定。本行為維持金融系統穩定所為之決策與交易，享有與「歐洲共同體條約」第 108 條規定相同程度之獨立性。
- 2 本行得蒐集與第 10 條所定任務有關之統計資訊，並辦理相關國際合作事宜。

Art. 13. -The Bank may carry out all transactions and provide all services which are ancillary to or follow from the tasks referred to in this Act.

Art. 14. -The Bank may entrust the performance of tasks not within the domain of the ESCB with which it is charged or for which it takes the initiative, to one or more distinct legal entities specially set up for this purpose and in which the Bank holds a significant interest; one or more members of the Bank's Board of Directors shall participate in directing such entities.

If the task is entrusted by law to the Bank, the prior consent of the King, on the proposal of the competent minister, shall be required.

Art. 15. -Repealed.

Art. 16. -The legal entities referred to in Article 14 and controlled exclusively by the Bank shall be subject to auditing by the Accounts Audit Court [Cour des Comptes - Rekenhof].

CHAPTER III

ORGANS - COMPOSITION - INCOMPATIBILITIES

Art. 17. -The organs of the Bank shall be the Governor, the Board of Directors, the Council of Regency and the Board of Censors.

Art. 18.

1. The Governor shall direct the Bank and preside over the Board of Directors and the Council of Regency.
2. If he is unable to attend, he shall be replaced by the Vice-Governor without prejudice to the application of Article 10.2 of the Statute of the ESCB.

Art. 19.

1. In addition to the Governor, who presides, the Board of Directors shall be composed of at least five but not more than seven directors, one of whom shall bear the title of Vice-Governor, conferred on him by the King. The Board of Directors shall include an equal number of French and Dutch speakers, with, possibly, the exception of the Governor.

第 13 條

本行得從事與本法所定之任務相關或具有輔助性之任何交易或服務。

第 14 條

- 1 本行得將其在歐洲中央銀行體系外所職掌或主辦之任務，委託一個或數個法人執行。該等法人應特別為執行該任務而設立，並由本行持有相當股份，及由本行董事會成員一位或數位擔任負責人。
- 2 法律如擬賦予本行任務，應由主管部長提案，並經國王事前同意。

第 15 條

刪除。

第 16 條

第 14 條所定之本行掌控之法人，應受審計部門之查核。

第 3 章 組織、成員及任職限制

第 17 條

本行組織包括總裁、董事會、理事會及監事會。

第 18 條

- 1 總裁綜理行務，擔任董事會及理事會主席。
- 2 總裁無法執行職務時，於不違反歐洲中央銀行體系條例第 10 條第 2 項規定之範圍內，由副總裁代理之。

第 19 條

- 1 除總裁外，董事會由 5 至 7 人組成，其中一人為副總裁，由國王任命。除總裁外，董事成員說法語與荷蘭語之人數應相同。

2. The Board shall be responsible for the administration and management of the Bank and shall decide on the direction of its policy.
3. It shall exercise regulatory power in the cases laid down by law.
4. It shall decide on the investment of the capital, reserves and depreciation accounts after consultation with the Council of Regency and without prejudice to the rules adopted by the ECB.
5. It shall pronounce upon all matters which are not expressly reserved for another organ by law, the Statutes or the internal regulations.
6. In accordance with Articles 49 § 6 , 3 and 85 § 6 , 3 of the Act of 2 August 2002 on the supervision of the financial sector and on financial services, depending on the case, two or three members of the Board of Directors shall, on a personal basis, have a seat in the Board of Directors of the Banking and Finance Commission, and one or two members in that of the Insurance Supervision Office.

Art. 20.

1. The Council of Regency shall be composed of the Governor, the directors and ten regents. It shall include an equal number of French- and Dutch-speaking regents.
2. The Council shall exchange views on general questions concerning the Bank, monetary policy and the economic situation of the country and the European Community. It shall take cognisance every month of the situation of the institution.
On a proposal from the Board of Directors it shall lay down the internal regulations, containing the basic rules for the operation of the Bank's organs and the organisation of its departments, services and outside offices.
3. The Council shall fix the individual salaries and pensions of the members of the Board of Directors. These salaries and pensions may not include a share in the profits and no remuneration whatsoever may be added thereto by the Bank, either directly or indirectly.
4. The Council shall approve the expenditure budget and the annual accounts submitted by the Board of Directors. It shall finally determine the distribution of profits proposed by the Board.
5. Three regents shall, on a personal basis, have a seat in the supervisory board of the Banking and Finance Commission and in that of the Insurance Supervision Office.

Art. 21.

1. The Board of Censors shall be composed of ten members. It shall include an equal number of French and Dutch speakers. At least one member of the Board of Censors shall be independent as defined by Article 526ter of the Companies Code.

- 2 董事會負責本行之經營及管理，並決定本行之政策方向。
- 3 董事會應依法律規定行使主管機關職權。
- 4 董事會與理事會諮商後，於不違反歐洲中央銀行訂定之規則範圍內，決定資本投資、準備及折舊帳戶。
- 5 除法律、章程及內部規則明文保留予本行其他單位之事項外，其餘事務由董事會決行之。
- 6 依 2002 年 8 月 2 日金融產業及金融服務監督法第 49 條第 6 項第 3 款及第 85 條第 6 項第 3 款規定，2 或 3 位董事會成員應以個人身分成為銀行及金融委員會之董事會成員，1 或 2 位受指派為保險監督局之董事會成員。

第 20 條

- 1 理事會由總裁、所有董事及理事 10 人組成之；其說法語與荷蘭語之理事人數應相同。
- 2 理事會應就本行一般問題、歐洲共同體及國內貨幣政策及經濟情勢交換意見；並應每月審查本行之概況。理事會得依董事會之提案，制定有關本行組織運作及各部門、分支機構組織之內部規則。
- 3 理事會決定董事會成員之個別薪水及退休金；其薪水及退休金不得包括本行盈餘之分享，且本行不得再直接或間接支付其他酬勞。
- 4 理事會核定董事會所提之預算及年度會計報告，並最終決定董事會所提之盈餘分配案。
- 5 3 位理事應以個人身分，擔任銀行及金融監督委員會及保險監督局之監理會成員。

第 21 條

- 1 監事會由監事 10 人組成，說法語及荷蘭語之人數應相同。監事會至少一位成員應具備公司法第 526 條規定之獨立性。

2. The Board of Censors shall supervise the preparation and implementation of the budget. It is the audit committee of the Bank and shall exercise in this capacity the tasks laid down by Article 21bis.
3. The censors shall receive an allowance, the amount of which shall be set by the Council of Regency.

Art. 21 bis.

1. Without prejudice to the responsibilities of the organs of the Bank and without prejudice to the execution of the tasks and transactions within the domain of the ESCB and their review by the statutory auditor, the audit committee shall, at least:
 - a) monitor the financial reporting process;
 - b) monitor the effectiveness of the internal control and risk management systems, and of the Bank's internal audit;
 - c) monitor the statutory audit of the annual accounts, including the compliance with the questions and recommendations formulated by the statutory auditor;
 - d) review and monitor the independence of the statutory auditor, and in particular the provision of additional services to the Bank.
2. Without prejudice to Article 27.1 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, and without prejudice to the competence of the Works Council with respect to the nomination, the proposal of the Board of Directors for the appointment of the statutory auditor shall be given on proposal of the audit committee. The Works Council shall be informed of this proposal. The audit committee shall also advise on the tender procedure for the appointment of the statutory auditor.
3. Without prejudice to any reports and notices of the statutory auditor to the organs of the Bank, he shall report to the audit committee on key matters arising from the statutory audit, and in particular on material weaknesses in internal control in relation to the financial reporting process.
4. The statutory auditor shall:
 - a) confirm annually in writing to the audit committee his independence from the Bank;
 - b) disclose annually to the audit committee any additional services provided to the Bank;
 - c) discuss with the audit committee the threats to his independence and the safeguards applied to mitigate those threats and that have been documented by him in the audit working papers.
5. The Internal Regulations shall specify the rules of procedure of the audit committee.

- 2 監事會應監督預算之編列及執行，並為本行審計委員會，執行第 21 條之 1 規定之職務。
- 3 監事得支領報酬，其金額由理事會決定。

第 21 條之 1

- 1 在不妨礙本行組織之職責，且不妨礙歐洲中央銀行體系之任務與交易之執行及法定審計員複查之範圍內，審計委員會至少應：
 - a) 監控財務報告之過程。
 - b) 監控內部控制與風險管理系統及本行內部稽核之效率。
 - c) 監控年度結算之法定審計，包括對法定審計員提出之問題與建議之遵循情形。
 - d) 審查及監控法定審計員之獨立性，特別是關於提供本行額外服務的部分。
- 2 在不妨礙「歐洲中央銀行體系及歐洲中央銀行條例議定書」第 27 條第 1 項規定，且不妨礙員工代表會提名權限之範圍內，董事會任命法定審計員之提案，應依審計委員會之提議為之。提議內容應通知員工代表會。審計委員會亦應對於任命法定審計員之招聘程序提出建議。
- 3 在不妨礙法定審計員對於本行組織之報告及通知範圍內，法定審計員應向審計委員會報告與法定審計有關之重要事項，尤其與財務報告處理有關之內部控制之缺失。
- 4 法定審計員應：
 - a) 每年向審計委員會以書面確認其獨立於本行。
 - b) 每年向審計委員會揭露其提供予本行之任何額外服務。
 - c) 與審計委員會討論對其獨立性構成威脅之因素、用以緩和該等威脅之安全措施，以及其工作底稿紀錄之內容。
- 5 內部規章應明定審計委員會之議事程序。

Art. 22.

1. Except as regards the tasks and transactions within the domain of the ESCB, the Minister of Finance, through his representative, shall have the right to supervise the Bank's transactions and to oppose the implementation of any measure which is contrary to the law, the Statutes or the interests of the State.
2. The representative of the Minister of Finance shall, ex officio, attend the meetings of the Council of Regency and the Board of Censors. Except as regards the functions and transactions within the domain of the ESCB, he shall supervise the Bank's transactions and suspend and bring to the attention of the Minister of Finance any decision which is contrary to the law, the Statutes or the interests of the State.
If the Minister of Finance has not given a decision within eight days on the suspension, the decision may be implemented.
3. The salary of the representative of the Minister of Finance shall be fixed by the Minister of Finance in consultation with the management of the Bank and shall be borne by the latter.
The representative of the Minister shall report to the Minister of Finance each year on the performance of his task.

Art. 23.

1. The Governor shall be appointed by the King for a renewable term of five years. He may be relieved from office by the King only if he no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct. With regard to this decision, he shall have the right of appeal as provided in Article 14.2 of the Statute of the ESCB.
2. The other members of the Board of Directors shall be appointed by the King, on the proposal of the Council of Regency, for a renewable term of six years. They may be relieved from office by the King only if they no longer fulfil the conditions required for the performance of their duties or if they have been guilty of serious misconduct.
3. The regents shall be elected for a three-year term by the General Meeting. Their term may be renewed. Two regents shall be chosen on the proposal of the most representative labour organisations. Three regents shall be chosen on the proposal of the most representative organisations from industry and commerce, from agriculture and from small firms and traders. Five regents shall be chosen on the proposal of the Minister of Finance. The methods of proposing candidates for these appointments shall be laid down by the King, after deliberation in the Council of Ministers.
4. The censors shall be elected for a three-year term by the General Meeting of Shareholders. They shall be chosen from among persons with special qualifications in the field of supervisory procedures. Their term may be renewed.

第 22 條

- 1 除本行於歐洲中央銀行體系內之任務與交易外，財政部長有權透過其指派之代表，監督本行之交易，並阻止本行違反法律、本行章程或國家利益之行為。
- 2 財政部長代表應出席理事會及監事會之會議。除本行於歐洲中央銀行體系內之任務及交易外，財政部長代表應監督本行之交易，停止本行違反法律、本行章程或國家利益決議之執行，並陳報財政部長。財政部長未於停止執行後八日內作出決定，則該決議得繼續執行。
- 3 財政部長所指派之代表，其薪水應由財政部長會商本行管理階層後決定，並由本行負擔。該代表應每年向財政部長報告當年度執行任務情形。

第 23 條

- 1 總裁由國王任命，任期為 5 年，得連任之。總裁僅於其不再具備履行職務所需之資格條件，或行為嚴重不當而受有罪判決時，始得由國王解除職務。總裁得依歐洲中央銀行體系條例第 14 條第 2 項規定，對解除其職務之決定請求救濟。
- 2 其他董事由理事會提名，國王任命，任期 6 年，得連任之。董事僅於其不再具備履行職務所需之資格條件，或行為嚴重不當而受有罪判決時，始得由國王解除其職務。
- 3 理事應由股東大會選任，任期 3 年，連選得連任。理事 2 人由最具代表性之勞工組織推薦人選選任之；理事 3 人由最具代表性之工商業、農業、小型企業及貿易商之團體推薦人選選任之；理事 5 人自財政部長推薦之人選選任之。推薦理事候選人之方式，由部長會議審議，國王核定。
- 4 監事由股東大會選任，任期 3 年。監事應自監理領域中具有特殊專長之人選任之。連選得連任。

Art. 24. -The regents shall receive attendance fees and, if appropriate, a travel allowance. The amount of such remunerations shall be fixed by the Council of Regency.

Art. 25. -Members of the Legislative Chambers, the European Parliament, the Councils of the Communities and the Regions, persons who hold the position of minister or secretary of state or of member of the Government of a Community or Region and members of the staff of a member of the Federal Government or of the Government of a Community or Region may not hold the office of Governor, Vice-Governor, member of the Board of Directors, regent or censor. The last-mentioned functions shall automatically cease when their holder takes the oath of office for exercise of the above-mentioned offices or performs such functions.

Art. 26. -

§ 1. The Governor, the Vice-Governor and the other members of the Board of Directors may not hold any office in a commercial company or a company which is commercial in form or in any public body which carries on an industrial, commercial or financial activity. Subject to the approval of the Minister of Finance, they may however hold office in :

1. international financial institutions established under agreements to which Belgium is party;
2. the Public Securities Regulation Fund (Fonds des Rentes - Rentenfonds), the Fund for the Protection of Deposits and Financial Instruments (Fonds de protection des dépôts et des instruments financiers -Bescherminsfonds voor deposito's en financiële instrumenten), the Rediscount and Guarantee Institute (Institut de Réescompte et de Garantie - Herdiscontering- en Waarborginstituut) and the National Delcredere Office (Office National du Ducroire - Nationale Delcrededienst);
3. the legal entities referred to in Article 14.

The prohibitions referred to in the first paragraph shall continue to apply for one year after the Governor, Vice-Governor or other members of the Board of Directors have relinquished their office; this term shall be extended to two years in the case of an office to be held in a credit institution.

The Council of Regency shall determine the conditions relating to the relinquishment of office. It may, on the recommendation of the Board of Directors, waive the prohibition laid down for the period concerned after the relinquishment of office if it finds that the activity envisaged has no significant influence on the independence of the person in question.

§ 2. Regents may not hold office as managing director, director or manager in a credit institution.

第 24 條

理事可領取出席費，並得視情形領取差旅費；其費用之金額，由理事會決定之。

第 25 條

國會、歐洲議會、文化社區及自治行政區之議會成員，部長、秘書長，以及各級政府所屬職員，均不得擔任總裁、副總裁、董事、理事或監事。總裁、副總裁、董事、理事或監事之職務，應於其宣誓就任前述職務或行使該等職務之職權時自動終止。

第 26 條

1 總裁、副總裁及董事會其他成員不得任職於商業公司、具有商業形式之公司或從事工業、商業或金融活動之公共團體。但經財政部長同意者，得任職於下列機構：

1. 以比利時為締約當事人之協定所設立之國際金融機構。
2. 公共證券管理基金、存款與金融工具保護基金、重貼現與保證機構及國家保證事務局。

3. 第 14 條所定之法人。

前述任職之限制，於總裁、副總裁及董事會其他成員離職後 1 年內仍有效力；其轉任信用機構者，禁止任職之期間延長為離職後 2 年。

理事會決定離職之條件。理事會認為前述各該人員離職後轉任之活動，對於其獨立性無顯著影響者，得依董事會之建議，解除離職後任職期間之限制。

2 理事不得擔任信用機構之執行業務董事、董事或經理人。

§ 3. Members of the Board of Directors and members of the Bank's staff must respect the code of ethics drawn up by the Council of Regency on the proposal of the Board of Directors. Persons responsible for supervising compliance with that code must maintain professional secrecy as provided for in Article 458 of the Penal Code.

Art. 27. -The terms of the members of the Board of Directors, the Council of Regency and the Board of Censors shall expire no later than when they reach the age of sixty-seven years.

However, subject to authorisation by the Minister of Finance, they may complete their current term. The terms of the members of the Board of Directors may afterwhile still be extended by one year, which term may be renewed. In the case of the Governor's term of office, the authorisation to complete the current term or its extension shall be granted by Royal Decree deliberated in the Council of Ministers.

On no account may the office-holders referred to above remain in office beyond the age of seventy years.

Art. 28. -The Governor shall send to the Chairmen of the Chamber of Representatives and the Senate the annual report referred to in Article 109 B (3) of the Treaty establishing the European Community. The Governor may be heard by the competent committees of the Chamber of Representatives and the Senate at the request of these committees or on his own initiative.

CHAPTER IV FINANCIAL PROVISIONS AND REVISION OF THE STATUTES

Art. 29. -Repealed.

Art. 30. -Any capital gain realised by the Bank through arbitrage transactions of gold assets against other external reserve components shall be entered in a special unavailable reserve account. This capital gain shall be exempt from all taxation. However, where some external reserve components have been arbitrated against gold, the difference between the purchase price of that gold and the average purchase price of the existing gold stock shall be deducted from the amount of that special account.

- 3 董事會成員及本行職員，應遵守董事會提經理事會通過之廉政規範。負責監督廉政規範遵循情形之人員，應遵守刑法第 458 條關於因業務知悉秘密之保密義務。

第 27 條

- 1 董事會、理事會、監事會成員之任期，於各該成員滿 67 歲時終止。
- 2 前項成員經財政部長核准者，得於屆齡後做滿該屆任期。董事會成員之任期屆滿後得再延長 1 年，並得續予任命。關於屆齡總裁做滿任期及延任之許可，應經部長會議審議後，由皇室敕令為之。
- 3 不論任何原因，超過 70 歲者，不得再擔任前述之職務。

第 28 條

總裁應將「歐洲共同體條約」第 109 條之 B 第 3 項規定之年報，送交眾議院及參議院主席；並得依眾議院及參議院相關委員會之要求，或主動向各該委員會報告。

第 4 章 財務條款及章程修正

第 29 條

刪除。

第 30 條

- 1 以本行黃金資產對其他外部準備資產套利所實現之資本利得，應入特別準備帳，並予免稅。但當外部準備資產用於對黃金之套利交易時，其黃金購買價格與庫存黃金平均價格之差價，應自該特別帳戶扣減。

The net income from the assets which form the counterpart to the capital gain referred to in the first paragraph shall be allocated to the State.

External reserve components acquired as a result of the transactions referred to in the first paragraph shall be covered by the State guarantee as provided in Article 9(2) of this Act.

The terms and conditions for application of the provisions contained in the preceding paragraphs shall be fixed by agreements to be concluded between the State and the Bank. These agreements shall be published in the Belgian Gazette (*Moniteur belge*/Belgisch Staatsblad).

Art. 31. -The reserve fund is intended for :

1. compensating for losses in capital stock;
2. supplementing any shortfall in the annual profit up to a dividend of six per cent of the capital.

Upon expiration of the Bank's right of issue, the State shall have a priority claim to one fifth of the reserve fund. The remaining four fifths shall be distributed among all the shareholders.

Art. 32. - The annual profits shall be distributed as follows:

1. a first dividend of 6% of the capital shall be allocated to the shareholders;
2. from the excess, an amount proposed by the Board of Directors and established by the Council of Regency shall be independently allocated to the reserve fund or to the available reserves;
- 3° from the second excess, a second dividend forming a minimum of 50% of the net proceeds from the assets forming the counterpart to the reserve fund and available reserves shall be allocated to the shareholders;
- 4° the balance shall be allocated to the State; it shall be exempt from company tax.

Art. 33. -The accounts and, if appropriate, the consolidated accounts of the Bank shall be drawn up :

1. in accordance with this Act and the mandatory rules drawn up pursuant to Article 26.4 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank;
2. and otherwise in accordance with the rules laid down by the Council of Regency.

- 2 第 1 項資本利得之淨收入，應繳交國庫。
- 3 第 1 項交易取得之外部準備資產，依第 9 條第 2 項規定，應由政府保證。
- 4 前 3 項之適用條件，由政府與本行協議定之；其協議內容，並應刊登於政府公報。

第 31 條

- 1 法定公積應用於：
 1. 彌補資本之虧損。
 2. 補足年度盈餘未達資本額 6% 之股息差額。
- 2 本行之發行權失效後，政府對於本行公積之 1/5 有優先權，其餘 4/5 應分配予股東。

第 32 條

年度盈餘分配如下：

1. 資本額 6% 之股利先分配予股東。
2. 前款餘額部分，依董事會提案，理事會核定之金額，獨立分配予法定公積或可動用公積金。
3. 剩餘部份，構成法定公積及可動用公積金之資產，其淨收入的至少 50%，作為第二次股利，分配予股東。
4. 結餘繳交國庫，並免徵公司稅。

第 33 條

- 1 本行會計報表及合併會計報表應依下列規定編列：
 1. 依本法及「歐洲中央銀行體系及歐洲中央銀行條例議定書」第 26 條第 4 項訂定之原則。
 2. 依理事會訂定之規定。

Articles 2 to 4, 6 to 9 and 16 of the Act of 17 July 1975 on business accounting and their implementing decrees shall apply to the Bank with the exception of the decrees implementing Articles 4 (6) and 9, § 2.

Art. 34. -The Bank and its outside offices shall comply with the statutory provisions on the use of languages in administrative matters.

Art. 35. -Except when called upon to give evidence in court in a criminal case, members of the Bank's organs and members of its staff shall be subject to professional secrecy and may not divulge :

- 1° to any person or authority whatsoever not qualified to have knowledge thereof, the confidential information which has to be communicated to the Bank by virtue of statutory provisions or regulations, or similar information received from foreign authorities;
- 2° to any person or authority whatsoever, the confidential information which is communicated to the Bank by the European Monetary Institute, the ECB, other central banks or monetary institutions, other public authorities entrusted with the oversight of payment systems as well as Belgian or foreign authorities responsible for the supervision of credit institutions, investment firms, undertakings for collective investment in transferable securities, insurance companies and financial markets.

The members of the Bank's organs and its members of staff shall be exempt from the obligation contained in Article 29 of the Code of Criminal Procedure if the information received by the Bank originates from authorities or institutions which are themselves not subject to or exempt from this obligation. Paragraph 1 shall not preclude the communication of such information :

1. to the European Monetary Institute, the ECB, other central banks or monetary institutions when such communication is necessary for their function as monetary authorities, including the oversight of payment systems;
2. to the authorities responsible for supervising credit institutions, investment firms, undertakings for collective investment in transferable securities and insurance enterprises when such information is necessary for their supervisory function;
3. to the authorities responsible for supervising financial markets when such information is necessary to take a decision concerning the application of sanctions to participants on the market in question;

- 2 1975 年 7 月 17 日商業會計法第 2 條至第 4 條、第 6 條至第 9 條、第 16 條及其子法之規定，除該子法第 4 條第 6 項及第 9 條第 2 項之規定外，於本行均適用之。

第 34 條

本行及分支機構執行業務，應遵守法令關於語言使用之規定。

第 35 條

- 1 除於刑事案件依法院之傳喚作證外，本行組織之成員及職員負有業務保密義務，並不得為下列行為：
 1. 對無權知悉之個人或機關洩露他人依法提供予本行之機密資訊，或本行自國外有權機關接受之類似資訊。
 2. 向任何個人或機關洩露本行自歐洲中央銀行、其他中央銀行或貨幣機構、其他受託監管支付系統之主管機關、本國或國外負責監督信用機構、投資公司、可轉讓證券集合投資事業、保險公司及金融市場之機關所獲得之機密資訊。
- 2 本行組織之成員及職員自不適用刑事訴訟法第 29 條規定之人獲得資訊時，本行組織之成員及職員亦不適用該規定。
- 3 第 1 項規定，於下列資訊交流不適用之：
 1. 與歐洲中央銀行、其他中央銀行或貨幣機構間為執行貨幣主管機關（構）功能所必要之資訊交流，包括支付系統之監管。
 2. 與信用機構、投資公司、可轉讓證券集合投資事業或保險機構之主管機關間，為執行監督功能所必要者。
 3. 當資訊對於金融市場之主管機關是否對市場參與者給予裁罰之決定所必要者。

4. to other public authorities charged with the oversight of payment systems, in so far as the recipients of the information are subject to an equivalent obligation to maintain professional secrecy.

Contraventions of this article shall incur the penalties laid down by Article 458 of the Penal Code.

The provisions of Book I of the Penal Code, including Chapter VII and Article 85, shall be applicable to contraventions of this article.

The first and the second paragraph do not at all prevent the observance, by the members of the bodies of the Bank and its staff, of more restrictive provisions as to professional secrecy when the Bank, pursuant to article 12, is charged with collecting statistical information.

Art. 36. -The Council of Regency shall amend the Statutes in order to bring them into conformity with this Act and with the international obligations which are binding on Belgium.

Other amendments to the Statutes shall be adopted, on the proposal of the Council of Regency, by a majority of three quarters of the votes pertaining to the total number of shares present or represented at the General Meeting of Shareholders.

Amendments to the Statutes shall require the approval of the King.

CHAPTER V

TRANSITIONAL AND REPEALING PROVISIONS

- ENTRY INTO FORCE

Art. 37. - The capital gain made from the transfer of assets in gold with regard to the issuing by the State of numismatic or commemorative coins, shall be allotted to the State to the extent of the unused balance of the 2.75% of the weight of gold which appeared in the Bank's assets on 1 January 1987, and which could be used by the State, particularly for issuing coins, by virtue of Article 20bis (2) of the Act of 24 August 1939 on the National Bank of Belgium.

Art. 38. -p.m.

4. 對其他監管支付系統之主管機關提供資訊，且該機關應遵守相同之業務保密義務規範者。
- 4 違反本條規定者，依刑法第 458 條規定處罰之。
- 5 刑法第 1 編包括第 7 章及第 85 條規定，對於違反本條規定者，亦適用之。
- 6 第 1 項及第 2 項之規定並無礙於本行各單位之成員及職員依第 12 條蒐集統計資訊時，所應遵守更嚴格之業務保密規定。

第 36 條

- 1 理事會應修正本行章程，使其符合本法之規定及比利時應遵守之國際義務。
- 2 本行章程之其他修正，應由理事會提案，經股東會出席股東或股東代表投票，佔股份 3/4 以上之決議通過。
- 3 本行章程之修正應經國王同意。

第 5 章 過度條款及刪除施行條文

第 37 條

為發行硬幣及紀念幣而處分黃金資產所獲得之資本利得，於 1987 年 1 月 1 日帳上黃金重量 2.75% 之未用餘額範圍內，依 1939 年 8 月 24 日比利時國家銀行法第 20 條第 2 款之規定，應撥交國庫作為發行硬幣專款。

第 38 條

刪除。

四、ORGANIC LAW OF THE
CENTRAL BANK OF
LUXEMBOURG
盧森堡中央銀行法

ORGANIC LAW OF THE CENTRAL BANK OF LUXEMBOURG

The monetary status of the Grand Duchy of Luxembourg

Tasks and legal status of the Central Bank of Luxembourg

Financial bases

Central Bank bodies

The Council

The Executive Board

Staff members of the Central Bank

Auditing the accounts of the Central Bank

The issue of banknotes and coins

Operations of the Central Bank

Rendering of accounts

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Professional secrecy

Power of enforcement and of sanction

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盧森堡中央銀行法

法 務 室 謝 佳 雯 譯

- 第 1 章 本國法定貨幣
- 第 2 章 本行任務及法定地位
- 第 3 章 財務基礎
- 第 4 章 組織
- 第 5 章 委員會
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- 第 7 章 職員
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- 第 10 章 營運
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- 第 13 章 保密義務
- 第 14 章 執行及處分權
- 第 15 章 過渡條款
- 第 16 章 其他條款之廢止

ORGANIC LAW OF THE CENTRAL BANK OF LUXEMBOURG

LAW OF 23 DECEMBER 1998 CONCERNING THE MONETARY STATUS AND THE CENTRAL BANK OF LUXEMBOURG AS MODIFIED BY THE LAW OF 13 JULY 2007 AND THE LAW OF 24 OCTOBER 2008 (CONSOLIDATED VERSION)

The monetary status of the Grand Duchy of Luxembourg

Art. 1. The monetary status of the Grand Duchy of Luxembourg is that of a Member State of the European Community which has adopted the single currency, the euro.

Tasks and legal status of the Central Bank of Luxembourg

Art. 2. (1) The Central Bank of Luxembourg, referred to in the following provisions as the "Central Bank", forms an integral part of the European System of Central Banks, hereinafter referred to as "ESCB". It acts in compliance with the guidelines and instructions of the European Central Bank, hereinafter referred to as "ECB".

(2) The main task of the Central Bank shall be to participate in the execution of the tasks of the ESCB with a view to achieving its objectives.

(3) Subject to their compatibility with its main task and in accordance with the Treaty establishing the European Community and with the Statute of the ESCB and of the ECB, the Central Bank shall perform such duties falling outside the functions of the ESCB as are assigned to it by this law or by other legislative, regulatory or conventional texts.

(4) The Banque centrale shall be responsible for supervising the general liquidity situation on the markets as well as evaluating market operators for this purpose. The coordination and cooperation procedure for performing this task shall be subject to agreements between the Banque centrale and the Commission de surveillance du secteur financier as well as the Commissariat aux assurances in accordance with the parties' legal powers.

盧森堡中央銀行法

**1998 年 12 月 23 日 A N° 112 有關盧森堡法定貨幣
及中央銀行之法律制定**

**2007 年 7 月 13 日 A N° 116 有關金融工具市場之法律修正，
同年 9 月 1 日生效**

2008 年 10 月 24 日 A N° 161 法律修正，同年 11 月 2 日生效

第 1 章 本國法定貨幣

第 1 條 盧森堡為歐洲共同體之會員國，以歐元為單一流
通貨幣。

第 2 章 本行任務及法定地位

第 2 條(1)盧森堡中央銀行（以下簡稱本行）為「歐洲中央
銀行體系」（以下稱 ESCB）之一部分，並遵守
「歐洲中央銀行」（以下稱 ECB）之指導原則及
指令。

(2)本行主要任務係為達成 ESCB 之政策目標，而參
與執行其所賦予之任務。

(3)本行除依據歐洲共同體條約及「歐洲中央銀行體
系與歐洲中央銀行法」（以下稱 ESCB/ECB 法）
規範執行主要任務外，並應履行 ESCB 功能以外，
依本法或其他法令、規定或慣例所賦予之責任。

(4)本行應負責監督金融市場之整體流動性，並對個
別市場操作者之流動性進行評估。為執行此一任
務之協調及合作程序，應由本行與金融監理委員
會及保險委員會，依其法定職掌訂定協議。

(5) In view of its tasks relating to monetary policy and to the promotion of the smooth functioning of payment systems, as well as contributing to the good management of policies implemented by the competent authorities concerning prudential supervision of credit institutions and the financial system's stability, while respecting its independence and the parties' legal powers, the Banque centrale shall cooperate with the Government and with prudential supervision authorities at national level, as well as with the other central banks at Community and international level, to contribute to ensuring financial stability, notably within committees set up for this purpose.

Art. 3. (1) The Central Bank is a public institution, endowed with legal personality and financial autonomy.

(2) The seat of the Central Bank is in Luxembourg.

(3) The Central Bank is exempt from all charges, levies and taxes payable to the State and local authorities, with the exception of value added tax.

Financial bases

Art. 4. (1) The State is the sole shareholder of the Central Bank, which is fixed at twenty-five million euro. A grand-ducal regulation may increase the capital by incorporating reserves, on a proposal from the central bank.

(2) The Central Bank shall hold all the assets and liabilities of Luxembourg in respect of the International Monetary Fund by virtue of the general account and the special drawing rights account.

(3) Capital appreciation in respect of the book value which the Central Bank realizes in disposing of gold-denominated assets shall be paid directly to its reserve fund.

Central Bank bodies

Art. 5. (1) The bodies of the Central Bank shall be the Council and the Executive Board.

(2) In the exercise of the powers and in the fulfillment of the tasks and duties entrusted to them within the domain of the ESCB, neither the Central Bank nor any member of its bodies may seek or accept instructions from institutions or bodies of the European Community, governments of Member States or any other body.

- (5)本行基於貨幣政策與促進支付系統圓滑運作之任務，及以不妨礙其獨立性與相關機關法定職掌之立場，協助主管機關審慎監督信用機構及維護金融體系穩定之政策，於國內應與政府及金融監理機關，於國際間應與歐洲共同體之其他央行，共同確保金融穩定，並以設立委員會之方式進行。

- 第 3 條(1)本行為公共機構，具有法人格及財務自主性。
(2)本行設立於盧森堡。
(3)除增值稅外，本行免除國家或地方當局一切規費、徵收及稅捐。

第 3 章 財務基礎

- 第 4 條(1)本行以國家為唯一股東，資本額為二千五百萬歐元。大公（元首，Grand Duke）得依本行建議頒布法規，以擴編準備之方式增加資本額。
(2)本行擁有盧森堡於「國際貨幣基金」所開立之一般帳戶及特別提款權帳戶之資產及負債。
(3)本行處分黃金計價資產所得價金高於其帳面價值者，應直接撥入準備基金。

第 4 章 組 織

- 第 5 條(1)本行主要單位組織係委員會及理事會。
(2)本行及所屬單位於執行 ESCB 職掌範圍內所授予之職權，及履行其所賦予之任務與責任時，均不得尋求或接受歐洲共同體機構或組織、會員國政府機關或其他機構之指示。

The Council

Art. 6. The competences of the Council of the Central Bank shall be:

- (a) To discuss the implications of monetary policy, without prejudice to its Governor's independence of all instructions in his capacity as member of the Governing Council of the ECB and without prejudice to the provisions relating to professional secrecy applicable to the ESCB.
- (b) To decide the business policy of the Central Bank and establish guidelines relating to its financial situation.
- (c) To approve, annually, the budget, the financial accounts and the report of the Executive Board.
- (d) To give its consent, which is necessary, before the Central Bank's reserve fund can be used.
- (e) To help draft the Central Bank's business reports as referred to in Article 11.
- (f) To propose to the Government the appointment of the Central Bank's auditor.
- (g) To approve the rules of procedure of the Executive Board.
- (h) To deliver its opinion prior to any decision to dismiss a member of the Executive Board.
- (i) To deliver an opinion on any Grand-Ducal regulation adopted pursuant to Article 14 of the present law concerning the staff members of the Central Bank.
- (j) To give its assent prior to the application of any disciplinary action against a staff member of the Central Bank, when the preliminary opinion of the Civil Service Disciplinary Board has been requested.

Art. 7. (1) In addition to the Directors, who are ex officio members, the Council shall comprise six members appointed by the Government in Cabinet.

(2) Appointments shall be made for a six-year period and shall be renewable.

(3) No person shall be appointed to or remain a member of the Council while holding any office outside the Central Bank in conflict with the requirements of Article 5 (2) or with the professional secrecy provisions applicable to the ESCB.

(4) For deliberations relating to Article 6 (h), members of the Council who are also Directors shall not take part in any vote.

第 5 章 委員會

第 6 條 本行委員會之職權如下：

- (a) 於不影響總裁作為 ECB 管理委員會成員對任何指示之獨立性，及適用 ESCB 有關職務上保密規定之前提下，討論貨幣政策。
- (b) 決定本行業務政策，並建立有關財務狀況之指導原則。
- (c) 每年審核年度預算、財務帳目及理事會報告。
- (d) 於本行準備基金動用前，為必要之同意。
- (e) 協助撰擬有關第 11 條所定之本行業務報告。
- (f) 向內閣提議指派本行稽核人員。
- (g) 核准理事會之運作規範。
- (h) 對解任理事之決定表示意見。
- (i) 對於大公依現行法第 14 條規定頒布有關本行職員之法規提出意見。
- (j) 於公務懲戒委員會提出初審意見前，對本行職員任何懲戒處分之適用表示同意。

第 7 條(1)除由單位主管兼任者外，委員會應由內閣任命六名成員組成之。

- (2)前項任命之任期為六年，期滿得續加任命。
- (3)於本行外另有職務，且與第 5 條第 2 項或 ESCB 之保密義務規定相牴觸者，不得受任或留任委員會成員。
- (4)於進行第 6 條(h)款之審議時，單位主管兼任理事會成員者不得參與投票。

Art. 8. (1) The Council shall be chaired by the Director-General of the Central Bank or, in his absence, by the oldest member of the Executive Board present.

(2) The Government in Cabinet shall determine the emoluments payable to Council members, which shall be paid by the Central Bank.

Art. 9. (1) Meetings of the Council shall be convened by its President or, should he be unavailable, by the oldest member of the Executive Board available. A meeting may also be convened at the request of the Executive Board or four or more members of the Council.

(2) Meetings of the Council require a quorum which is achieved when the majority of its members are present.

(3) The Council shall adopt its rules of procedure by a majority of two thirds of its members.

(4) The Council shall designate a secretary from among the staff members of the Central Bank.

(5) The Minister responsible for relations with the Central Bank or his representative shall be invited to attend Council meetings. He may participate without having the right to vote.

Art. 10. Apart from official communications issued by the Council, members of the Council shall not disclose its deliberations.

The Executive Board

Art. 11. (1) The Executive Board is the highest executive authority of the Central Bank.

(2) It shall prepare the measures and take the decisions required for the fulfillment of the tasks of the Central Bank. The Central Bank shall submit an annual report to the Government and to the Chamber of Deputies on its activities and on the monetary policy of the previous year and the current year.

(3) It shall recruit and appoint and, subject to the provisions of Article 6 (j), may dismiss the staff members of the Central Bank.

Art 12. (1) The Executive Board shall comprise a Director-General and two Directors.

(2) Board members shall be appointed by the Grand Duke on a proposal by the Government in Cabinet for a six-year period. Appointments are renewable.

第 8 條(1)委員會應由本行總裁擔任主席；其缺席時，由理事會出席成員中最資深者擔任。

(2)內閣應決定本行支付委員會成員之報酬。

第 9 條(1)委員會議應由主席召集；其無法召集時，由理事會最資深成員召集。委員會議亦得於理事會要求或委員會四位以上成員要求時召集之。

(2)委員會議應以該會成員之二分之一以上為法定出席人數。

(3)委員會應採其成員三分之二以上之多數決為議決程序。

(4)委員會應指定本行職員一名擔任秘書。

(5)與本行有關之部長或其代理人，應受邀出席委員會；其僅得參與討論但無表決權。

第 10 條 除委員會正式宣布外，其成員不得對外揭露該會審議內容。

第 6 章 理事會

第 11 條(1)理事會為本行最高執行機關。

(2)理事會應對執行本行任務所需之措施預為準備，並做成決議。本行應向內閣及國會提交有關前一年及本年度業務及貨幣政策之年度報告。

(3)理事會得招募及任命本行職員，並得依第 6 條(j)款之規定予以解任。

第 12 條(1)理事會應由本行總裁及二名單位主管組成。

(2)理事會之成員應經內閣提名後由大公任命，任期為六年，並得連任之。

(3) The Government may propose to the Grand Duke, after consultation with the Council of the Central Bank, the dismissal of Board members who no longer satisfy the conditions of their employment or are guilty of serious misconduct.

(4) Board members rank as state officials in terms of their status, salary and pension scheme.

(5) Prior to taking up duties, Board members shall take the following oath before the Minister responsible for relations with the Central Bank: "I swear loyalty to the Grand Duke, obedience to the Constitution and to the laws of the State. I promise to fulfill my duties with integrity, thoroughness and impartiality and to preserve the secrecy of professional deliberations."

(6) The posts of Director-General and of Director shall be classed respectively in Grade S1 of Heading VI "fixed index functions" and Grade 18 of Heading I "General Administration" of appendix A "classification of functions" of the law of 22 June 1983 as amended, establishing civil service salary scales. The Government in Cabinet may grant Board members a special allowance for entertainment expenses.

(7) A Board member whose appointment is not renewed or who is dismissed shall become general adviser to the Central Bank, keeping the status and basic remuneration (except entertainment allowances) applicable to his previous function. A Board member may be transferred to another administration or public institution pursuant to Article 6 of the law of 16 April 1979 as amended establishing general service regulations for civil servants.

Salaries and pensions of Board members and, where applicable, of general advisers referred to in the following paragraph, shall be paid by the Central Bank.

Art. 13. Without prejudice to the independence of its President with regard to all instructions in his capacity as member of the Governing Council of the ECB and without prejudice to provisions relating to professional secrecy applicable to the ESCB, the decisions of the Board of Directors shall be taken collectively. The Executive Board shall adopt its rules of procedure by unanimity. The rules of procedure shall be approved by the Council before coming into force.

- (3)內閣經向本行委員會徵詢意見後，得向大公提議對理事會中不適任其職務或有重大犯罪行為之成員予以解任。
- (4)理事會成員於其法律地位、薪資及退休機制之適用，均視為國家公務員。
- (5)理事會成員於就任其職務前，應由與本行有關之部長監誓，並宣誓如下：「吾誓對大公效忠，恪遵國家憲法及法律規定。吾將以廉潔、赤誠及公正之心履行責任，並對職務審議事項善盡保密義務。」。
- (6)總裁及單位主管之職位，應依 1983 年 6 月 22 日修正之法律附件 A「職務分類」所定之「綜合指標職務」第 6 類主管 S1 級及「一般行政」第 1 類主管 18 級分別予以歸類，並作為給薪之標準。內閣並得同意理事會成員領取特別慰勞津貼。理事會成員及第 7 項所指一般諮詢委員之薪給及退休金，應由本行支付。
- (7)理事會成員未續任或經解任者，應改任本行一般諮詢委員，並維持其原職務之法定及基本報酬（但不含慰勞津貼）。理事會成員得依 1979 年修正法律第 6 條所定公務員一般服務規則，轉任其他行政部門或公務機構。

第 13 條 於不影響總裁作為 ECB 管理委員會成員對任何指示之獨立性，及適用 ESCB 有關職務上保密規定之前提下，理事會之決議應共同遵守之。理事會應以全體同意之方式決定其議事規則。前項議事規則於實施前，應先經委員會同意。

Staff members of the Central Bank

Art. 14. (1) The Central Bank's Executive Board shall be assisted in its task by staff members recruited and appointed by the Board and placed under its authority.

(2) Prior to taking up their duties, each Central Bank staff member shall swear the following oath before a member of the Executive Board: "I swear loyalty to the Grand Duke, obedience to the Constitution and to the laws of the State. I promise to fulfill my duties with integrity, thoroughness and impartiality and not to disclose information which comes to my knowledge in the course of my duties."

(3) (a) Central Bank staff members who occupy the posts specified in the organisation chart referred to in Article 29 (2), and involving, either directly or indirectly, the exercise of public power and tasks safeguarding the general interests of the State or other public authorities, have a public law status consisting in the application, if necessary by analogy, of the provisions relating to officials and probationer officials, save as otherwise provided in a Grand-Ducal Regulation to be adopted in the interests of the proper functioning of the Central Bank.

(b) For posts other than those specified in Paragraph 3 (a), Central Bank staff members may include, within the framework of the organisation chart referred to in Article 29 (2):

- employees who satisfy all the conditions required to be employed by the State and whose status is treated as equivalent to the arrangements for state employees pursuant to Article 13 of the law of 27 January 1972 establishing rules for state employees; also applicable to them, if necessary by analogy, are the provisions of Article 1, paragraph 5, of the law of 16 April 1979 as amended, together with the laws and regulations establishing rules governing state employees;
- employees who fail to satisfy all the conditions for state employment and whose situation is governed by the law of 24 May 1989 on contracts of employment;
- workers whose situation is governed by the collective agreement in force for state workers.

(c) Statutory staff members and those equivalent to probationers employed at the Central Bank at the time of the entry into force of this law, and until such

第 7 章 職 員

第 14 條(1)本行職員經理事會聘任後，應協助該會執行職務並接受其管理。

(2)本行職員於任職前，應由一位理事會成員監誓，並宣誓如下：「吾誓對大公效忠，恪遵國家憲法及法律規定。吾將以廉潔、赤誠及公正之心履行責任，並對職務所悉資訊予以保密。」。

(3)(a) 本行職員屬於第 29 條第 2 項所定組織圖之分類職位人員，直接或間接參與公權力及職務之執行，以維護國家或其他公務機關之利益；並於適用或準用有關公務員及試用公務員之規定，或依大公所頒布之法規，而執行有利於本行運作之行為時，具有公法上之地位。

(b) 除前款外，本行職員於第 29 條第 2 項所定組織圖之架構內，得包含下列人員：

- 符合國家所定任用條件，並受有與 1972 年 1 月 27 日訂定國家聘用人員法第 13 條所稱之國家聘用人員同等法定待遇，且適用或準用 1979 年 4 月 16 日修正國家聘用人員法第 1 條第 5 項有關規定之受雇人員。
- 未符合國家所定任用條件，且受 1989 年 5 月 24 日法律所定僱傭契約規範之受雇人員。
- 適用國家勞工集體契約之勞工。

(c) 於本法施行初期至大公依本項(a)款頒布法令施行之前，本行法定職員及職等相當之試用人員，無論居於何種職務，應具本項(a)款所稱之

time as the Grand-Ducal regulation referred to in (a) above comes into force, shall, whatever post they occupy, be subject to the status defined in subparagraph (3) (a) above and shall continue to benefit from the application of the Grand-Ducal regulation of 21 June 1984 establishing service regulations for staff members of the Luxembourg Monetary Institute. The new Grand-Ducal regulation shall not make their situation less favourable. Staff members of the Central Bank who satisfy the requisite conditions at the time of the entry into force of this law shall have the status of state employees.

(4) (a) The remuneration of Central Bank staff members shall be paid by the Central Bank. The Executive Board may grant non-pensionable additional remuneration to staff members referred to in paragraph (3) (a) and the first indent of paragraph 3 (b) above, by virtue of their duties or qualifications.

(b) The statutory pension rights of each Central Bank staff member are those corresponding to his legal status, according to the categories defined in paragraph (3). The pensions of the Central Bank's staff members shall be paid by the Bank. This charge shall be financed by a Central Bank pension fund. The pension fund shall be financed on the one hand by statutory deductions from staff members' salaries in accordance with the rules governing the pension scheme corresponding to their status, and on the other hand by contributions made by the Central Bank itself. The central bank may have recourse to the decision-making bodies and services of the pension agencies following the pension regime of the agent in question.

Auditing the accounts of the Central Bank

Art. 15. The Government in Cabinet shall appoint an auditor on a proposal from the Council of the Central Bank. The auditor shall be qualified to exercise the profession of corporate auditor. The auditor shall be appointed for one financial year; the appointment is renewable. His fees shall be paid by the Central Bank.

Art. 16. The auditor shall establish and certify that the accounts of the Central Bank are accurate and complete. He shall draw up, for submission to the Council, Government and Chamber of Deputies, a detailed report on the Central Bank accounts at the end of the financial year. He may be ordered by the Council to carry out specific investigations.

法定地位，並維持適用大公於 1984 年 6 月 21 日頒布之盧森堡金融機構職員服務法令所受之利益。大公所頒布之新法令不應使其受不利之影響。本行職員於本法施行之初即符合所要求之條件者，應具有國家聘用人員之法定地位。

(4)(a) 本行職員之報酬應由本行支付。理事會得允許對前項(a)款及(b)款第 1 細目所定之職員，依其職務或資格，提供不計提退休金之額外津貼。

(b) 本行職員依其於前項所屬類別之法定地位，享有法定退休金之權利。該退休金應由本行支付，並由本行退休基金支應；其來源係依有關退休金機制之法令，按法定地位由職員薪資扣除，並由本行相對提撥資金挹注之。本行得對退休基金代理機構之決策單位及其服務內容，就受有質疑之退休機制行使追索權。

第 8 章 帳目稽核

第 15 條 內閣應經本行委員會之提議，任命稽核人員。該稽核人員應具有稽核公司業務之專業資格，並以會計年度一年為其任期，亦得續任之。其費用應由本行支付。

第 16 條 稽核人員應查證本行帳目之正確性及完整性；並應於年度終了擬具本行帳目之詳細查核報告，提交本行委員會、內閣及國會，亦得承本行委員會之命辦理專案查核。

The issue of banknotes and coins

Art. 17. The Central Bank shall issue banknotes in compliance with the guidelines and instructions of the ECB.

Art. 18. The Central Bank shall put into circulation coinage in the form of metal coins issued for and on behalf of the Treasury, in compliance with the provisions resulting from the Treaty establishing the European Community. The Bank shall incur all costs relating to the issue of coins; it shall be reimbursed and remunerated on the monetary income resulting from the volume of coins in circulation. The implementation of this Article shall be governed by an agreement between the Central Bank and the Treasury.

Art. 19. The legal status of banknotes and coins denominated in euro and which are legal tender in the European Community is determined by the Community rules applicable to those banknotes and coins.

Art. 20. Without prejudice to compliance with the rules referred to in Articles 17 and 18, the legal status of banknotes and coins denominated in francs and which are legal tender in the Grand Duchy of Luxembourg is subject to the following provisions:

- a. Banknotes issued by the Central Bank and denominated in francs are legal tender without limitation.
- b. Coins circulated by the Central Bank and denominated in francs are for each denomination legal tender for up to one hundred times their face value.
- c. The Central Bank is not obliged to replace or exchange banknotes and coins denominated in francs which have been destroyed, lost, counterfeited or falsified. The Central Bank shall replace its damaged banknotes denominated in francs, if the bearer is able to present part or parts of the note accounting for more than one half of the note or can prove that the rest of the note, of which less than half is presented, has been destroyed.

第 9 章 通貨發行

第 17 條 本行應遵循 ECB 之指導原則及指令，發行鈔券。

第 18 條 本行應代表財政部發行金屬硬幣作為流通貨幣，以符合建立歐洲共同體條約之規範；並應負擔發行硬幣之全部成本，而以硬幣流通之貨幣收入總數充作補償及報酬。本條之執行，應依本行與財政部間之協議為之。

第 19 條 以歐元為面額之鈔券及硬幣，其法定地位及於歐洲共同體內之法償效力，由共同體之相關適用規範決定之。

第 20 條 於不牴觸第 17 條及第 18 條所指法令之前提下，以法郎為面額之鈔券及硬幣，其法定地位及於本國境內之法償效力，依下列規定：

- a. 本行發行以法郎為面額之鈔券，具無限法償效力。
- b. 本行發行以法郎為面額之流通硬幣，其法償效力價值最高為每一面額之一百倍。
- c. 以法郎為面額之鈔券或硬幣如經毀損、遺失、偽造或變造者，本行不負更換或兌換之義務。以法郎為面額之鈔券毀損，如可辨識之殘留部分超過鈔券一半，或殘留部分雖未超過鈔券一半，但能證明其餘部分均已業經毀損者，本行應予更換。

- d. A Grand-Ducal Regulation may set the date, between 1 January 2002 and 1 July 2002, with effect from which the banknotes and coins denominated in francs will cease to be legal tender, draw up rules on the use of banknotes and coins denominated in francs between 1 January 2002 and that date and determine measures necessary to facilitate their withdrawal from circulation.
- e. A Grand-Ducal Regulation may set dates with effect from which the Central Bank and the Treasury will no longer be obliged to exchange banknotes and coins respectively denominated in francs and demonetarized in accordance with the previous subparagraph.

Operations of the Central Bank

Art. 21. To enable it to carry out its tasks, the Central Bank may open accounts with credit institutions, public bodies and other market participants and accept assets, including book-entry securities, as guarantees.

Art. 22. To enable it to achieve its objectives and fulfill its tasks, the Central Bank may:

- operate in the financial markets by buying and selling outright (spot and forward) or under repurchase agreement and by lending or borrowing claims and marketable instruments denominated in all monetary units as well as precious metals;
- conduct credit operations with credit institutions and other market participants, with lending being based on adequate collateral.

Art. 22-1. (1) The Central Bank shall define the conditions which claims must satisfy in order to serve as security for its loans.

(2) The Central Bank shall keep a register of contracts for pledges of claims which it accepts. It shall lay down both the operational rules and rules for the coverage of expenses. The register shall be accessible to third parties who envisage having recourse to the pledging of claims under the conditions laid down by the Central Bank.

(3) Pledges of claims in favour of the Central Bank shall be enforceable vis-a-vis third parties as soon as the pledge is entered in the register referred to in the foregoing paragraph.

- d. 由大公頒布之法令得指定以 2002 年 1 月 1 日至 7 月 1 日間之某一天，作為以法郎為面額通貨停止其法償效力之起始日，並訂定於 2002 年 1 月 1 日至該日期間此類通貨之使用規範，及決定加速收回流通貨幣之必要措施。
- e. 由大公頒布之法令得指定某一天，作為本行與財政部不再對以法郎為面額之通貨負兌換義務之起始日，並依前款規定停止其流通。

第 10 章 營 運

第 21 條 本行為執行任務，得為信用機構、公共團體及其他市場參與者開立帳戶，並接受包括無實體（登錄）有價證券等資產作為擔保。

第 22 條 為達成政策目標並履行任務，本行得為下列行為：

- 於金融市場中逕為買賣（即期及遠期）、附買回交易協議，或為權利、以任何幣值為面額之可交易工具及貴金屬之借入或貸放等操作。
- 與信用機構及其他市場參與者進行信用交易，並以十足抵押品供作貸放之擔保。

第 22 條之 1(1) 本行應訂定申請融通之條件，以作為債務之擔保。

(2) 本行為擔保受理之融通債權，應辦理契約登記，並訂定執行及填補損害之規範。於本行所定條件下，第三人對本行融通債權之擔保品有追索權時，得查閱該項登記。

(3) 擔保本行債權之擔保品，經依前項規定登記後，對第三人具對抗效力。

(4) A guarantee in the form of a pledge in favour of the Central Bank shall have priority over any subsequent guarantee concerning the pledged claims, regardless of the conditions for notification to the debtor or acceptance by the latter. If a third party who has become the beneficiary of a guarantee covering these claims receives a payment relating thereto, including a payment in the context of insolvency proceedings of the debtor, the third party shall be required to transfer it to the Central Bank. The Central Bank may claim such payment ex officio, without prejudice to its right to be indemnified. No set-off may have the effect of undermining the guarantee in favour of the Central Bank in respect of its claims.

(5) This article applies also when the Central Bank acts on behalf of the ECB or other national central banks forming an integral part of the ESCB for the cross-border creation of guarantees within the context of the credit operations by these central banks and in favour of them.

Art. 23. The Banque centrale is the depositary for amounts that credit institutions are obliged to maintain by monetary control measures based on Article 19 of the Statute of the European System of Central Banks and of the European Central Bank.

Art. 24. (1) The Central Bank is prohibited from granting overdrafts or any other type of credit facility to European Community institutions or bodies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States of the European Community; the direct purchase by the Central Bank of debt instruments from Member States of the European Community is likewise prohibited.

(2) The Central Bank may act as fiscal agent on behalf of the entities referred to in the previous paragraph.

(3) This article does not apply to publicly-owned credit institutions which, within the context of the supply of reserves by central banks, shall be given the same treatment as private credit institutions.

Art. 25. The Central Bank may provide facilities to ensure efficient and sound clearing and payment systems.

Art. 26. The Central Bank may:

- establish relations with central banks and financial institutions of non-member countries of the European Community and, where necessary, with international organisations;

- (4)向本行提出之物上保證，無論對債務人實際為告知或本行接受該保證在後者，就擔保債務之效力應優先於其他次順位之保證。若第三人為該保證之受益人，並因有包括債務人進入破產程序而受償付者，該第三人應將該利益移轉於本行。本行得於不牴觸其求償權利下，逕行主張此類支付。抵銷如有損害本行債權之保證者，不得行使之。
- (5)本條於本行代表 ECB 或其他 ESCB 成員之國家央行為此類央行信用交易，而設定跨國保證時，亦適用之。

第 23 條 本行為依歐洲中央銀行體系與歐洲中央銀行法議定書第 19 條所定貨幣控制措施，而要求信用機構強制存款之保管機構。

第 24 條(1)本行不得對歐洲共同體所屬機構或團體、中央政府、區域性的、地方性的或其他公務機關、其他公法人團體，或歐洲共同體會員國所屬之公共事業等，為透支或任何形式之授信；亦不得直接購買其所發行之信用工具。

(2)本行得為前項所指組織擔任財務代理人。

(3)本條於央行提供準備金之範圍內，公營信用機構應與民營信用機構為相同對待時，不適用之。

第 25 條 本行得提供相關措施，以確保有效率且健全之結算及支付系統。

第 26 條 本行得為下列行為：

- 與其他非歐洲共同體會員國之央行及金融機構建立關係，並於必要時與國際組織建立關係。

- precious metals. The term "foreign reserve asset" shall include securities and all other assets in the currency of any third country or units of account and in whatever form they are held;
- hold and manage the assets referred to in this article;
- conduct all types of banking transactions with third countries and international organisations, including borrowing and lending operations.

Art. 26-1. Within its powers and tasks, the Banque centrale may take and dispose of participations in public institutions, undertakings or public or private associations.

Art. 27. In addition to operations arising from its tasks, the Central Bank may enter into transactions for its administrative purposes or for the benefit of its staff.

Art. 27-1. (1) The claims of the Central Bank as well as of the ECB or of another national central bank forming an integral part of the ESCB, deriving from operations in the context of common monetary or exchange policies, shall be secured by a lien on all the assets held by the debtor either with the Central Bank or within a system for the settlement of securities transactions or with another counterparty in Luxembourg. Such lien shall have the same rank as the charge of the pledgee.

(2) No account with the Central Bank intended to be used in the context of common monetary or exchange policies or in the context of the management of foreign reserve assets held for foreign central banks or foreign States may be subjected to any seizure, sequestration or blocking order.

Art. 27-2. The Banque centrale may, in exceptional circumstances, grant short-term loans to its counterparts while respecting its independence and the provisions prohibiting monetary financing. It shall grant loans on the basis of adequate collateral which may consist of a State guarantee under the conditions previously agreed between the State and the Banque centrale. The Banque centrale's privilege in Article 27-1(1) shall apply to these loans .

- 買入及賣出所有類型之即期及遠期外匯資產與貴金屬。所稱「外匯資產」應包括有價證券及所有存放於其他國家或組織帳戶任何形式之貨幣資產。
- 持有及管理與本條規定有關之資產。
- 與第三國及國際組織為各種形式之金融交易，包括借入及貸出之操作。

第26條之1 於本行職掌及任務範圍內，本行得參與及退出公共機構、企業、公立或私立協會。

第 27 條 除執行其任務所需之操作外，本行得為行政目的或本行職員之利益而進行交易。

第27條之1(1)本行及 ECB 或其他 ESCB 會員國央行，因執行其貨幣或外匯政策所產生之債權，應由債務人持有之所有資產，以設定質權予本行、證券交易清算系統或其他於盧森堡之交易對手等方式擔保之。此類質權應與抵押權人之權利具有相同之優先權。

(2)本行用以執行一般貨幣或外匯政策，或管理由國外央行或外國政府所持外匯資產之帳戶，不得以發出命令予以沒收、扣押或凍結。

第27條之2 本行得於例外情況，並於不違反其獨立性及禁止金融援助之規定下，提供交易對象短期融通。該融通應以經本行及政府同意之條件，提供政府保證作為擔保。本行前條規定之特有權利應適用於此類貸款。

Rendering of accounts

Art. 28. The financial year of the Central Bank shall be the calendar year.

Art. 29. (1) No later than 31 March of each year the Executive Board shall submit to the Council for approval the balance sheet and profit-and-loss account closed on 31 December of the previous year, together with the Board's report and the auditor's report.

(2) No later than the end of each financial year the Executive Board shall submit to the Council for approval the income and expenditure budget for the forthcoming year. An opinion of the staff representatives shall be appended to the budget and form an integral part of it together with the organisation chart including tables showing the number of staff both current and as planned, according to the categories defined in Article 14 (3), and, also, guidelines, where appropriate, on remuneration supplements pursuant to Article 14 (4) (a).

Art. 30. The budget, annual accounts and reports approved by the Council shall be sent to the Government and the Chamber of Deputies. The Government in Cabinet shall decide whether the Central Bank bodies be granted discharge. Such a decision is taken without prejudice to the provisions of Article 5 (2) and without calling into question the obligations of the Central Bank within the framework of the ESCB. The decision granting discharge to the bodies of the Central Bank shall be published together with the Central Bank's annual accounts in the Memorial (Official Gazette).

Art. 31. The profits of the Central Bank, as shown in the accounts approved at the end of the financial year, and after deduction of any loss carried forward from previous accounts, shall be paid to the Treasury. The Government in Cabinet may, when it is called on to grant discharge to the Central Bank bodies, decide on the basis of a reasoned proposal by the Central Bank to allocate all or part of the profits to the Central Bank's reserve fund. However, the allocation of the profit to the Central Bank's reserve fund shall be compulsory so long as the total of the capital and the reserve fund falls short of the total of the Central Bank's assets which do not yield freely-available income, after deduction of liabilities which form the direct counterpart of such assets.

第 11 章 會計提報

第 28 條 本行之會計年度採曆年制。

第 29 條(1)理事會於每年 3 月 31 日前應將資產負債表，及前一年度 12 月 31 日止結算之損益情形，連同該會及稽核人員之報告，一併提請委員會同意。

(2)於每會計年度終了前，理事會應將次年度之收支預算書提請委員會同意。職員代表之意見應附錄於該預算書，並依第 14 條第 3 項所定職務分類，及必要時依第 14 條第 4 項(a)款給付額外報酬之指導原則，列表說明現有及規劃職員總數，共同構成預算書內容之一部。

第 30 條 經委員會同意之預算、年度會計帳冊及報告，應送交內閣及國會。內閣應於不牴觸第 5 條第 2 項規定，且不致對本行於 ESCB 體系之義務引起質疑之前提下，核定本行履行預算任務。此核定應連同本行年度會計帳冊，刊載於政府公報。

第 31 條 本行於年度終了之會計帳目經核准者，其獲利扣除前期遞延損失後，應繳交財政部。內閣得於核定本行履行預算任務時，依據本行之提議，決定將獲利之全部或一部，撥充本行準備基金。但於資本額及準備金總數，扣除負債後，較本行未孳息資產總數短少時，應強制將獲利撥充本行準備基金。

Compilation of statistics

Art. 32. (1) So as to fulfill its tasks, the Central Bank shall be empowered to collect the necessary statistical data, either from the competent national authorities or directly from economic agents. It may likewise perform spot checks of the data from these authorities and economic agents, in accordance with relevant Community law provisions and within the competences of the ESCB and the ECB.

(2) Individual data thus collected are subject to professional secrecy on the part of Central Bank bodies and staff members, as defined in Article 33 of this law.

(3) The Central Bank is, however, authorised to publish the statistics that it has compiled provided that the publication neither contains nor permits the inference of individual data and that it complies with the provisions of professional secrecy applicable to the ESCB.

Professional secrecy

Art. 33. (1) Any member of the bodies of the Central Bank, its auditor and staff members who, even after the termination of their functions, disclose information acquired in the course of those duties, shall be liable to the penalties provided for in Article 458 of the Criminal Code.

(2) Without prejudice to the rules of professional secrecy applicable to the ESCB, the foregoing paragraph shall not preclude exchanges of information required in the context of the ESCB or prevent the Central Bank from exchanging information, to the extent necessary for the performance of its tasks and subject to reciprocity, with the Commission de surveillance du secteur financier (Commission for Supervision of the Financial Sector), the Commissariat aux assurances (Insurance Commission) and the Service central de la statistique et des études économiques (Central Service for Statistics and Economic Studies (STATEC)).

(3) Paragraph (1) shall not apply where the persons concerned are called upon to give evidence in judicial proceedings or where the law authorises or requires them to disclose certain facts .

Article 23 of the Code of Criminal Procedure shall apply to Board members and Central Bank staff members.

第 12 章 編纂統計資料

- 第 32 條(1)為執行任務，本行有權向本國主管機關，或直接向經濟研究機構蒐集必要之統計資料。本行亦得依共同體之相關法規及 ESCB 與 ECB 之職權，對主管機關或經濟研究機構提供之資料進行抽樣調查。
- (2)本行各組織成員及職員，對所蒐集之個人資料，應依第 33 條負保密義務。
- (3)本行有權出版所編纂之統計資料，但該出版品不得含有亦不准許對個人資料之推測，並須符合 ESCB 之業務保密規定。

第 13 章 保密義務

- 第 33 條(1)本行各組織成員、稽核人員及職員，如洩漏因其職務所悉資訊，應依刑法第 458 條處以罰金；其於離職後所為者，亦同。
- (2)於不牴觸適用 ESCB 業務保密規定之前提下，前項規定不應排除 ESCB 所要求之資訊交換，或豁免本行於執行任務所必要，並依金融監理委員會、保險委員會及統計暨經濟研究服務中心所定互惠交流，而為之資訊交換。
- (3)第 1 項規定於經司法程序或法律主管機關傳喚作證，或要求陳述具體事實之人，不適用之。
刑事訴訟法第 23 條之規定，於理事會成員及本行職員應適用之。

Power of enforcement and of sanction

Art. 34. (1) Within the limits imposed on its powers and tasks, the central bank may adopt regulations. The central bank's regulations shall be published in the Memorial .

(2) The Executive Board shall be authorised, within the framework of the tasks of the ESCB, to enforce the decisions of the ECB and to implement the sanctions imposed by the ECB.

Transitional provisions

Art. 35. (1) The various reserve headings shown in the balance sheet of the Central Bank at the time this law comes into force shall be consolidated into a single reserve fund.

(2) The difference between the former capital of the Central Bank, totaling one thousand million francs, and the new capital of twenty-five million euro, is offset by a credit or a debit of the Central Bank reserve fund.

(3) The balance of the loan by the Central Bank to the State, referred to in Article III (2) of the law of 22 April 1998 amending the laws relating to the Luxembourg Monetary Institute and the monetary status of the Grand Duchy of Luxembourg, as decided on the date on which this law comes into force, shall be repaid by a revaluation at the appropriate level of the gold assets of the Central Bank. In the event that, between 1 June 1998 and the date on which this law enters into force, the Central Bank should pay to the Treasury the profits drawn from the disposal of gold, the amount of the sums thus paid to the Treasury will be repaid by the Treasury to the Central Bank.

(4) (a) Luxembourg pension funds which have received contributions on behalf of persons who are or become staff members of the Central Bank on the day on which this law enters into force, shall pay those contributions to the Central Bank pension fund. The contribution periods of those staff members to these pension funds are validated as of right as contribution periods with the Central Bank.

(b) The State is not obliged to reimburse the Central Bank for amounts paid to it in the past with a view to contributing to the share of Central Bank staff pensions for which the State was previously responsible.

第 14 章 執行及處分權

第 34 條(1)於本行職掌及目標範圍內，本行得制定法令，並應將該等法令刊載於政府公報。

(2)於 ESCB 賦予任務之範疇內，理事會有權執行 ECB 之決議，並執行其所為之處分。

第 15 章 過渡條款

第 35 條(1)本行資產負債表所列各種準備項目，於本法施行時，應整合為單一準備基金。

(2)本行原始資本額十億法郎，與現今資本額二千五百萬歐元之差額，應以於準備金記入借貸之方式抵銷之。

(3)本行依 1998 年 4 月 22 日修正有關盧森堡貨幣機構及法定貨幣之法律第 3 條第 2 項規定，對國家所為貸款之餘額，應由本行黃金資產以適當標準進行平價後償還之。自 1998 年 6 月 1 日至本法施行之日，其間本行將處分黃金所得獲利繳付財政部者，應由財政部將其總數返還本行。

(4)(a) 盧森堡退休基金應將曾任或現任本行職員繳交部分，自本法施行之日起移交予本行退休基金。該等職員於盧森堡退休基金繳交期間之權利，與於本行退休基金繳交期間之權利，具有相同之效力。

(b) 國家對以往因負責本行職員退休金之撥付事宜，而由本行分擔支應之退休金數額，不負償還責任。

(c) Having regarded to subparagraphs (a) and (b) above, the Central Bank shall be authorised to bring its pension fund to the requisite size, subsequent to the entry into force of this law, by a single withdrawal from its reserve fund. The auditor shall, in a special report, check and certify the accurate implementation of the present paragraph (Article 35 para. 4).

Repeal of other provisions

Art. 36. (1) The law of 15 March 1979 as amended relating to the monetary status of the Grand Duchy of Luxembourg and the law of 20 May 1983 as amended creating a Luxembourg Monetary Institute, together with the regulations adopted for their enforcement are hereby repealed, without prejudice to Article 14 (3) (c) of the present law.

(2) All statutory and regulatory provisions conferring the status of legal tender on notes issued by the Banque Internationale a Luxembourg and in return subjecting the statutes and activity of that bank to the approval and monitoring of the Government are repealed. Operations resulting from the expiry of the right to issue notes with the status of legal tender, as granted by the State, shall be conducted in compliance with the statutes of the Bank and under the supervision of the Government Commissioner.

(3) Art. 1 of the law of 12 July 1895 on the payment of workers' salaries is hereby repealed. At the beginning of Article 2 of the same law, the word " However" is deleted.

- (c) 本行基於前二款規定，得於本法生效後，自準備金中一次提領並撥充退休基金，使基金達到必要之規模。稽核人員應查核及確認本項規定之確實執行，並提出特別報告。

第 16 章 其他條款之廢止

- 第 36 條(1)1979 年 3 月 15 日修正有關盧森堡法定貨幣之法律，及 1983 年 5 月 20 日修正設立盧森堡貨幣機構，併同配合施行之相關法令，於不妨害現行法第 14 條第 3 項(c)款之前提下均予廢止。
- (2)賦予盧森堡國際銀行發行鈔券法償效力，及因而拘束該行規章及業務須經政府同意並受監督之所有法令規章，均予廢止。經國家同意而終止其發行具法償效力鈔券權利之相關事宜，應依本行法令及於閣員之監督下進行。
- (3)1895 年 7 月 12 日所定有關勞工薪資給付之法律第 1 條予以廢止，並刪除同法第 2 條首句之「惟」字。

五、 Banco de Portugal Organic Law 葡萄牙銀行法

Banco de Portugal Organic Law

Chapter I Nature, head office and tasks

Chapter II Capital, reserves and provisions

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Chapter IV Central Bank functions

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Chapter VIII Staff

Chapter IX General and transitional provisions

葡萄牙銀行法

法 務 室 謝 佳 雯 譯

- 第 1 章 性質、總行及任務
- 第 2 章 資本、準備金及損失準備金
- 第 3 章 通貨發行
- 第 4 章 中央銀行功能
- 第 5 章 本行組織
- 第 6 章 本行內部單位組織
- 第 7 章 預算及會計
- 第 8 章 職員
- 第 9 章 一般及過渡條款

Banco de Portugal Organic Law

**Approved by Law No. 5/98 of 31 January 1998,
as amended by Decree-Law No. 118/2001 of 17 April 2001,
Decree-Law No. 50/2004 of 10 March 2004 and
Decree-Law No. 39/2007 of 20 February 2007.**

CHAPTER I

Nature, head office and tasks

Article 1

The Banco de Portugal, hereinafter called the "Bank", is a public-law legal person with administrative and financial autonomy and own property.

Article 2

The Bank has its head office in Lisbon and it may have subsidiaries, branches, delegations, or agencies elsewhere as well as delegations abroad.

Article 3

1. The Bank, as the central bank of the Portuguese Republic, shall be an integral part of the European System of Central Banks, hereinafter called "ESCB".
2. The Bank shall pursue the objectives and shall participate in the performance of the tasks entrusted to the ESCB and shall be subject to the provisions of the Statute of the ESCB and of the European Central Bank, hereinafter called "ESCB/ECB Statute", acting in accordance with the guidelines and instructions of the European Central Bank, hereinafter called "ECB", pursuant to the same Statute.

CHAPTER II

Capital, reserves and provisions

Article 4

1. The capital of the Bank shall be € 1,000,000 and it may be raised, namely by incorporation of reserves, pursuant to a decision of the Board of Directors.
2. The decision on the capital increase is subject to authorisation by the Finance Minister.

葡萄牙銀行法

1998.1.31 第 5/98 號法律核定

2001.4.17 第 118/2001 號法令修正

2004.3.10 第 50/2004 號法令修正

2007.2.20 第 39/2007 號法令修正

第 1 章 性質、總行及任務

- 第 1 條 葡萄牙銀行（以下稱本行），為一具有行政權及金融自主性，並擁有財產之公法人。
- 第 2 條 本行設總行於里斯本，並得於各地設立附屬機構、分行、代表處或代辦處及國外代表處。
- 第 3 條 1. 本行為葡萄牙共和國之中央銀行，並為「歐洲中央銀行體系」（以下稱 ESCB）之一部分。
2. 本行應追求 ESCB 所賦予之目標，參與其任務之執行，並受「歐洲中央銀行體系與歐洲中央銀行法」（以下稱 ESCB/ECB 法）之規範，遵守「歐洲中央銀行」（以下稱 ECB）之指導原則及指示。

第 2 章 資本、準備金及損失準備金

- 第 4 條 1. 本行之資本為一百萬歐元，並得依理事會之決議，以其準備金增資。
2. 前項有關增資之決議，應經財政部長之核准。

Article 5

1. The Bank shall have a reserve with no fixed ceiling formed out of 10 per cent of the profit for each fiscal year assessed in accordance with Article 53.
2. In addition to the reserve mentioned in the foregoing paragraph, the Board of Directors may establish other reserves and provisions namely to meet depreciation risks or losses to which certain types of assets or operations are particularly liable.

CHAPTER III

Currency issue

Article 6

1. Under the terms of Article 106 of the Treaty establishing the European Community, the Bank shall have the right to issue banknotes, which shall be legal tender and have discharging power.
2. The Bank shall put into circulation metal coins, including commemorative coins.
3. The metal coins shall be put into circulation through the Bank and under its requisition.

Article 7

1. The Bank shall seize all the notes presented to it, which are liable to suspicion of counterfeiting, forging, or change in face value and shall draw up a writ with the identification of the notes and of their bearer as well as the grounds of suspicion.
2. The writ mentioned in the foregoing paragraph shall be forwarded to the Criminal Police for the purpose of the relevant proceedings.
3. The Bank may resort directly to any authority or agent thereof, for the purpose envisaged in this Article.

Article 8

1. Banknotes and metal coins denominated in euro and in a foreign currency, which have been the object of obvious or presumed forgery, when presented at credit institutions or financial companies within the scope of their activity, namely for exchange purposes, must be withheld and forthwith sent to the authorities appointed for the purpose in instructions of the Banco de Portugal and in compliance with any other provisions laid down by this Bank.
2. The provisions of the foregoing paragraph shall be applicable to other entities authorised to carry out exchange operations.

- 第 5 條
1. 本行應依第 53 條規定，自各會計年度盈餘之百分之十撥充準備金；其準備金並無固定限額。
 2. 除前項準備金外，理事會得為因應特定資產價值下跌之風險，或營運所負擔之特別損失，而訂定其他準備金及損失準備金。

第 3 章 通貨發行

- 第 6 條
1. 在歐洲共同體協定第 106 條規定之範圍內，本行有權發行鈔券，做為法定貨幣，且具有清償效力。
 2. 本行得發行流通硬幣（含紀念幣）。
 3. 硬幣之流通應透過本行，且依本行規定為之。

- 第 7 條
1. 本行得截留所有提交本行涉嫌偽造、仿造或變造之券幣，並繕製有關該券幣之鑑定及其持有人與涉嫌理由之書狀。
 2. 前項書狀，應轉送刑事警察，以利相關訴訟程序。
 3. 為落實本條規定之意旨，本行得逕行移請任何有關機關處理。

- 第 8 條
1. 信用機構或金融公司於其業務範圍內，亦即辦理兌換業務時，發現歐元及外國貨幣之鈔券及硬幣，明顯或推斷係偽造者，應予截留且即刻送至本行為此目的而指定之機構，並遵循本行相關規定辦理。
 2. 前項規定，亦適用於其他經許可辦理兌換業務之機構。

Article 9

1. The reproduction of banknotes denominated in euro, in full or in part, and regardless of the technical process used, as well as the distribution of these reproductions, even if limited to certain persons, can only be made in the cases and under the terms and conditions expressly provided for by the European Central Bank.
2. In the case of banknotes denominated in escudo, the reproduction and distribution referred to in the foregoing paragraph can only be made under the terms allowed by the Banco de Portugal, on a general or case-by-case basis.
3. The mere manufacture or possession of plates, matrices, software or other technical means, enabling the reproduction of banknotes, infringing the provisions laid down in this Article, shall be prohibited.

Article 10

1. The following situations, when they do not constitute a criminal offence, are considered as breaches of regulations:
 - a) Violation of the provisions laid down in paragraph 1 of Article 8, which shall be punishable by a fine ranging from € 1,500 to € 3,500 or from € 3,000 to € 35,000, depending on whether the agent is a natural or legal person;
 - b) Infringement of the provisions laid down in paragraph 2 of Article 8, which shall be punishable by a fine ranging from € 1,000 to € 3,000 or from € 2,500 to € 25,000, depending on whether the agent is a natural or legal person;
 - c) Non-compliance with the provisions laid down in paragraphs 1 to 3 of Article 9, which shall be punishable by a fine ranging from € 2,000 to € 3,500 or from € 3,000 to € 30,000, depending on whether the agent is a natural or legal person.
2. Where the breaches of regulations defined in this Article are committed by a natural person in the performance of subordinated work, as a member of the board of a legal person or as the legal or voluntary representative of a third party, the employer, the legal person or the represented person can be cumulatively held responsible as infractor.
3. Attempt and negligence shall be punishable.
4. Banco de Portugal shall be responsible for the proceedings on the breaches of regulations envisaged in this Article as well as for the enforcement of the applicable penalties.
5. The general law on breaches of regulations shall be subsidiarily applicable.

- 第 9 條
1. 無論使用任何科技，僅得於 ECB 規定之條件及情況下，對歐元鈔券為全部或一部之複製，以及散布其複製品；即使分送限於特定人，亦同。
 2. 對葡萄牙鈔券所為前項之複製及散布，僅得於本行規定之條件下，以通案或個案方式為之。
 3. 單純製作或持有足以複製鈔券之版模、鑄型、軟體或任何其他技術工具之行為，均屬違反本條規定，不得為之。

- 第 10 條
1. 下列各款情形應屬違反法令之行政處罰，並不構成刑事犯罪：
 - a) 違反第 8 條第 1 項規定，依其為自然人或法人分別處以 1500 至 3500 歐元，或 3000 至 35000 歐元之罰款。
 - b) 違反第 8 條第 2 項規定，依其為自然人或法人分別處以 1000 至 3000 歐元，或 2500 至 25000 歐元之罰款。
 - c) 違反第 9 條第 1 至 3 項規定，依其為自然人或法人分別處以 2000 至 3500 歐元，或 3000 至 30000 歐元之罰款。
 2. 本條所定違反法令之行為，係由自然人以包括法人之董事、法定或意定之代理第三人之身分執行職務所為者，其雇主、所代表之法人或被代理之本人應連帶負違法責任。
 3. 未遂犯及過失犯，亦處罰之。
 4. 對於違反本條規定者之處分及其罰款之執行，由本行為之。
 5. 其有違反一般法律之規定者，併予適用之。

Article 11

As an additional penalty for the breaches of regulations envisaged in the foregoing Article, in accordance with the provisions laid down in paragraph 5 of the same Article, Banco de Portugal may seize and destroy the reproductions, plates, matrices, holograms, software and other technical means, instruments and objects mentioned in Article 9.

CHAPTER IV

Central Bank functions

SECTION I General Provisions

Article 12

Without prejudice to the requirements derived from its participation in the ESCB it shall be particularly incumbent upon the Bank to:

- a) Manage the foreign assets of the country or any other assets entrusted to it;
- b) Act as intermediary in the international monetary relations of the State;
- c) Provide for the stability of the national financial system, performing for the purpose, in particular, the function of lender of last resort;
- d) Advise the Government in the economic and financial fields, within the scope of its tasks.

Article 13

1. The Bank shall ensure the collection and compilation of the monetary, financial, foreign exchange and balance of payments statistics, particularly, within the scope of its co-operation with the ECB.
2. The Bank may require of any public or private body the direct supply of whatever information deemed necessary for compliance with the provisions of the foregoing paragraph or with the tasks entrusted to it.

Article 14

It shall be incumbent on the Bank to regulate, oversee and promote the smooth operation of payment systems, namely within the scope of its participation in the ESCB.

- 第 11 條 因違反規定而依前條規定處以罰款，及依前條第 5 項所指之一般法律而為處罰時，本行均得扣留並銷燬第 9 條所稱之複製品、版模、鑄型、軟體及其他機具、工具與物品。

第 4 章 中央銀行功能

第 1 節 一般規定

- 第 12 條 在不違反參加 ESCB 所應遵循規定之前提下，本行應履行下列職責：

- a) 經理政府之國外資產或任何其他受託資產。
- b) 擔任政府國際貨幣關係之中間媒介。
- c) 為達成國內金融體系穩定之目的，尤應提供最後融通者之功能。
- d) 於職責範圍內，提供政府有關經濟及金融方面之諮詢。

- 第 13 條 1. 在與 ECB 共同合作之範圍內，本行尤應確保貨幣、金融、外匯及國際收支統計之蒐集及編製。
2. 本行得直接要求任何公法人或私人，提供任何符合前項規定或職責所需之資訊。

- 第 14 條 在參與 ESCB 之範圍內，本行負有管理、監督及促進支付系統順利運作之職責。

SECTION II Monetary and Exchange Rate Policy

Article 15

Within the scope of its participation in the ESCB, the Bank shall be responsible for the guidance and control of the money and foreign exchange markets.

Article 16

1. In order to guide and control the money and foreign exchange markets, pursuant to the rules adopted by the ECB, the Bank shall:

- a) Adopt general measures or intervening, whenever necessary, to ensure compliance with the monetary and foreign exchange policy objectives, particularly as regards the behavior of the interest and exchange rates;
 - b) Receive minimum reserves from the institutions subject thereto and co-operating in the implementation of other monetary control operational methods to which the ECB decides to resort;
 - c) Lay down the conditions under which the institutions authorised to deal in foreign exchange may hold foreign assets or assume foreign liabilities.
2. Without prejudice to the penalties envisaged by law, the Bank may adopt the measures required to prevent or halt practices contrary to the rules adopted under the foregoing paragraph as well as to correct the effects of such practices.

SECTION III Exercise of Supervision

Article 17

In accordance with the legal rules on financial supervision, the Bank shall be responsible for the supervision of credit institutions, financial companies and other bodies legally subject to the Bank, namely by issuing directives to guide their action and to ensure the centralisation services of credit risks.

SECTION IV Relations between the State and the Bank

Article 18

1. Overdraft facilities or any other type of credit facility with the Bank in favour of the State or other State-dependent services or bodies, other public-law legal persons and public undertakings, or any other bodies on which the State, the Autonomous Regions or local authorities may, directly or indirectly, have a dominant influence, shall be prohibited.

第 2 節 貨幣及匯率政策

第 15 條 在參與 ESCB 之範圍內，本行負有指導及控管貨幣及外匯市場之職責。

- 第 16 條
1. 為指導、控管貨幣及外匯市場，本行應依 ECB 所採納之規範行使下列各款職權：
 - a) 於必要時，採取一般性之措施或干預，特別是有關利率及匯率之變化，以確保符合貨幣及外匯政策之目標。
 - b) 向有關機構收取最低準備金，並配合執行由 ECB 決定採行之其他貨幣控制操作方式。
 - c) 對經核准辦理外匯交易之機構，規定其持有國外資產或承擔國外負債之條件。
 2. 在不違反處罰法定原則之前提下，對於違反依前項所訂規範之行為，本行得採取防止或停止其行為之措施，並得改正其行為之效果。

第 3 節 監督機制

第 17 條 為符合金融監督之法令，本行對於信用機構、金融公司及其他依法受本行監理之機構，負有監督之責，並得發布指令指導其行為，及確保其信用風險之集中處理。

第 4 節 政府與本行之關係

第 18 條

1. 本行不得對政府或其他政府所屬之事業或機構、其他公法人及公共事業、或政府、自治區或地方政府得直接或間接具有主要影響力之任何其他團體，為透支或任何形式之授信。

2. The Bank shall not guarantee any commitments of the State or of any other body mentioned in the foregoing paragraph and shall not directly purchase debt instruments issued by the State or by the same bodies.

Article 19

The provisions of the foregoing article shall not apply to:

- a) Credit institutions and financial companies, albeit with public capital, which shall benefit from a treatment similar to that enjoyed by credit institutions and financial companies in general;
- b) The financing of the obligations of the State towards the International Monetary Fund;
- c) The holding, by the Bank, of metal coins issued by the State and entered to the credit of the latter, as regards the part not exceeding 10 percent of the metal coins in circulation.

SECTION V International Monetary Relations

Article 20

The Bank is the foreign exchange authority of the Portuguese Republic.

Article 21

In its capacity as exchange authority, the Bank shall be particularly responsible for the:

- a) Licensing and controlling of external payments whenever required in accordance with the Treaty establishing the European Community;
- b) Definition of the principles governing gold and foreign exchange operations.

Article 22

1. The Bank, either in its own name or on behalf and in the name of the State, may conclude clearing and payments agreements or any other contracts for the same purpose with public or private kindred institutions located abroad.

2. With a view to the management of its foreign assets, the Bank may rediscount credit instruments from its own portfolio, pledge assets as security, and carry out abroad any other adequate operations.

Article 23

Subject to the approval of the ECB, the Bank may hold stakes in the capital of international monetary institutions and participate in their managing bodies.

2. 本行不得對政府或其他前項所指機構、團體之任何承諾為保證，亦不得直接購買其所發行之債務工具。

第 19 條 前條規定於下列各款不適用之：

- a) 信用機構及金融公司雖擁有政府資本，但其獲得之待遇與一般信用機構及金融公司類似者。
- b) 政府對國際貨幣基金（IMF）之融通。
- c) 本行所持有經政府發行及記入貸方之硬幣（未逾流通硬幣之 10 % 者）。

第 5 節 國際貨幣關係

第 20 條 本行為葡萄牙共和國之外匯主管機關。

第 21 條 本行於作為外匯主管機關之權限內，尤應負責以下事項：

- a) 依據「歐洲共同體條約」（the Treaty establishing the European Community）之規定，許可及控管所為必要之對外支付。
- b) 明定黃金及外匯操作原則。

第 22 條

1. 本行得以自己或政府之名義，與國外公共或私人之類似機構，簽訂清算及支付協定，或任何其他具有相同目的之契約。
2. 基於經理國外資產之目的，本行得以所持有投資標的之信用工具為重貼現、以資產設定擔保，及在國外執行任何其他適當之操作。

第 23 條 本行經ECB之同意，得投資國際貨幣機構，並得參加該等機構所經營之事業。

SECTION VI Operations of the Bank

Article 24

1. In order to meet the objectives and to perform the ESCB tasks, the Bank may carry out any operations justified by virtue of its capacity as central bank, namely the following:

- a) To rediscount and discount bills of exchange, promissory notes, invoice statements, warrants and other similar credit instruments;
- b) To buy and sell public debt securities, on the secondary market, without prejudice to Article 18.2;
- c) To grant loans or to open current account credits to credit institutions and financial companies, in such forms as the Bank may deem appropriate, and duly secured by collateral;
- d) To take demand deposits from the State;
- e) To take demand or time deposits from credit institutions, financial companies and other financial institutions;
- f) To take deposits of securities issued by the State and held by the institutions mentioned in e) above;
- g) To carry out all and any operations in gold and foreign exchange;
- h) To issue securities or carry out repo operations for the purpose of intervening in the money market;
- i) To carry out any other banking operations not specifically forbidden by this Organic Law.

2. The Bank may, in the modes it deems advisable, pay interest on demand or time deposits in the following instances:

- a) Operations envisaged under d) and e) of the foregoing paragraph;
- b) Compulsory deposit of minimum reserves of credit institutions, financial companies and other institutions subject to its supervision;
- c) Operations with foreign or international institutions within the scope of international co-operation in the monetary, financial and exchange fields;
- d) Reciprocity envisaged in bilateral agreements or contracts concluded by the State or by the Bank;
- e) Express stipulation in multilateral clearing and payments agreements.

第 6 節 本行之營運

- 第 24 條 1. 為達成目標及執行 ESCB 之任務，本行得實施任何基於中央銀行職權所應為之營運，亦即：
- a) 對於匯票、期票、提單、保證及其他類似之信用工具為重貼現及貼現。
 - b) 在不違反第 18 條第 2 項規定之前提下，於次級市場為公債之買賣。
 - c) 於本行認為適當且有十足擔保之情形，得貸款或開辦經常帳信用予信用機構及金融公司。
 - d) 收受政府之活期存款。
 - e) 收受信用機構、金融公司及其他金融機構之活期或定期存款。
 - f) 收存前款所定機構持有由政府發行之有價證券。
 - g) 實施黃金及外匯之各種操作。
 - h) 為調節貨幣市場而發行有價證券或實施附買回操作。
 - i) 實施任何其他非本法所禁止之金融操作。
2. 本行認為適當時，得於下列情形下，對活期或定期存款支付利息：
- a) 前項第 d 款及第 e 款規定之營運。
 - b) 信用機構、金融公司及其他由本行監理之機構依法繳存之最低準備金。
 - c) 與在貨幣、金融及外匯領域範圍內之外國或國際機構交易。
 - d) 由政府或本行所簽訂之雙邊互惠協定或契約。
 - e) 涉及多邊清算及支付協定之特別條款。

Article 25

The Bank shall specifically not:

- a) Rediscount, in the country, credit instruments from its own commercial portfolio representing operations carried out under Article 24.1.(a);
- b) Grant overdraft facilities or credit collateralized under forms, which run counter to the provisions of this Organic Law;
- c) Promote the setting-up of credit institutions, financial companies or any other companies, nor hold their capital stock, save as otherwise provided for in this Organic Law or authorised by special provision, or for the repayment of credits, but in no circumstances as a partner with unlimited liability;
- d) Own real estate apart from the premises required for the performance of its tasks or for social purposes, unless as a consequence of assignment of property by debtors, *datio in solutum*, judicial sale or other legal means of complying with obligations or intended to ensure such compliance, in which cases the Bank shall provide for their disposal as soon as possible.

CHAPTER V

Organs of the Bank

SECTION I General Provisions

Article 26

The organs of the Bank shall be the Governor, the Board of Directors, the Board of Auditors, and the Advisory Board.

Article 27

1. The Governor and the other members of the Board of Directors of the bank shall be chosen from among persons of recognized standing, competence and management experience, as well as knowledge in monetary and banking matters and appointed by means of a resolution of the Cabinet, upon proposal of the Finance Minister.
2. The Governor and the other members of the Board of Directors shall be independent in accordance with the Statute of the European System of Central Banks and of the Central Bank (ESCB/ECB) and shall not seek or take instructions from Community institutions, the State sovereign bodies or any other institutions.

第 25 條 本行不得為下列行為：

- a) 於本國內，以自有商業投資標的之信用工具而為前條第 1 項第 a 款所稱之重貼現。
- b) 以違反本法規定之方式，承諾透支或擔保授信。
- c) 擔任信用機構、金融公司或任何其他公司之發起人，及擁有該等公司之股票。但除絕對禁止成為無限責任之合夥人之外，於本法另有規定、經特別授權或基於債務之清償者，不在此限。
- d) 非基於任務執行或社會目的之需要，擁有無基地權之不動產。但由於債務人財產之分配、法院之拍賣或其他履行義務之合法方式而產生者，不在此限；有此等情形時，本行應儘速處分之。

第 5 章 本行組織

第 1 節 一般規定

第 26 條 本行之組織為總裁、理事會、監事會及諮詢委員會。

第 27 條 1. 本行總裁及其他理事會成員，應遴選公認具備聲望、才能、管理經驗，及貨幣與金融事務學養之人，由財政部長提請內閣指派之。

2. 依據「ESCB/ECB 法」，本行總裁及其他理事會成員，應具獨立性，且不應尋求或接受共同體之機構、本國政府機關或其他機構之指示。

SECTION II Governor

Article 28

1. It shall be incumbent upon the Governor:

- a) To carry out the tasks of member of the Governing Council and of the General Council of the ECB, pursuant to the provisions laid down in the Treaty establishing the European Community and in the ESCB/ECB Statute;
- b) To represent the Bank;
- c) To act on behalf of the Bank with foreign or international institutions;
- d) To supervise the co-ordination and dynamization of the activity of the Board of Directors and to call the meetings thereof;
- e) To preside any meeting of committees set up by the Board of Directors;
- f) To initial the general books, for which purpose a facsimile of his signature may be used;
- g) To exercise all other powers legally entrusted to him.

2. The Governor may, by means of a minute of the Board of Directors, under the terms of Article 34.2, delegate part of his powers to the Vice-governors or Directors as well as appoint, among them, one person to replace him, in the performance of the tasks referred to in a) of the foregoing paragraph.

Article 29

It shall be generally incumbent on the Vice-governors to assist the Governor and specifically to exercise the powers delegated to them by the latter, without prejudice to all other powers legally entrusted to them.

Article 30

1. Whenever serious interests of the country or of the Bank are at stake and it proves impossible to convene the Board of Directors, due to urgent need, for lack of quorum, or any other justified reason, the Governor shall have full powers to act in all matters required for the accomplishment of the purposes assigned to the Bank and which fall within the competence of that Board.

2. Before third parties, including notaries, registrars, and other public office holders, the signature of the Governor, alleging the situation envisaged in the foregoing paragraph, shall be a presumption of the impossibility to hold a meeting of the Board of Directors.

第 2 節 總 裁

第 28 條 1. 總裁之職責如下：

- a) 依據「歐洲共同體條約」及「ESCB/ECB 法」之規定，執行 ECB 執行委員會及一般委員會成員之任務。
 - b) 代表本行。
 - c) 代表本行與外國或國際機構交涉。
 - d) 負責理事會活動之協調及折衝，並可為此召開會議。
 - e) 擔任理事會任何會議之主席。
 - f) 簽署一般帳簿；為此目的，得使用其簽署之複本。
 - g) 行使所有其他法律賦與之權力。
2. 總裁於第 34 條第 2 項規定之條件下，得以理事會紀錄之方式，將其部分權力授予副總裁或理事，亦得指派其中一人代其執行前項第 a 款之任務。

第 29 條 副總裁於不違反法令所賦予之權力下，負有協助總裁及執行總裁授權事項之義務。

第 30 條 1. 遇有危及國家或本行之重大利益，且因法定人數不足或任何其他合理事由，而無法召開理事會者，總裁基於緊急需要，有充分之權力執行所有符合實現本行任務及理事會職權之事項。

2. 總裁主張有前項之情形時，其於第三人（包含公證人、登錄人及其他政府機關首長）之前所為之簽署，推定理事會無法召開。

Article 31

1. The Governor, if he is absent or prevented, shall be replaced in the following way and order:

- a) By the senior Vice-governor or, in equal circumstances, by the oldest in age;
- b) By the senior Director or, in equal circumstances, by the oldest in age.

2. The substitution rule laid down in the foregoing paragraph shall apply to vacancies.

3. Before third parties, including notaries, registrars, and other public office holders, the signature of a Vice-governor or of a Director, alleging the situations envisaged in the foregoing paragraphs, shall be a pre sumption of the aforesaid absence, prevention, or vacancy.

Article 32

1. The Governor shall have a casting vote at the meetings which he chairs.

2. The vote in the affirmative of the Governor shall be required for all the decisions taken by the Board of Directors or by Executive Committees, which, in his motivated judgement, may affect either his decision-making autonomy in his position as member of the Governing Council and of the General Council of the ECB or the compliance with the obligations of the Bank as an integral part of the ESCB.

SECTION III Board of Directors

Article 33

1. The Board of Directors shall consist of the Governor, who shall be the Chairman, of one or two Vice-governors, and of three to five Directors.

2. The members of the Board of Directors shall be in office for a term of five years, renewable once for an equal term, by means of a resolution of the Cabinet.

3. The members of the Board of Directors shall be irremovable from office; they may only be relieved from office should any of the circumstances envisaged in Article 14.2 of the ESCB/ECB Statute occur.

4. The relief from office mentioned in the foregoing paragraph shall be made by means of a resolution of the Cabinet, upon proposal of the Finance Minister.

5. In accordance with Article 14.2 of the ESCB/ECB Statute, the Governor may institute proceedings against such a relief from office decision.

6. The members of the Board of Directors shall vacate office upon expiry of their term, or due to permanent incapacity, resignation or legal incompatibility.

- 第 31 條
1. 總裁缺席或無法執行職務時，依下列方式及順序取代之：
 - a) 由最資深之副總裁代之；其條件相同時，由年齡最大者代之。
 - b) 由最資深之理事代之；其條件相同時，由年齡最大者代之。
 2. 前項規定於總裁出缺時亦適用之。
 3. 副總裁或理事主張有前二項之情形時，其於第三人（包含公證人、登錄人及其他政府機關首長）之前所為之簽署，推定總裁有缺席、無法執行職務或出缺之情事。

- 第 32 條
1. 總裁於其所主持之會議有投決定票之權。
 2. 總裁之贊成票為理事會或執行委員會作成所有決議應具備之條件。總裁投票時，應考量其以 ECB 執行委員會及一般委員會之成員所擁有之自治權限或符合本行作為 ESCB 一部分之義務。

第 3 節 理事會

- 第 33 條
1. 理事會由總裁擔任主席，並由副總裁一或二人及理事三至五人共同組成之。
 2. 理事會成員於五年任期屆滿後，得經內閣決議續任一次。
 3. 理事之任命應受任期保障，僅於有「ESCB/ECB 法」第 14 條第 2 項之情形時，始得予解職。
 4. 前項所定解職應由財政部長提請內閣議決之。
 5. 依「ESCB/ECB 法」第 14 條第 2 項規定，總裁得對解職決議，採取訴訟救濟。
 6. 理事會成員於任期屆滿前，可以永久傷殘、辭任或與法不合等事由，提出辭職。

Article 34

1. The Board of Directors shall be responsible for all the acts required to achieve the purposes assigned to the Bank which do not fall within the exclusive competence of other bodies.
2. The Board of Directors may, by means of a minute, delegate powers to one or more of its members or to employees of the Bank and authorise the subdelegation of such powers, establishing, in each case, the relevant limits and conditions.

Article 35

1. The Board of Directors, on a proposal from the Governor, shall assign to its members responsibilities for one or more sectors comprising one or more services of the Bank.
2. The assignment of a sector implies the delegation of powers within the limits and under the conditions to be established on the occasion of the assignment.
3. The allocation of sectors shall not waive the duty, incumbent upon all the members of the Board of Directors, to follow and become acquainted with the general affairs of the Bank and to submit proposals concerning any of them.

Article 36

1. The Board of Directors shall meet:
 - a) Regularly, at least once a week, save as otherwise provided for by the Governor and accepted by unanimity by the acting members;
 - b) Extraordinarily, whenever convened by the Governor.
2. In order to make valid decisions, the Board meetings must be attended by the absolute majority of the acting members.
3. For the purpose of the foregoing paragraphs, the members of the Board on duty outside the head office or prevented due to illness shall not be considered acting members.
4. The decisions of the Board shall be taken by a majority vote of the attending members, no abstentions being allowed.

Article 37

1. The Board of Directors may create standing or temporary Executive Committees as deemed necessary to the decentralization and good operation of the services.
2. The Board of Directors may delegate part of its powers to the Executive Committees.

- 第 34 條
1. 理事會負有實現本行目標所需作為之責任，而此等目標不在其他機構特有之權限範圍內。
 2. 理事會得以會議紀錄之方式，授權其成員一人或數人或本行人員，並得以個案方式設定有關限制及條件而授權其向下委派。

- 第 35 條
1. 理事會應經總裁之提議，指派其成員負責本行若干部門及事務。
 2. 對於部門之指派應符合其授權範圍及所設定之條件。
 3. 部門之配置不應免除理事會所有成員應盡之職責，並應使其能遵循及熟悉本行一般事務及提出相關建議。

- 第 36 條
1. 理事會應召開之會議如下：
 - a) 定期會議，除經總裁提議並經全體理事一致同意免開者外，一週至少一次。
 - b) 特別會議，得由總裁隨時召開之。
 2. 理事會應有理事之絕對多數出席，始得作成有效之決議。
 3. 前項理事人數之計算，不含於總行以外地區執行職務或因病無法執行職務之理事。
 4. 理事會之決議，以出席理事之多數同意決定之，缺席理事不得參與表決。

- 第 37 條
1. 理事會認為有分散事務及增進其功能之必要時，得設常設或臨時執行委員會。
 2. 理事會得將其部分權利授予執行委員會。

Article 38

1. All matters dealt with at the meetings of the Board of Directors and of the Executive Committees shall be mentioned briefly but clearly in the relevant minutes.
2. The minutes shall bear the signatures of all the members of the Board of Directors or of the Executive Committees who attended the meeting and shall be undersigned by the secretary.
3. The attendants at the meeting may dictate a summary of their participation to be recorded in the minutes and may vote "defeated" as to the decisions with which they disagree.

Article 39

Appeals or law actions provided for by the applicable legislation on procedure in contentious administrative matters, including those intended to obtain the declaration of illegality of regulatory rules, may be filed against any acts adopted, in the exercise of public authority functions, by the Governor, the Vice-governors, the Board of Directors and other bodies of the Bank, or in the use of powers delegated by them.

Article 40

The members of the Board of Directors shall:

- a) Be entitled to the remuneration established annually by a salary committee comprising the Finance Minister or his representative, who will chair, the Chairman of the Board of Auditors and a former governor appointed for that purpose by the Advisory Board; such remuneration shall not include any variable component;
- b) Be awarded the same social benefits as the employees of the Bank, under the terms implemented by the salary committee, except for the benefits arising from occupational pension schemes, retirement, disablement and survivors pensions;
- c) Benefit from the social protection regime to which they were entitled on the date of the respective appointment or, in the absence of such a regime, from the general social security regime.

SECTION IV Board of Auditors

Article 41

1. The Board of Auditors shall consist of three members appointed by the Finance Minister.
2. One of the members shall be appointed as Chairman, with a casting vote, another shall be a chartered accountant, and the third shall be a person of recognized competence in economic matters.

- 第 38 條 1. 理事會及執行委員會會議中討論之所有事項，應簡要明確記載於會議紀錄。
2. 會議紀錄應有理事會或執行委員會所有與會成員之簽名，以及執行秘書在紀錄結尾處之簽署。
3. 與會者得要求其於會中之發言摘要記載於會議紀錄，並得投票反對其所不同意之決議。

第 39 條 依據有關處理爭議性行政事項（包括想要取得規定不適法之宣告）之法律，總裁、副總裁、理事會及本行其他單位，得針對任何已通過之法案以執行公權力或授權之方式，提起訴訟或上訴。

第 40 條 理事會成員享有下列權利：

- a) 受領由薪資委員會每年訂定之酬勞。該委員會由財政部長（或其代表）、監事會主席及諮詢委員會指派之前任總裁，共同組成；並以財政部長（或其代表）為主席。此一酬勞不得包含任何可變動成分。
- b) 除職業年金制、退休、傷殘及遺屬年金之福利外，在薪資委員會所定之條件下，享有與本行職員相同之社會福利。
- c) 自受任命之日起，享有社會保障制度之福利；如無此保障制度，則享有一般社會安全制度之福利。

第 4 節 監事會

- 第 41 條 1. 監事會由監事三人組成，均由財政部長任命之。
2. 監事會中之一人應為可投決定票之主席，一人應為合格之會計師，另一人應為嫻熟經濟事務之人員。

Article 42

1. The members of the Board of Auditors shall be in office for a term of three years, renewable once for an equal period by means of a decision of the Finance Minister, in accordance with paragraph 1 of the foregoing article.
2. The functions of the Board of Auditors may be discharged jointly with other non-conflicting professional duties.

Article 43

1. The Board of Auditors shall be responsible for:
 - a) Monitoring the business of the Bank and the observance of the laws and regulations applicable thereto;
 - b) Examining the periodic statements submitted by the Board of Directors during its term of office;
 - c) Issuing its opinion on the budget, the balance sheet, and the annual accounts;
 - d) Examining the books, vaults, and safes of the Bank whenever it deems convenient, subject to the appropriate security measures;
 - e) Drawing the attention of the Governor or of the Board of Directors to any matter which it deems should be considered, and giving its opinion on any subject submitted to it by those bodies.
2. The Board of Auditors may be assisted by any Bank departments or officials it chooses.

Article 44

1. The Board of Auditors shall meet regularly once a month and extraordinarily whenever meetings are called by its Chairman.
2. To be valid, the decisions of the Board of Auditors shall require a quorum of the absolute majority of its acting members.
3. The decisions of the Board of Auditors shall be taken by a majority vote of the attending members, no abstentions being allowed.
4. The provisions of Article 38 shall apply to the minutes of the Board of Auditors.
5. The members of the Board of Auditors shall be entitled to a monthly remuneration established by the Finance Minister, which shall not include any variable component.

Article 45

The members of the Board of Auditors may participate in the meetings of the Board of Directors, with no voting power; the presence of one of them in rotation shall be compulsory at regular meetings.

- 第 42 條 1. 監事會成員之任期為三年，期滿得由財政部長依前條第 1 項規定續任一次。
2. 監事會之任務得併同其他不相衝突之職務履行之。

- 第 43 條 1. 監事會之職掌如下：
- a) 監督本行業務及法令遵守之情形。
 - b) 審查理事會於任期內所提出之定期報告。
 - c) 提出對預算、資產負債表及年度報告之意見。
 - d) 於其認為適當之時間，並在妥適安全之措施下，檢查本行之簿冊、庫房及保險箱。
 - e) 促請總裁或理事會注意其所認為應考慮之事項，並提供相關之意見。
2. 監事會得要求本行任何部門或其指定之人員協助之。

- 第 44 條 1. 監事會應每月召開定期會議一次，並得由主席隨時召開不定期之特別會議。
2. 監事會之決議，應有監事絕對多數之出席，始具效力。
3. 監事會之決議，以出席監事過半數之同意行之；缺席者無投票權。
4. 第 38 條之規定於監事會之會議紀錄準用之。
5. 監事會成員有權領取財政部長所核定之月俸，且不包含任何可變動成分。

- 第 45 條 監事會成員得參加理事會，但無表決權；其成員應輪派一人參加理事會之定期會議。

Article 46

Without prejudice to the powers of the Board of Auditors, the accounts of the Bank shall also be audited by external auditors, pursuant to the provisions laid down in Article 27.1 of the ESCB/ECB Statute.

SECTION V **Advisory Board**

Article 47

1. The Advisory Board shall consist of the Governor of the Bank, who shall be the Chairman, and the following members:

- a) The Vice-governors;
- b) The former Governors;
- c) Four personalities of a recognized competence in economic, financial and business matters;
- d) The Chairman of the Portuguese Association of Banks;
- e) The Chairman of the Public Credit Management Institute;
- f) A representative of each of the Autonomous Regions of the Azores and Madeira, to be appointed by the competent self-government bodies;
- g) The Chairman of the Advisory Board of the Bank.

2. The members mentioned in c) above shall be appointed by means of a resolution of the Cabinet, upon proposal of the Finance Minister, for a term of three years, renewable once for an equal period.

3. The members of the Advisory Board shall not be remunerated, without prejudice to the payment of mission allowances and attendance fees.

4. Whenever deemed convenient, the Chairman of the Advisory Board may invite certain entities or sectors of activity to be represented at their meetings, as well as suggest to the Government the attendance of officials from public bodies or services competent in the matters to be appraised, but in any case with no voting power.

Article 48

It shall be incumbent on the Advisory Board to issue its non-binding opinion on:

- a) The annual report of the Bank, before its release;
- b) The measures taken by Bank within the scope of its functions;
- c) The matters referred thereto by the Governor or by the Board of Directors.

第 46 條 在不違反監事會之權責下，本行之帳目應依「ESCB/ECB 法」第 27 條第 1 項之規定，接受外部稽核。

第 5 節 諮詢委員會

第 47 條 1. 諮詢委員會由本行總裁及下列成員共同組成，並由本行總裁擔任主席：

- a) 副總裁。
- b) 前任總裁。
- c) 嫻熟經濟、金融及商業事務之專家四人。
- d) 葡萄牙銀行公會主席。
- e) 公共信用經理機構主席。
- f) 亞卓里斯及馬德里自治區（the Autonomous Regions of the Azores and Madeira）政府所指派之代表一人。
- g) 本行諮詢委員會主席。

2. 前項第 c 款之成員由財政部長提請內閣指派之；其任期為三年。

3. 諮詢委員會之成員，不得支領報酬，但職務津貼及出席費不在此限。

4. 諮詢委員會主席於必要時，得邀請相關機構或部門派代表出席，及建議政府相關業務嫻熟官員出席；但無表決權。

第 48 條 諮詢委員會可就下列事項提出意見，但不具拘束力：

- a) 發布前之本行年度報告。
- b) 本行職掌範圍內所採取之措施。
- c) 有關總裁或理事會之事項。

Article 49

The Advisory Board shall meet regularly once every six months and extraordinarily whenever convened by the Governor.

CHAPTER VI

Organisation of the Bank's departments

Article 50

The Board of Directors shall decide on the structure and operation of the Bank's departments and shall draw up the necessary internal regulations.

Article 51

The subsidiaries, branches, delegations, and agencies shall be responsible, under the direction, control, and supervision of the Board of Directors, for the discharge, in their respective areas, of the duties assigned thereto.

CHAPTER VII

Budget and Accounts

Article 52

1. An operating budget shall be drawn up every year.
2. The annual budget shall be forwarded to the Finance Minister not later than November 30 of the preceding year.

Article 53

1. The result for the fiscal year shall be assessed by deducting from the total income and other profit attributable to the fiscal year, the amounts corresponding to the following costs:
 - a) Annual operating and administrative costs;
 - b) Annual appropriations for the building up of, or increase in, provisions for the coverage of asset depreciation risks, or emergence of other contingencies that must be handled, as well as for the building up of a special reserve related to gains in gold sale operations, under the terms defined by the Board of Directors;
 - c) Special appropriations to the Pension Fund.
 - d) Extraordinary profits and losses.
2. The profit for the fiscal year, assessed according to the foregoing paragraph, shall be distributed as follows:
 - a) 10 percent to the legal reserve;

- 第 49 條 諮詢委員會應每六個月召開定期會議一次，總裁並得隨時召開特別會議。

第 6 章 本行內部單位組織

- 第 50 條 理事會應決定本行內部單位之架構及運作，並應訂定必要之內部規範。

- 第 51 條 附屬機構、分行、代表處及代辦處，在理事會之指示、監督及管理下，負責各該地區之職務。

第 7 章 預算及會計

- 第 52 條 1. 每年應提出營業預算。
2. 年度預算應於前一年 11 月 30 日前向財政部長提出。

- 第 53 條 1. 評估會計年度之結果，應從會計年度之總收入及其他收益扣除下列成本：
- a) 年度營運及行政費用。
 - b) 年度撥款，以提列或增列損失準備，作為彌補資產匯損風險或因應其他緊急需求之用；及於理事會限定範圍內，提列涉及操作出售黃金利得之特別準備。
 - c) 退休基金之特別撥款。
 - d) 特別收益及損失。
2. 依前項規定而評定之會計年度盈餘，應依下列各款分配之：
- a) 10% 為法定準備。

- b) 10 percent to other reserves to be decided by the Board of Directors;
- c) The remainder to the State, as dividends, or to other reserves proposed by the Board of Directors and approved by the Finance Minister.

Article 54

1. Not later than March 31, the Bank shall submit the annual report, balance sheet, and accounts referred to the last day of the previous year for the Finance Minister's approval, after discussion and appraisal thereof by the Board of Directors, with the opinion of the Board of Auditors.
2. Unless a decision to the contrary is given by the Finance Minister, the report, balance sheet, and accounts shall be considered approved thirty days after the date of their receipt.
3. The report, balance sheet, and accounts shall be published in the Official Gazette within thirty days after their approval.
4. After the presentation of the report, balance sheet and annual accounts, the Governor shall inform the Parliament, through the Standing Committee on Economy, Finance and Planning, on the monetary and exchange rate policy stance and guidelines.
5. The Bank shall not be subject to the financial system governing the autonomous funds and services of the Public Sector.
6. The Bank shall not be subject to the prior control of the Court of Auditors, nor to its successive control in the issues relating to its participation in the performance of the tasks entrusted to the ESCB.
7. The provisions of the foregoing paragraph shall be applicable to the Funds operating at the Bank or in whose management the Bank participates.

Article 55

The Bank shall publish monthly and in accordance with the provisions laid down in subparagraph b) of paragraph 3 of Article 59 a synopsis of its assets and liabilities.

CHAPTER VIII

Staff

Article 56

1. The staff of the Bank shall be subject to the legal regulations of the individual labour contract.

- b) 10% 為理事會決定之其他準備。
- c) 其餘形同股利交予國家，或經理事會提報財政部同意後撥充其他準備。

- 第 54 條
1. 本行應將年度報告、資產負債表及前一年度最後一天之帳務，經理事會討論及評價後，併同監事會意見，於 3 月 31 日前報請財政部長核定。
 2. 除非財政部長有與之相異之決定，該報告、資產負債表及帳務，於收受 30 日後，即視為核定。
 3. 該報告、資產負債表及帳務，應於核定後 30 日內，刊登政府公報。
 4. 總裁於該報告、資產負債表及帳務公布後，應通知國會經濟、金融及計畫常設委員會，有關貨幣及匯率政策之方向及原則。
 5. 本行不屬於管理自主資金之金融系統及公共服務系統。
 6. 關於參與 ESCB 賦予任務之執行，本行不受稽核法庭之事前監督，亦不受其事後監督。
 7. 前項規定適用於本行所操作或參與經理之基金。

- 第 55 條
- 本行依第 59 條第 3 項第 b 款之規定，每月應將資產及負債概要刊登於公報。

第 8 章 職 員

- 第 56 條
1. 本行職員應受個別勞工契約之法令規範。

2. The Bank may sign collective labour regulation instruments, under the terms of the general law, for whose purpose its legitimate representatives shall be the members of the board of directors or the holders of a written mandate, expressly entrusted with contracting powers.

3. The staff of the Bank shall benefit from the social security scheme and from the other social benefits, established in the collective labour regulation instruments of the banking sector.

Article 57

1. The Board of Directors, bearing in mind the specific nature of the functions entrusted to the Bank, shall define the personnel policy after hearing the institutional bodies of representation of the workers.

2. The Board shall provide for the instruments required for the proper execution and disclosure of the personnel policy, defined under the foregoing paragraph.

Article 58

1. Within the scope of the Bank's social action, there exists a welfare fund with the appropriations which the Board of Directors decides to allot thereto so as to ensure the achievement of its purpose.

2. The welfare fund shall be governed by the regulations approved by the Board of Directors and shall be managed by a committee appointed by the said Board, with delegated powers for the purpose, and which will include representatives of the workers' committee of the Bank.

CHAPTER IX

General and Transitional Provisions

Article 59

1. The Bank shall be bound by the signature of the Governor or of two other members of the Board of Directors and of whomsoever is empowered thereto under Articles 28.2, 31.1, 31.2 and 34.2.

2. The Notices of the Banco de Portugal shall be signed by the Governor and published in Series II of the Official Gazette.

3. It shall be incumbent on the Bank to issue an official bulletin, intended to publish:

- a) the instructions issued by the Bank;
- b) other acts that, pursuant to the law, are deemed to be published.

2. 本行得在普通法規定之條件下，以理事會成員或經書面委託授予簽約權力之人，作為合法代表，簽訂勞工團體規約。
3. 本行職員可享受建置於銀行機構之勞工團體規約中之社會安全機制及其他社會福利。

- 第 57 條
1. 理事會基於本行所賦予之任務性質，應於聽取勞工代表組織之意見後，制定人事政策。
 2. 理事會應提出公開及妥適執行依前項所定人事政策之必要作法。

- 第 58 條
1. 於本行之社會活動範圍內，為達成其目的而成立之福利基金，得由理事會決定撥款額度。
 2. 該福利基金應以理事會核定之規章管理之，並由理事會指派之委員會經理之；該委員會應含有本行勞工委員會之代表，其於目的範圍內具有合法之授權。

第 9 章 一般及過渡條款

- 第 59 條
1. 本行應受總裁或理事會其他成員二人及依第 28 條第 2 項、第 31 條第 1 項、第 2 項，及第 34 條第 2 項規定授權人員簽名之約束。
 2. 本行之公告應有總裁之簽署，並應刊登於政府公報第 II 卷。
 3. 本行應發行年報刊載：
 - a) 本行所發布之指示。
 - b) 其他依法應予刊登之法案。

Article 60

The members of the Board of Directors, Board of Auditors, and Advisory Board, as well as all the staff of the Bank are bound to secrecy under the terms of the law.

Article 61

1. Unless when representing the Bank or its staff, the members of the Board of Directors and the staff shall neither be members of the supervisory and managing bodies of other credit institutions, financial companies or any other institution subject to the Bank's supervision, nor perform any other duties therein.

2. Without prejudice to other legally envisaged incompatibilities or impediments, the members of the Board of Directors shall not perform any remunerated duties outside the Bank, except lecturing at Universities, providing it does not interfere with their duties and authorisation is given by the Finance Minister; they also shall not be members of the supervisory and managing bodies of any company, unless when representing the Bank's interests and if duly authorised by the Board of Directors.

Article 62

Without prejudice to the provisions laid down in Article 39, it will be incumbent on the Judicial Courts to arbitrate any disputes in which the Bank is one of the parties, including the proceedings to determine the civil liability towards third parties for acts of the Bank's bodies, as well as the assessment of the civil liability of the members of such bodies towards the Bank.

Article 63

1. The Chart of Accounts of the Bank shall be approved by the Finance Minister, on a proposal from the Board of Directors after hearing the Board of Auditors.

2. Decree-Law No. 23/93 of 27 January 1993 shall remain in force up to the date of the approval mentioned in the foregoing paragraph.

Article 64

1. In all matters not foreseen in the present Organic Law and in the regulations adopted for its implementation, the Bank, except for the provisions of the following paragraph, shall be governed by the legal system dealing with the activity of credit institutions, where applicable, and by other rules and principles of private law; matters related with the members of the Board of Directors shall also be governed by the provisions of the Public Manager Statute (*Estatuto do Gestor Público*).

- 第 60 條 理事會、監事會與諮詢委員會之成員，以及本行所有職員，於法律規定之範圍內負有保密之義務。
- 第 61 條 1. 除代表本行或全體員工外，理事會成員及職員不得為其他信用機構、金融公司或任何其他本行監理機構之監察人及負責人；亦不得為其執行任何其他職務。
2. 在不與其他合法權益牴觸的前提下，理事會成員除在不妨礙其職責且經財政部長核准之條件下，得於大學授課外，不得履行其他本行以外之有償職務；且除代表本行利益及經理事會授權外，亦不得為任何公司之監督及經理部門成員。
- 第 62 條 在不違反第 39 條規定之情形下，法院有義務調解涉及本行之紛爭，包含本行所屬業務對第三人民事責任之裁決，以及所屬成員對本行民事責任之裁定。
- 第 63 條 1. 本行帳冊應於聽取監事會意見後，由理事會提請財政部長核定之。
2. 1993 年 1 月 27 日第 23/93 號法令，仍保留其效力至前項規定之核定日止。
- 第 64 條 1. 除第 2 項之規定外，本行於現行本法及據以執行之法規所未規定之事項，應受處理信用機構行為之合法機制及其他私法規定與原則之規範；涉及理事會成員之事項，亦應受公共經理人法(Estatuto do Gestor Público)之規範。

2. In the exercise of public authority powers, the provisions of the Code of Administrative Proceedings, as well as other general rules and principles relative to administrative acts of the State, shall be applicable to the Bank.
3. The legal system applicable to public corporations shall be applicable to the procedures for the acquisition and sale of goods and services of the Bank.
4. The Bank shall be subject to commercial register under the terms of the general law, with the changes deemed necessary.

Article 65

Without prejudice to the exclusive powers of the European Central Bank to authorise the issue, Articles 6 to 9 of the Organic Law of the Bank, with the wording of Decree-Law No. 337/90 of 30 October 1990, shall remain in force up to 28 February 2002, from which date they shall be deemed revoked.

2. 在公權力之運用上，行政程序法之規定及有關國家行政行為之其他一般性規定與原則，均適用於本行。
3. 適用於公營機構之法律機制，適用於本行買賣商品及服務之程序。
4. 本行應依普通法之規定辦理商業登記；變更登記時，亦同。

第 65 條 在不違反 ECB 授權通貨發行之專屬權力下，於 1990 年 10 月 30 日第 337/90 號法令所公布之本法第 6 條至第 9 條條文，其效力保留至 2002 年 2 月 28 日後即予廢止。

六、Act No. 6/1993 Coll.,
on the Czech National Bank
捷克國家銀行法

**Act No. 6/1993 Coll.,
on the Czech National Bank**

<i>PART ONE</i>	<i>Basic provisions</i>
<i>PART TWO</i>	<i>Organisation of the Czech National Bank</i>
<i>PART THREE</i>	<i>Relationship to the Government and to other bodies</i>
<i>PART FOUR</i>	<i>Issuance of banknotes and coins</i>
<i>PART FIVE</i>	<i>Instruments of monetary control of the Czech National Bank</i>
<i>PART SIX</i>	<i>Transactions of the Czech National Bank</i> <i>Transactions with Banks</i> <i>Transactions with the Czech Republic</i> <i>Other transactions of the Czech National Bank</i>
<i>PART SEVEN</i>	<i>Powers of the Czech National Bank in respect of foreign exchange management</i>
<i>PART EIGHT</i>	<i>Other activities and powers of the Czech National Bank</i>
<i>PART NINE</i>	<i>Supervision</i>
<i>PART TEN</i>	<i>Financial Management of the Czech National Bank</i>
<i>PART ELEVEN</i>	<i>General provisions</i>
<i>PART TWELVE</i>	<i>Transitional and final provisions</i>

捷克國家銀行法

法 務 室 謝 佳 雯 譯

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- 第 12 章 過渡及最終條款

**Act No. 6/1993 Coll. of 17 December 1992,
on the Czech National Bank**

**as amended by
Act No. 60/1993 Coll.,
Act No. 15/1998 Coll.,
Act No. 442/2000 Coll.,
the Constitutional Court ruling promulgated under
No. 278/2001 Coll.,
Act No. 482/2001 Coll.,
Act No. 127/2002 Coll.,
Act No. 257/2004 Coll.,
Act No. 377/2005 Coll.,
Act No. 57/2006 Coll.,
Act No. 62/2006 Coll.,
Act No. 230/2006 Coll.,
Act No. 160/2007 Coll.,
Act No. 36/2008 Coll.,
Act No. 124/2008 and
Act No. 254/2008 Coll.**

Note: This text is a working document for information only, and is not an official translation of the Czech legislation

The Czech National Council has passed this Act:

**PART ONE
Basic provisions**

Article 1

(1) The Czech National Bank shall be the central bank of the Czech Republic and the authority performing financial market supervision.

(2) The Czech National Bank shall be a legal entity governed by public law having its registered address in Prague; it shall not be incorporated in the Companies Register.

(3) The Czech National Bank shall be entrusted with the powers of an administrative authority to the extent defined in this Act and in special legal rules.

捷克國家銀行法

捷克國會 1992 年 12 月 17 日通過第 6/1993 號法律

歷次修正：第 60/1993 號法律

第 15/1998 號法律

第 442/2000 號法律

第 278/2001 號法律

第 482/2001 號法律

第 127/2002 號法律

第 257/2004 號法律

第 377/2005 號法律

第 57/2006 號法律

第 62/2006 號法律

第 230/2006 號法律

第 160/2007 號法律

第 36/2008 號法律

第 124/2008 號法律

第 254/2008 號法律

捷克國會通過本法如下：

第 1 章 總則

- 第 1 條 (1)捷克國家銀行（以下簡稱本行）為捷克共和國之中央銀行，並為金融市場監理機關。
- (2)本行為適用公法規定之法人，設址登記於布拉格；不須辦理公司登記。
- (3)本行依本法及其他特別法規定之範圍，賦與行政主管機關之權限。

(4) The Czech National Bank shall independently and with due diligence manage the assets entrusted to it by the state.

Article 2

(1) The primary objective of the Czech National Bank shall be to maintain price stability. Without prejudice to its primary objective, the Czech National Bank shall support the general economic policies of the Government leading to sustainable economic growth. The Czech National Bank shall act in accordance with the principle of an open market economy.

(2) In accordance with its primary objective, the Czech National Bank shall:

- a) set monetary policy;
- b) issue banknotes and coins;
- c) manage the circulation of currency, administer payments and clearing between banks, foreign bank branches and credit unions, promote smooth and efficient operation thereof, and contribute to the safety, soundness and efficiency of payment systems and to the development thereof;
- d) supervise the activities of entities operating on the financial market, analyse the evolution of the financial system, see to the sound operation and development of the financial market in the Czech Republic, and contribute to the stability of its financial system as a whole;
- e) carry on other activities pursuant to this Act and pursuant to special legal rules.

(3) When performing its tasks, the Czech National Bank shall co-operate with the central banks of other countries, with the authorities supervising the financial markets of other countries, and with international financial organisations and international organisations engaged in the supervision of banks, electronic money institutions and financial markets.

Article 3

(1) The Czech National Bank shall submit a report on monetary development to the Chamber of Deputies of Parliament at least twice a year for review. If the Chamber of Deputies so resolves, the Czech National Bank shall submit an extraordinary report on monetary development within thirty days. The resolution of the Chamber of Deputies must state what the extraordinary report should contain.

- (4)本行應盡善良管理人之注意，獨立經理國家託付之資產。

- 第 2 條 (1)本行之首要目標在維持物價之穩定。於不妨礙首要目標之範圍內，本行應支持政府為達成持續經濟成長所採取之一般經濟政策，並遵循公開市場經濟原則。
- (2)本行應依其首要目標，辦理下列事項：
- a) 制定貨幣政策。
 - b) 發行券幣。
 - c) 經理貨幣流通，主管銀行、外國銀行分支機構及信用組織間支付及清算業務，促進其順利及有效率之運作，以確保健全及有效率之支付系統及其發展。
 - d) 監督金融市場各機構之活動，分析金融體系之演進，確保捷克共和國境內金融市場之健全運作及發展，促進整體金融體系之穩定。
 - e) 執行本法及其他特別法所定之其他業務。
- (3)本行於執行任務時，應與其他國家之中央銀行及金融市場之監理機關、國際金融組織及負責監督銀行、電子貨幣機構與金融市場之國際組織密切合作。

- 第 3 條 (1)本行每年應至少二次向眾議院提出金融發展報告。眾議院如決議本行應另行提出金融發展之特別報告時，本行應於 30 日內為之；該項決議並應敘明特別報告所應包含之內容。

(2) The report on monetary development shall be submitted to the Chamber of Deputies by the Governor of the Czech National Bank, who in such an event shall be entitled to attend the session of the Chamber of Deputies and must be called upon to speak.

(3) The Chamber of Deputies shall acknowledge the report on monetary development or shall ask for a revised report.

(4) If the Chamber of Deputies asks for a revised report, the Czech National Bank shall within six weeks submit a revised report that complies with the requirements of the Chamber of Deputies.

(5) The Czech National Bank shall inform the public on monetary development at least once every three months.

Article 3a

The Czech National Bank shall submit a financial stability report to the Chamber of Deputies for information at least once a year.

PART TWO

Organisation of the Czech National Bank

Article 4

The Czech National Bank shall comprise:

- a) a headquarters having its registered address at Prague;
- b) branch offices;
- c) special-purpose organisational units.

Article 5

(1) The supreme governing body of the Czech National Bank shall be the Bank Board of the Czech National Bank (hereinafter referred to as the "Bank Board"). The Bank Board shall set monetary policy and the instruments for implementing this policy, and shall decide upon the fundamental monetary policy measures of the Czech National Bank and measures in the area of financial market supervision.

(2) Furthermore, the Bank Board shall, in particular:

- a) set forth the principles for the activities and transactions of the Czech National Bank;
- b) approve the budget of the Czech National Bank;
- c) set forth the organisational structure and fields of competence of the organisational units of the Czech National Bank;
- d) define the types, amounts and uses of the funds of the Czech National Bank;

- (2) 金融發展報告應由本行總裁向眾議院提出，提交報告時，總裁得參加眾議院之會議，並應受邀答詢。
- (3) 眾議院對於該金融發展報告應予認可，或要求修正。
- (4) 眾議院為前項修正之要求時，本行應於六週內提出符合其要求之修正報告。
- (5) 本行應至少每三個月一次公告金融發展情形。

第 3 a 條 本行應每年至少向眾議院提出一次金融穩定報告。

第 2 章 組織

第 4 條 本行包括：

- a) 所在地登記於布拉格之總行。
- b) 分行。
- c) 特殊目的單位。

第 5 條 (1) 本行之最高管理機關為本行理事會（以下簡稱理事會）。理事會應制定貨幣政策及執行其政策之工具，並應決定本行基本貨幣政策及監督金融市場所採行之措施。

(2) 此外，理事會應為下列事項：

- a) 訂定本行營運及交易原則。
- b) 核定本行預算。
- c) 訂定本行組織架構及各部門權責範圍。
- d) 規定本行資金之種類、金額及其用途。

- e) execute the rights and duties arising from labour-law relations in respect of the staff of the Czech National Bank. The Bank Board may delegate these activities to other members of staff;
- f) grant its consent to the entrepreneurial activities of the staff of the CNB;
- g) fix the salary and other emoluments of the Governor; the salaries and other emoluments of Vice-Governors and other members of the Bank Board shall be fixed by the Governor;
- h) decide on appeals against the decisions of the Czech National Bank in the first instance.

Article 6

(1) The Bank Board shall consist of seven members, comprising the Governor of the Czech National Bank, two Vice-Governors of the Czech National Bank and four other members of the Bank Board of the Czech National Bank.

(2) The Governor, Vice-Governors and other members shall be appointed and relieved from office by the President of the Republic.

(3) cancelled

(4) No person shall be allowed to hold the position of member of the Bank Board more than twice.

(5) The members of the Bank Board shall be appointed for a term of six years.

(6) Membership of the Bank Board shall be incompatible with the position of member of a legislative body, member of the Government and membership of the governing, supervisory or inspection bodies of other banks or commercial undertakings, and the performance of any independent gainful occupation, except for scientific, literary, journalistic, artistic and pedagogical activities and except for management of own assets. Membership of the Bank Board shall be incompatible with any activity which might cause any conflict of interest between the performance of this activity and membership of the Bank Board.

(7) Any citizen of the Czech Republic who:

- a) is fully competent to perform legal acts,
- b) has completed a university education,
- c) is of integrity,
- d) is a person of recognised standing and professional experience in monetary matters and in the area of the financial market, may be appointed a member of the Bank Board.

(8) For the purposes of this Act, "of integrity" shall refer to a natural person who has not been lawfully convicted of a criminal offence.

(9) The members of the Bank Board shall be staff of the Czech National Bank.

- e) 執行有關本行員工因勞動契約關係所生之權利義務；亦得授權其他職員執行之。
- f) 核可本行職員之營業行為。
- g) 核定本行總裁之薪資及其他津貼；副總裁及其他理事之薪資及其他津貼則由總裁核定。
- h) 對本行決定所提之申訴先行處理。

- 第 6 條
- (1) 理事會由理事七人組成，包括本行總裁、兩位副總裁及其他理事四人。
 - (2) 總裁、兩位副總裁及其他理事由總統任命及解任。
 - (3) (刪除)
 - (4) 理事不得連任超過二次。
 - (5) 理事任期為六年。
 - (6) 除科學、文學、旅遊、藝術及教育等性質之活動，及其自有資產之管理外，理事於任期內不得於立法機關、政府機關，及其他銀行或企業之管理、監督或檢查部門任職，亦不得從事任何獨立受有報酬之職業；並不得為與其職務利益衝突之業務行為。
 - (7) 任何具備下列條件之捷克公民得被任命為理事：
 - a) 具有完全行為能力。
 - b) 大學畢業以上學歷。
 - c) 品行端正。
 - d) 於貨幣金融事務及金融市場領域具有專業經驗並素孚眾望。
 - (8) 本法所稱「品行端正」係指自然人未曾依刑法判處有罪。
 - (9) 理事為本行之職員。

(10) The performance of duties of a Bank Board member shall terminate:

- a) with the expiration of his term of office,
- b) on the day immediately following the day on which written notice of relief from office or of written notice of resignation from office is delivered, or at some later date given in the notice of relief or resignation from office.

(11) The President of the Republic shall relieve a member of the Bank Board from office:

- a) in the event of a breach of paragraph 6 or of paragraph 7(c),
- b) on the day any judgement depriving the member of competence to perform legal acts or limiting his competence to perform legal acts enters into legal force.

(12) The President of the Republic may relieve a member of the Bank Board from office if the member fails to perform his duties for a period exceeding six months.

(13) The Governor shall be relieved from office by the President of the Republic if he no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct. The President of the Republic may also relieve the Governor from office if he fails to perform his duties for a period exceeding six months. A decision to this effect may be referred to the European Court of Justice by the Governor concerned or the Governing Council of the European Central Bank on grounds of infringement of the Treaty establishing the European Community or of any rule of law relating to its application.

Article 7

(1) The Governor, or, in his absence, a Vice-Governor nominated by him, shall chair the meetings of the Bank Board. The Bank Board shall act by a simple majority of the votes cast. The Bank Board shall have a quorum if the Governor, or his nominee, and at least three other members of the Bank Board are present. In the event of a tie, the chairperson shall have the casting vote.

(2) The Bank Board shall approve the Rules of Procedure of the Bank Board.

Article 8

The Governor shall represent the Czech National Bank externally. In his absence, a Vice-Governor nominated by him shall act on his behalf.

(10) 有下列情形之一者，理事應終止行使職權：

a) 任期屆滿。

b) 解職或辭職之書面通知送達之次日起，但解職或辭職之通知另定其後之日期者，依其所定。

(11) 理事有下列情形之一者，總統應將其解任：

a) 違反本條第 6 項或第 7 項 c 款之規定。

b) 受法院宣告完全喪失行為能力或限制其行為能力之生效日起。

(12) 理事未執行其職務逾六個月者，得由總統予以解職。

(13) 總裁不符履行其職責所需之資格或有重大犯行並經有罪宣告者，得由總統予以解職。總裁未執行其職務逾六個月者，亦同。此一解職決定如有違反歐洲共同體條約或可適用之相關規定者，得由總裁本人或歐洲央行執委會轉交歐洲法院處理。

第 7 條 (1) 總裁為理事會議之主席；其不克出席時，由其指定代理之副總裁為之。理事會之決議，以簡單多數決行之；其決議之最低法定人數，應有總裁或其指定代理之副總裁，及其他至少三名理事之出席；可否同數時，取決於主席。

(2) 理事會應訂定其議事規則。

第 8 條 總裁對外代表本行。總裁缺席時，由其指定之副總裁代理其職務。

PART THREE

Relationship to the Government and to other bodies

Article 9

(1) When providing for the primary objective of the Czech National Bank and when carrying out other activities, neither the Czech National Bank nor the Bank Board shall seek or take instructions from the President of the Republic, from Parliament, from the Government, from administrative authorities or from any other body.

(2) The Czech National Bank and the Government shall inform each other on matters concerning the principles and measures of monetary and economic policy.

Article 10

(1) The Czech National Bank shall take a position on proposals presented to the Government for consideration that concern the fields of competence of the Czech National Bank.

(2) The Czech National Bank shall act in an advisory capacity vis-à-vis the Government in matters of monetary policy and the financial market.

Article 11

(1) The Minister of Finance or another nominated member of the Government may attend the meetings of the Bank Board in an advisory capacity and may submit motions for discussion.

(2) The Governor of the Czech National Bank or a Vice-Governor nominated by him may attend the meetings of the Government in an advisory capacity.

PART FOUR

Issuance of banknotes and coins

Article 12

The Czech National Bank shall have the exclusive right to issue banknotes and coins, including commemorative coins (hereinafter referred to as "banknotes and coins").

Article 13

The monetary unit in the Czech Republic shall be the Czech koruna (crown), abbreviated as "Kč". The Czech koruna shall be divided into one hundred hellers.

第 3 章 與政府及其他機關之關係

- 第 9 條 (1)本行及理事會於執行本行主要目標及其他業務時，不得尋求或接受來自總統、國會、內閣、其他行政機關或任何人之指示。
- (2)本行與內閣間應相互知會有關貨幣及經濟政策之原則及措施。
- 第 10 條 (1)本行應就呈交內閣有關本行職權事項之提案表達立場。
- (2)本行應就貨幣政策及金融市場之事項對內閣提供建言。
- 第 11 條 (1)財政部長或其他經指定之內閣官員，得列席理事會，提供建議，並得提案討論。
- (2)本行總裁或經其指定之副總裁，得列席內閣會議，並提供建言。

第 4 章 鈔券及硬幣之發行

- 第 12 條 本行有鈔券、硬幣及紀念幣（以下合併簡稱券幣）之專屬發行權。
- 第 13 條 捷克貨幣之基本單位為捷克 koruna（克朗），縮寫為 Kč。捷克克朗相當於一百赫勒(heller)。

Article 14

The Czech National Bank shall manage the stocks of banknotes and coins, and shall organise the delivery of banknotes and coins from the manufacturers in keeping with the requirements for the circulation of money.

Article 15

The Czech National Bank shall organise the printing of banknotes and the minting of coins, and shall see to the protection and security of banknotes and coins that have not been released into circulation and to the safekeeping and destruction of printing plates, dies and invalid and withdrawn banknotes and coins.

Article 16

(1) Valid banknotes and coins issued by the Czech National Bank shall be legal tender at their par value in respect of all payments made within the territory of the Czech Republic.

(2) Coins made from precious metals, commemorative coins and special coins intended for collection may be sold at prices other than their par value.

Article 17

(1) Upon request, the Czech National Bank shall exchange any damaged banknotes and coins it has issued for undamaged banknotes and coins.

(2) The Czech National Bank may refuse to exchange banknotes or coins the design or relief of which is illegible or perforated, and the remains of banknotes smaller than one quarter of the original area of the banknote. Such banknotes and coins shall be taken from the presenter without compensation and shall be destroyed. In justified cases, the Czech National Bank may exceptionally provide compensation.

(3) The Czech National Bank shall not provide any compensation for banknotes or coins that have been destroyed or lost. It may withdraw without compensation banknotes the appearance of which has been altered, particularly those that have been written on, drawn on, overprinted, printed on or perforated, or which have been soiled by paint, glue or other such material.

Article 18

The Czech National Bank shall withdraw from circulation banknotes and coins suffering from wear and tear, destroy them and replace them with new banknotes and coins.

第 14 條 本行掌理券幣之儲存，並依貨幣流通之需求，辦理券幣自印鑄處之運送。

第 15 條 本行應辦理鈔券之印製及硬幣之鑄造，並應注意尚未流通券幣之安全防護，以及光餅、模板與作廢、回籠券幣之保管及銷燬。

第 16 條 (1)本行發行之有效券幣，依其面額對於本國境內之一切支付具有法償效力。
(2)以貴金屬鑄造之硬幣，及供收藏之紀念幣、特種硬幣，得以與面額不同之價格出售。

第 17 條 (1)本行對所發行之毀損券幣，如經請求者，應予兌換為未毀損之券幣。
(2)本行得拒絕兌換其圖案或浮雕有無法辨識或打洞情形之券幣，以及現有流通數量已少於原發行量四分之一之鈔券。此類券幣應無償收回並予以銷毀，但於具正當理由之個案，本行得例外補償之。
(3)本行不應對毀損或遺失之券幣予以補償，並得無償收回外觀業經改變之鈔券，特別是券面被書寫、圖畫、套印、印染、打洞及經油墨、膠類或其他類似物質污損者。

第 18 條 本行應收回、銷燬磨損之流通券幣，並兌換給新券幣。

Article 19

(1) The Czech National Bank may declare invalid and withdraw from circulation any banknotes and coins it has issued. It shall refund their par value by exchanging them for other, newly issued banknotes and coins. The period over which such exchange may take place shall not be less than five years, save as otherwise provided in a special legislative act.

(2) At the end of the exchange period, the sum total of the banknotes and coins that have been declared invalid but have not been presented for exchange shall be deducted from the amount of money in circulation that appears in the accounts of the Czech National Bank. This sum shall be income to the Czech National Bank.

Article 20

Any kind of reproduction of banknotes, coins, cheques, securities or payment cards denominated in Czech korunas or in a foreign currency (hereinafter referred to as "money symbols"), or objects imitating them, may only be made under the terms and conditions set forth by the Czech National Bank in a legal regulation.

Article 21

(1) Legal entities shall withdraw counterfeit or altered banknotes and coins valued in Czech korunas or in a foreign currency, or banknotes and coins valued in Czech korunas or in a foreign currency for which reasonable suspicion arises that they are counterfeit or have been altered, (hereinafter referred to as "suspicious banknotes and coins") without compensation and shall hand them over to the Czech National Bank. Such entities shall be entitled to demand of the person who presented the suspicious banknotes or coins that this person prove his or her identity in a credible manner. The entity that accepted the suspicious banknotes or coins shall notify the criminal law enforcement authorities of the withdrawal of the suspicious banknotes and coins.

(2) Natural persons carrying on bureau-de-change activities or providing money services under the Foreign Exchange Act shall also have the duties and powers referred to in paragraph 1.

Article 22

The Czech National Bank shall set forth by decree:

- a) the par values, dimensions, weight, material, appearance and other attributes of banknotes and coins and the manner of their issuance into circulation;
- b) the steps to be taken by natural and legal entities when accepting and handling legal tender, including the steps to be taken upon withdrawal of suspicious banknotes and coins;

第 19 條 (1)本行得就已發行流通之券幣宣告無效並收回之，但應以其面額兌換其他新發行之券幣；其兌換期間，除其他特別法另有規定者外，不得少於五年。

(2)兌換期間結束時，已被宣告無效但未經兌換之券幣數額，應自本行帳目內之流通貨幣總數中予以扣除。該未兌換之券幣數額，應歸入本行所得。

第 20 條 以任何形式複製或仿造以捷克克朗或外國貨幣為面額之鈔券、硬幣、支票、證券及支付卡（以下簡稱「貨幣工具」），僅得於本行規定之條件下為之。

第 21 條 (1)法人應截留以捷克克朗或外國貨幣為面額之偽造、變造或疑似偽造、變造之券幣（以下簡稱「可疑券幣」），並應將該券幣送交本行。法人有權要求使用可疑券幣之人證明其身分。收到該等券幣之法人並應通知刑事執法單位已截留該等券幣。

(2)自然人從事外幣兌換業務或依外匯法提供貨幣服務者，亦負有前項所定權責。

第 22 條 本行應規定下列事項：

a) 券幣之面額、大小、重量、材質、外型、其他特性及發行流通之方式。

b) 自然人及法人收受及處理法償貨幣應採取之措施，包括截留可疑券幣所應採取之措施。

- c) the manner of providing compensation for incomplete and damaged banknotes and coins;
- d) the manner of terminating the validity of banknotes and coins and the manner and period of their exchange for other banknotes and coins;
- e) the terms and conditions under which money symbols may be reproduced or objects imitating them may be produced.

PART FIVE

Instruments of monetary control of the Czech National Bank

Article 23

The Czech National Bank shall set the interest rates, structures, maturities and other terms and conditions for the transactions it performs pursuant to this Act and special legislative acts.

Article 24

The Czech National Bank shall set forth:

- a) in a provision promulgated in the Bulletin of the Czech National Bank the prudential rules for banks, foreign bank branches, credit unions, electronic money institutions and branches of foreign electronic money institutions operating in the Czech Republic under the single licence,
- b) in a decree the prudential rules for other money market participants and the terms and conditions under which transactions may be performed on the money market.

Article 25

- (1) The Czech National Bank may require banks, foreign bank branches and credit unions to hold a prescribed part of their funds on accounts with the Czech National Bank (hereinafter referred to as "required minimum reserves").
- (2) The required minimum reserves may not exceed 30 per cent of the total liabilities of an institution required to hold reserves pursuant to paragraph 1, net of its liabilities owed to other such institutions.

Article 26

- (1) Where a bank, a foreign bank branch or a credit union fails to maintain the required minimum reserves, the Czech National Bank may charge it interest at double the effective Lombard rate on the amount of the required minimum reserves which the bank fails to provide.

- c) 對不完整及受損券幣之賠償方式。
- d) 中止券幣效力之方式及兌換其他券幣之方式與期間。
- e) 可重製或仿造貨幣工具之條件。

第 5 章 本行之貨幣控制工具

第 23 條 本行應訂定利率、利率結構、到期日及其他依本法、特別法進行交易之條件。

第 24 條 本行應訂定下列事項：

- a) 於本行公報公告對銀行、外國銀行分支機構、信用機構、電子貨幣機構，及經本行發給單一執照之外國電子貨幣機構分支機構之監理規範。
- b) 以法令明訂有關對其他貨幣市場參與者之監理規範，及於貨幣市場進行交易之條件。

第 25 條 (1) 本行得要求銀行、外國銀行分支機構及信用機構，將其資金之相當比率存放於在本行所設立之帳戶內（以下簡稱「法定最低準備」）。

(2) 依前項規定應持有準備之機構，其法定最低準備不得超過對該機構不含對其他此類機構負債之總負債的百分之三十。

第 26 條 (1) 當銀行、外國銀行分支機構或信用機構之法定最低準備不足時，本行得向該銀行之帳戶就其不足部分收取當時德國央行官方利率(Lombard rate)兩倍利率之孳息。

(2) When increasing the reserve requirement, the Czech National Bank shall set a deadline by which institutions subject to the requirement under Article 25 have to achieve the new level.

Article 26a

The Czech National Bank shall set rules for the fulfilment of the requirements laid down in Articles 25 and 26 in a provision promulgated in the Bulletin of the Czech National Bank.

PART SIX

Transactions of the Czech National Bank

Transactions with Banks

Article 27

The Czech National Bank shall keep the accounts of banks and accept their deposits.

Article 28

The Czech National Bank may purchase from banks or sell to them:

- a) bills of exchange maturing within six months of the date of their purchase by the Czech National Bank and bearing at least two signatures, of which at least one shall be on behalf of the bank;
- b) government bonds or other securities underwritten by the Government; these, however, the Czech National Bank may buy and hold for a period of not more than one year.

Article 29

(1) The Czech National Bank may grant to banks for a maximum of three months credits guaranteed by the securities referred to in Article 28 or by government bonds or other securities underwritten by the Government, or by stock lists of bulk goods fully insured against loss and damage, or by other assets.

(2) In the interests of maintaining a bank's liquidity, the Czech National Bank may exceptionally provide short-term credit for a period of up to three months. When providing such credit, the Czech National Bank shall require adequate collateral.

Article 29a

Transactions conducted by the Czech National Bank pursuant to Part Six with banks may also be conducted with foreign bank branches and credit unions in a similar manner.

- (2)當法定準備提高時，本行應訂定依前條規定應持有準備之機構提存準備達到新標準之期限。

第 26a 條 本行應將依第 25 條及第 26 條所定之相關規定，刊登於本行公報。

第 6 章 交易行為

第 1 節 與銀行之交易

第 27 條 本行應接受銀行於本行開設帳戶，並接受其存款。

第 28 條 本行得與銀行進行下列買賣行為：

- a) 自本行買入六個月內到期之匯票，並附有至少二個背書保證，至少其中之一必須為銀行背書保證。
- b) 政府債券或其他由內閣保證之證券；惟本行買入及持有不得超過一年。

第 29 條 (1)本行得授與銀行最多不超過三個月之信用，該信用則以第 28 條所指證券、政府債券、其他由內閣保證之證券、經投保全額損害保險貨物之倉單，或其他資產等提供擔保。

(2)為保持銀行之流動性，本行得例外提供最長三個月之短期信用，並應要求十足擔保。

第 29a 條 本行依本章規定與銀行所為交易，亦得與外國銀行分支機構及信用機構，以類似方式為之。

Transactions with the Czech Republic

Article 30

(1) The Czech National Bank shall keep accounts pursuant to the Act on Budgetary Rules and on the Amendment of Some Related Acts.

(2) The Czech National Bank may not provide returnable funds or any other financial support to the Czech Republic or its bodies, or to regional authorities, bodies governed by public law or legal entities under the control of the state, a regional authority or a body governed by public law, with the exception of banks, not even through the purchase of debt securities from such entities where such entities are the issuers thereof. Moreover, it may not carry on transactions with such entities that might give rise to a Czech National Bank claim against such entities.

Article 31

(1) The Czech National Bank shall offer government bonds for sale pursuant to a special legislative act and by agreement with the Ministry of Finance may perform on its behalf and for an agreed remuneration activities relating to the management, redemption and transfer of government bonds, the payment of interest on such bonds and other activities as required.

(2) The Czech National Bank shall be authorised to keep a record of the securities issued by the Czech Republic and maturing within one year, a record of the securities issued by the Czech National Bank (Article 33) and a record of bonds maturing within one year, and shall be authorised to operate a settlement system for these investment instruments.

Article 31a

Pursuant to a special legal rule governing budgetary rules, the Czech National Bank may, upon the request of the Ministry of Finance, deal in investment instruments. This shall be without prejudice to the provision of Article 31(1).

Other transactions of the Czech National Bank

Article 32

Save as otherwise provided in this Act, the Czech National Bank may purchase and sell securities in order to regulate the money market.

第 2 節 與捷克政府之交易

第 30 條 (1)本行應依預算法及其他相關修正法設立帳戶。
(2)本行不得對本國或其機關、地方政府、受公法規範之地區性團體、或受上述各該機關及團體控管之法人（銀行除外），提供須償還之資金或其他金融援助，亦不得自此類法人購買其自己發行之債券。此外，亦不得與可能與本行引發爭訟之法人交易。

第 31 條 (1)本行應依特別法（Act No. 530/1990 Coll.）之規定，提供政府債券之銷售，並經財政部同意後，辦理政府債券之經理、回贖、移轉、支付利息及其他相關業務行為，並收取雙方合意之報酬。
(2)本行有權將本國發行一年內到期之證券、本行依第 33 條發行之證券，及一年內到期之債券予以登錄，並就此類投資工具經營一清算系統。

第 31a 條 依特別預算法之規定，本行得應財政部長之要求，操作投資工具，但不得違反第 31 條第 1 項之規定。

第 3 節 其他交易

第 32 條 除本法另有規定外，本行為調節貨幣市場供需，得買賣證券。

Article 33

The Czech National Bank may issue, and trade in, short-term securities maturing within six months.

Article 34

(1) The Czech National Bank may, under terms and conditions customary in the banking sector, keep the accounts of its staff and provide other banking services to them. It may also keep accounts and provide banking services for legal entities. The Czech National Bank shall publish a list of these legal entities in its annual financial report.

(2) A special legislative act shall apply *mutatis mutandis* to the carrying-on of the activities referred to in paragraph 1.

PART SEVEN

Powers of the Czech National Bank in respect of foreign exchange management

Article 35

The Czech National Bank shall:

- a) after discussion with the Government stipulate the exchange rate regime of the Czech currency vis-à-vis foreign currencies, with the proviso that the primary objective of the Czech National Bank must not be jeopardised;
- b) declare the exchange rate of the Czech currency vis-à-vis foreign currencies;
- c) set the price of gold in the banking operations of the Czech National Bank;
- d) hold, manage and dispose of monetary reserves in gold and foreign exchange.

Article 36

The Czech National Bank shall:

- a) trade in gold and foreign exchange assets and conduct all types of banking transactions with domestic and foreign banks as well as credit unions and payments with other countries;
- b) issue securities in foreign currencies.

PART EIGHT

Other activities and powers of the Czech National Bank

Article 37

(1) The Czech National Bank shall submit to the Government draft legislation on the currency, the circulation of money, the money market and the payment system, and legislative amendments concerning the fields of competence and position of the central bank.

第 33 條 本行得發行並交易六個月內到期之短期證券。

第 34 條 (1)本行得依銀行業務慣例之條件，提供行員存款帳戶及其他金融服務；亦得對法人提供帳戶及金融服務，但應將法人名稱列表刊載於年度財務報告。

(2)辦理前項業務應準用特別法（Act No. 21/1992 Coll.）之規定。

第 7 章 外匯管理之職權

第 35 條 本行應為下列行為：

- a) 經與內閣討論後，於確保本行首要目標之前提下，訂定捷克克朗對外幣之匯率制度。
- b) 公告捷克克朗對外幣之匯率。
- c) 訂定本行辦理銀行業務之黃金價格。
- d) 持有、管理及處分黃金及外匯準備。

第 36 條 本行應為下列行為：

- a) 辦理黃金及其他外匯資產之交易，並與本國銀行、外國銀行及信用機構進行各種金融交易，及對其他國家之支付行為。
- b) 發行以外幣計價之證券。

第 8 章 其他業務及職權

第 37 條 (1)本行應以央行立場就幣制、貨幣流通、貨幣市場及支付系統等向內閣提出草案，及央行有關此類業務職權及立場之法律修正案。

(2) The Czech National Bank, together with the Ministry of Finance, shall submit to the Government draft legislation on foreign exchange management and regulation of electronic money issuance.

(3) Without prejudice to the provisions of paragraphs 1 and 2, the Czech National Bank shall assist the Ministry of Finance in preparing draft legislation in the area of the financial market.

Article 38

(1) The Czech National Bank shall be authorised to operate interbank payment systems. In addition to banks, credit unions and foreign bank branches, participants in these systems may include entities which perform the role of a central counterparty, a settlement agent or a clearing institution within a settlement system pursuant to a special legal rule governing capital market undertakings, or in a settlement system stated in the list of the Commission of the European Communities, and which by their participation in the Czech National Bank's system shall be responsible for discharging the financial obligations arising from orders accepted by this system. Pursuant to a special legal rule, an account analogous to an interbank payment account shall be maintained for the aforementioned entities in the Czech National Bank's system, provided that the Czech National Bank concludes with these entities a contract on maintenance of a payment system account and submission of interbank payment data.

(2) Each contract referred to in paragraph 1 shall contain:

- a) the place, manner and time of submitting the payment system data,
- b) the essential elements, form and structure of the payment system data and the manner of safeguarding them from misuse,
- c) the responsibilities of the contracting parties,
- d) the interest-rate terms and conditions for the payment system account,
- e) the prices charged for executing interbank payments.

(3) In order to ensure uniform payments and settlement, the Czech National Bank shall set forth by decree:

- a) the manner of execution of payments between banks, credit unions and foreign bank branches, and account settlement at banks and credit unions,
- b) the manner of use of payment instruments by banks, credit unions and foreign bank branches within the payment system.

- (2)本行應與財政部共同向內閣提出關於外匯管理及電子貨幣發行規範之草案。
- (3)在不違反前二項規定之情形下，本行應協助財政部研擬金融市場相關草案。

- 第 38 條
- (1)本行有權經營銀行間之支付系統。其參加單位除銀行、信用機構及外國銀行分支機構外，尚包括於此類支付系統擔任主要交易對手，或於依有關資本市場業務之特別法所建立、或歐洲共同體執委會所轄之清算系統內，擔任清算代理人或結算機構之組織；參加單位對於因支付系統指令而產生之金融上義務，負有履行責任。依特別法之規定，上述參加單位應於本行開立類似同業資金支付帳戶，本行並須與各該單位就此類帳戶之管理及同業支付資料之提交，訂立契約。
 - (2)前項契約應包括下列事項：
 - a) 提交支付系統資料之地點、方式及時間。
 - b) 支付系統資料之主要內容、格式、架構及確保資料不受誤用之方法。
 - c) 契約當事人之責任。
 - d) 支付系統帳戶之利率條件。
 - e) 使用同業支付系統之收費標準。
 - (3)為確保支付及清算之統一，本行得以法令訂定下列規範：
 - a) 辦理銀行、信用機構及外國銀行分支機構間之支付方式，及銀行與信用機構之帳戶清算。
 - b) 銀行、信用機構及外國銀行分支機構於支付系統內，使用支付工具之方式。

Article 39

The Czech National Bank shall register the representative offices of foreign banks and financial institutions carrying on banking activities where such offices are active within the territory of the Czech Republic. The foreign bank or financial institution shall register its representative office prior to commencing its activities. The representative office shall not transact business and shall not be incorporated in the Companies Register.

Article 40

Within the scope of its fields of competence pursuant to this Act, the Czech National Bank shall negotiate payment and other agreements with foreign banks, financial market supervisory authorities and international financial institutions.

Article 41

(1) The Czech National Bank shall co-ordinate the development of the banking information system in the Czech Republic. For this purpose, it shall set forth the principles of the banking information system in a legal regulation.

(2) In order to undertake its tasks, the Czech National Bank shall demand the necessary information and documents from:

- a) banks, foreign bank branches, credit unions, electronic money institutions and branches of foreign electronic money institutions operating in the Czech Republic under the single licence,
- b) other entities subject to its supervision (Article 44),
- c) other entities belonging to the financial institutions sector pursuant to European Communities Law or entities which have at their disposal information necessary for the compilation of the balance of payments of the Czech Republic.

This shall be without prejudice to the right of the Czech National Bank to request information pursuant to special legal rules and fulfilment of the information duty pursuant to special legal rules.

(3) The Czech National Bank shall set forth in a provision promulgated in the Bulletin of the Czech National Bank the content, form, dates and manner of submission of the information and documents required from the persons specified in paragraph 2(a), and the organisational and communicational terms and conditions for submitting them to the Czech National Bank.

(4) The Czech National Bank shall set forth in a decree the group of entities referred to in paragraph 2(b) and (c), and the content, form, dates and manner of compilation and submission of the information and documents required from these entities.

- 第 39 條 外國銀行及辦理銀行業務之外國金融機構，其代表辦事處於本國境內仍有活動者，本行應予登記。外國銀行或金融機構於開始活動前，應先辦理代表辦事處之登記。該代表辦事處不得執行業務，亦不得登錄為公司。
- 第 40 條 於本法主管事項範圍內，本行應與外國銀行、金融市場監理機關及國際金融組織，商訂支付及其他協定。
- 第 41 條 (1)本行應規劃捷克境內金融資訊系統之發展。為此，應以法令訂定金融資訊系統之原則。
(2)為執行職務，本行有權自下列機構蒐集必要之資訊及文件：
a) 銀行、外國銀行分支機構、信用機構、電子貨幣機構，及經本行發給單一執照之外國電子貨幣機構分支機構。
b) 其他依第 44 條規定受本行監理之團體。
c) 其他依歐洲共同體法歸屬於金融部門之團體，或持有編纂本國之國際收支所需資訊之團體。本行依特別法令之規定，得蒐集資料之權利及提供資料之責任，不得違反前述規定。
(3)本行對於前項 a 款所定對象須提供資訊及文件之內容、格式、日期及方式，以及其提交資訊與文件之組織與傳遞條件，應訂定規範，並刊登於公報。
(4)本行對於第 2 項 b 款及 c 款所定之對象，及其所應提供資訊及文件之內容、格式、日期，編製及提交方式，應以法令訂定之。

(5) If the submitted information and documents do not comply with the requirements set pursuant to paragraph 3, or if reasonable doubts arise about the correctness or completeness of the information and documents submitted, the Czech National Bank shall be entitled to request relevant details or an explanation.

(6) The Czech National Bank may provide to the Czech Statistical Office for statistical purposes individual data which it has acquired for the performance of its tasks where such provision is necessary for the fulfilment of the obligations arising from an international treaty which is binding on the Czech Republic.

Article 42

The Czech National Bank shall be entitled to engage in commercial and investment activities insofar as is necessary to provide for its own operations.

Article 43

The issuance of securities by the Czech National Bank, the trading in securities and other investment instruments, their registration and the operation of a settlement system for them, as performed by the Czech National Bank, shall not be subject to licensing or supervision under special legal rules.

PART NINE

Supervision

Article 44

(1) The Czech National Bank shall perform supervision of:

- a) banks, foreign bank branches, credit unions, electronic money institutions, branches of foreign electronic money institutions and other entities issuing electronic money pursuant to special legal rules, and of the sound operation of the banking system;
- b) investment firms, securities issuers, the central depository, other entities keeping a register of investment instruments, investment companies, investment funds, settlement system operators, organisers of investment instrument markets and other persons specified in special legal rules governing capital market undertakings;
- c) insurance corporations, reinsurance corporations, pension funds and other entities active in insurance and private pension schemes pursuant to special legal rules;
- d) the safe, sound and efficient operation of payment systems pursuant to a special legal rule;

- (5)如未依第3項規定提供資料及文件，或對其正確性及完整性有合理懷疑者，本行得要求提出相關細節或解釋。
- (6)基於履行對捷克政府有約束力國際條約之義務，本行於必要範圍內，得將職務上取得之個人資料提供予捷克統計局。

第 42 條 本行有權從事本行運作所需之商業及投資行為。

第 43 條 本行證券之發行及該證券與其他投資工具之交易，以及由本行辦理登記及清算者，不適用特別法所定核發執照或監理之規定。

第 9 章 監理

第 44 條 (1)本行應對下列對象執行監理事項：

- a) 銀行、外國銀行分支機構、信用機構、電子貨幣機構、外國電子貨幣機構分支機構、其他依特別法令發行電子貨幣之團體，以及金融體系之健全運作。
- b) 投資公司、證券發行人、中央存款機構、其他為登記投資工具、投資公司、投資基金、清算系統經營與投資市場組織者，以及其他依有關資本市場業務之特別法規定者。
- c) 保險公司、再保險公司、退休基金，及其他依特別法規定經營保險或私募退休基金者。
- d) 依特別法規定維持支付系統安全、健全及有效率之運作。

e) the activities of other entities that have a licence pursuant to special legal rules.

(2) Supervision shall include:

a) decisions on licence and permit applications and prior approvals pursuant to special legal rules;

b) inspection of adherence to the conditions stipulated in licences and permits;

c) inspection of adherence to laws, insofar as the Czech National Bank has the power to conduct such inspections under this Act or special legal rules, and inspection of adherence to the decrees and provisions issued by the Czech National Bank;

d) collection of the information needed to perform supervision pursuant to special legal rules and its enforcement, and verification of whether it is true, complete and up-to-date;

e) the imposition of remedial measures and penalties pursuant to this Act or a special legal rule;

f) proceedings regarding administrative offences.

(3) The Czech National Bank shall also perform supervision of the entities specified in paragraph 1 on a consolidated or group basis as well as supplementary supervision of such entities in financial conglomerates to the extent set forth in special legal rules.

Article 44a

(1) The Czech National Bank shall perform supervision of compliance with the obligations set out in the Civil Code as regards the remote conclusion of financial services agreements and supervision of observance of the prohibition of unfair business practices by persons referred to in Article 44(1), save for persons that issue electronic money under a licence pursuant to a special legal rule.

(2) In the case of cross-border co-operation, the Czech National Bank shall perform supervision under paragraph 1, proceeding in accordance with the relevant legal rule of the European Communities.

(3) If the Czech National Bank detects an infringement of an obligation or reasonably suspects that the collective interests of consumers may be infringed by a person supervised under paragraph 1 which has committed unlawful conduct in a Member State of the European Communities or another state of the European Economic Area, it shall prohibit that person from carrying on the unlawful conduct.

- e) 依特別法規定其業務行為業經核准者。
- (2) 監理內容應包括下列事項：
 - a) 依特別法對申請執照與許可之准駁及事先核可。
 - b) 對其執照及許可所定條件是否遵循之檢查。
 - c) 於本行依本法或特別法賦予權限之範圍內，對是否遵守法律及其他本行訂定之法令之檢查。
 - d) 依特別法之規定，為監理之必要而為資料之蒐集，並確認其是否為真實、完整及即時更新者。
 - e) 依本法及特別法規定，所為糾正措施及罰款之處分。
 - f) 涉及行政違失之訴訟程序。
- (3) 本行亦應對第 1 項所定對象實施合併或團體之監理；並應於特別法規定之範圍內，就金融集團內之此類團體進行輔助性之監理。

- 第 44a 條
- (1) 除依特別法規定核准發行電子貨幣者外，本行應對是否遵守依民法規定遠端締結之金融服務協議所負義務，及第 44 條第 1 項所定對象有無違反禁止規定從事不當執業之情形進行監理。
 - (2) 於跨國合作之情形，本行並應就前項規定之情形，依歐洲共同體相關法令，進行監理。
 - (3) 本行發現有違反義務者，或合理懷疑於歐洲共同體之會員國或歐洲經濟區內之其他國家，消費者之集體利益有被第 1 項所定監理對象之違法行為侵害者，應禁止繼續該違法行為。

Article 44b

In order to prove the integrity or credibility of a party to administrative proceedings conducted by the Czech National Bank, the Czech National Bank shall require an extract from the Criminal Register pursuant to a special legal rule or, in cases stipulated by a special legal rule, a copy from the Criminal Register. The application for an extract or copy from the Criminal Register and the extract or copy from the Criminal Register shall be submitted in an electronic form, in a manner allowing remote access.

Article 45

(1) In the performance of supervision and supplementary supervision of banks and other entities in financial conglomerates to the extent set forth in a special legal rule by way of on-site inspection, the relations between the Czech National Bank and the supervised entities shall follow the basic rules of inspection as set forth in a special legislative act for state administrative bodies, with the exception of the provisions on co-operation in the area of inspection.

(2) An employee of the Czech National Bank may not perform supervision in the form of an onsite inspection if he or she is a person close to the supervised entity or to an entity which has a position in the supervised entity that enables it to influence the activity of the employee.

Article 45a

Financial Market Committee

(1) A Financial Market Committee (hereinafter the "Committee") shall be established as an advisory body to the Bank Board for the area of financial market supervision.

(2) The Committee shall consist of seven members:

- a) a Chairman, a Vice-Chairman and another member of the Committee, elected by the Budget Committee of the Chamber of Deputies at the proposal of professional organisations or interest groups of financial market participants and after the Czech National Bank and the Ministry of Finance have issued their opinions on the proposed persons; these members of the Committee must be credible and recognised financial market experts;
- b) a Bank Board member appointed and dismissed by the Bank Board;
- c) two senior officers of the Ministry of Finance appointed and dismissed by the Minister of Finance;
- d) the Financial Arbiter.

第 44b 條 為證明本行行政程序所涉對象之誠信，本行應依特別法規定，要求罪犯名冊之節本，或於特別法規定之個案情形，要求罪犯名冊之影本。對該節本或影本之申請及其內容，應以電子格式作成，並以遠端可接收之方式傳送。

第 45 條 (1)依特別法令對銀行及其他金融集團內之機構，以實地檢查之方式，實施監理及輔助性監理時，本行與受監理機構間之關係，除在合作檢查方面外，應遵守特別法所定有關國家行政機關檢查之基本規範。

(2)本行職員若與受檢機構或其他與受檢機構有關之機構，存有密切關係，且足以影響本行職員執行職務者，不得以實地檢查之方式實行監理。

第 45a 條 金融市場委員會

- (1)就金融市場之監理事項，應設金融市場委員會（以下簡稱委員會），為本行理事會之諮詢單位。
- (2)委員會應由委員七名組成：
- a) 由眾議院之預算委員會依參與金融市場之專業機構或利益團體所提議於金融市場素孚眾望之專業人士中，並經本行及財政部表示意見後，選出主席、副主席及委員各一名。
 - b) 由本行理事會自其成員中指派委員一名；解任時，亦同。
 - c) 由財政部自其資深官員指派委員二名；解任時，亦同。
 - d) 由金融仲裁人一名充任之。

(3) The term of office of a member of the Committee who is elected by the Budget Committee of the Chamber of Deputies shall be three years. The member may be re-elected. The Budget Committee shall be obliged to elect a member no later than three months following the expiration of the term of office, death, resignation or dismissal of a previous member of the Committee by the Budget Committee due to loss of credibility.

(4) The members of the Committee shall perform their duties impartially and without compensation.

Article 45b

(1) The Committee shall meet regularly at least twice a year.

(2) The meetings of the Committee shall be chaired by the Chairman (or the Vice-Chairman in the Chairman's absence).

(3) The Governor of the Czech National Bank and the Minister of Finance shall be entitled to attend the meetings of the Committee.

(4) The Committee shall adopt rules of procedure specifying detailed rules for its meetings.

(5) A Czech National Bank employee approved by the Bank Board shall be the Secretary of the Committee.

Article 45c

(1) The Committee shall monitor and discuss:

- a) general frameworks, strategies and approaches to financial market supervision;
- b) significant new trends on the financial market and in the supervision or regulation thereof;
- c) systemic national and international issues regarding the financial market and the performance of supervision thereof.

(2) The Committee shall be entitled to submit to the Bank Board opinions and recommendations in the areas specified in paragraph 1. In such cases, the Chairman (or Vice-Chairman in the Chairman's absence) shall be entitled to participate in the discussion of the Committee's opinion or recommendation in the Bank Board. The Committee shall also be entitled to submit similar opinions and recommendations to the Ministry of Finance.

(3) The Czech National Bank shall inform the Committee at least twice a year of its main financial market supervisory activities in the past period, including decisions made. It shall also do so at the request of the Committee. The Ministry of Finance and the Financial Arbiter shall be subject to the same information duty at the request of the Committee.

- (3)由眾議院之預算委員會選出之委員（非主席或副主席），其任期應為三年，並得連選連任。預算委員會並應於其任期屆滿、死亡、辭職，或該委員會以其不適任而予解任後三個月內，選出新任委員。
- (4)委員應公正執行職務，並為無給職。

- 第 45b 條
- (1)委員會應至少每年定期開會兩次。
 - (2)委員會議應由主席主持之（或於主席缺席時，由副主席主持）。
 - (3)本行總裁及財政部長有權出席委員會議。
 - (4)委員會應就開會細節訂定議事規則。
 - (5)委員會秘書由本行職員經本行理事會同意後出任之。

- 第 45c 條
- (1)委員會應審視及討論下列事項：
 - a) 金融市場監理之一般架構、策略及具體方式。
 - b) 金融市場及其監理或規範之重要新趨勢。
 - c) 本國與國際間金融市場之系統性問題，及其監理措施。
 - (2)委員會有權向理事會提出與前項所定事項有關之意見及建議，主席（或主席缺席時，為副主席）並得參加理事會就上述意見及建議所進行之討論。委員會亦得向財政部提出類似意見及建議。
 - (3)本行應每年至少兩次向委員會說明其於過去期間於金融市場實施監理之情形，包括其決策。由委員會提出要求時，亦同。財政部及金融仲裁人於委員會要求時，亦負有相同之說明義務。

Article 45d

Report on the performance of financial market supervision

(1) The Czech National Bank shall each year compile and submit for information to the Chamber of Deputies, the Senate and the Government a report on the performance of financial market supervision. This report shall be submitted by 30 June of the following year.

(2) Before the report on the performance of financial market supervision is submitted, its content shall be discussed by the Committee, which shall be entitled to append its opinion to the report.

Article 46

Remedial measures

(1) Should the Czech National Bank detect any violation of this Act, another legal rule or a provision issued by the Czech National Bank by an entity specified in Article 24(b), it shall order the entity to abandon the incorrect procedure or terminate its operations.

(2) The entity referred to in paragraph 1 shall inform the Czech National Bank that the shortcomings have been eliminated without undue delay after the elimination of the shortcomings or immediately after the termination of its operations.

(3) The regulations on administrative proceedings shall not apply to the procedure referred to in paragraph 1.

Article 46a

Administrative offences in business and trading on the money market

(1) A legal entity that is not a bank, or a natural person carrying on business activities, shall be deemed to have committed an administrative offence if it breaches a prudential rule or the conditions for trading on the money market stipulated in Article 24(b).

(2) A fine of up to CZK 1,000,000 shall be imposed for an administrative offence under paragraph 1.

Article 46b

Administrative offences in the fulfilment of the information duty

(1) A legal entity or a natural person carrying on business activities as specified in Article 41(2), shall be deemed to have committed an administrative offence if it breaches the duty to submit the information or documents referred to in Article 41, or if it repeatedly submits incomplete or incorrect information or documents.

(2) A fine of up to CZK 1,000,000 shall be imposed for an administrative offence under paragraph 1.

第 45d 條 實施金融市場監理報告

- (1) 本行應每年編纂實施金融市場監理報告，並送交眾議院、參議院及內閣。該報告應於次年 6 月 30 日前送交之。
- (2) 前項監理報告送交前，其內容應經委員會討論並得附註意見。

第 46 條 糾正措施

- (1) 本行發現第 24 條 b 款所定對象有違反本法、其他法令規定、或本行所定之規則者，應即令其放棄該不法措施或終止其操作。
- (2) 前項所定對象應於違失行為消除後，將其未有延誤之情形通知本行，或於終止操作後立即通知本行。
- (3) 第 1 項所定程序，不適用行政訴訟之規定。

第 46a 條 貨幣市場業務及交易之行政違失

- (1) 非銀行之法人或執行業務行為之自然人，違反依第 24 條 b 款所定於貨幣市場交易之監理規範及條件者，視為行政違失行為。
- (2) 有前項情形者，最高可處 100 萬捷克克朗之罰鍰。

第 46b 條 告知義務之行政違失

- (1) 法人或依第 41 條第 2 項規定執行業務之自然人，違反第 41 條所定送交資料或文件之義務，或重複送交不完整或不正確之資料或文件者，視為行政違失行為。
- (2) 有前項情形者，最高可處 100 萬捷克克朗之罰鍰。

Article 46c

Administrative offences in the reproduction of money symbols and imitations thereof

(1) A legal person or a natural person carrying on business activities shall be deemed to have committed an administrative offence in reproducing money symbols and imitations thereof if it produces a reproduction of a banknote, coin, means of payment or security denominated in Czech korunas or a foreign currency, or produces, sells, imports or disseminates for the purpose of selling or other business purposes an object whose form imitates them in contravention of Article 20 or a directly applicable legal rule of the European Communities.

(2) A fine of up to CZK 500,000 shall be imposed for an administrative offence under paragraph 1.

(3) A natural person shall be deemed to have committed an offence in reproducing money symbols and imitations thereof if it produces a reproduction of a banknote, coin, means of payment or security, denominated in Czech korunas or a foreign currency, or produces, sells, imports or disseminates for the purpose of selling or other business purposes an object whose form imitates them in contravention of Article 20 or a directly applicable legal rule of the European Communities.

(4) A fine of up to CZK 500,000 shall be imposed for an offence under paragraph 3.

Article 46d

Administrative offences against the circulation of currency

(1) A legal entity or natural person who is an entrepreneur carrying on bureau-de-change activities or providing money services under the Foreign Exchange Act shall be deemed to have committed an administrative offence if it does not withdraw a suspicious banknote or coin, even though it is obliged to do so under Article 21 or a directly applicable legal rule of the European Communities, and does not hand over the counterfeits to the Czech National Bank.

(2) A fine of up to CZK 1,000,000 shall be imposed for an administrative offence under paragraph 1.

Article 46e

Administrative offences in the payment system

第 46c 條 重製及仿造貨幣之行政違失

- (1)法人或執行業務之自然人，於違反第 20 條或可直接適用之歐洲共同體相關規定，而為貨幣之重製或仿造，亦即複製以捷克克朗或其他外國貨幣為面額之鈔券、硬幣、支付工具、證券，或為買賣或其他商業目的而製作、銷售、進口或散布其仿造品者，視為行政違失行為。
- (2)有前項情形者，最高可處 50 萬捷克克朗之罰鍰。
- (3)自然人於違反第 20 條或可直接適用之歐洲共同體相關規定，而為貨幣之複製或仿造，亦即複製以捷克克朗或其他外國貨幣為面額之鈔券、硬幣、支付工具、證券，或為買賣或其他商業目的而製作、銷售、進口或散布其仿造品者，視為違失行為。
- (4)有前項情形者，最高可處 50 萬捷克克朗之罰鍰。

第 46d 條 違反通貨流通之行政違失

- (1)法人或依外匯法規定辦理外幣兌換業務或提供貨幣服務之企業自然人，未依第 21 條或可直接適用之歐洲共同體相關規定截留可疑券幣者，視為行政違失行為，未將偽造之券幣轉交本行者，亦同。
- (2)有前項情形者，最高可處 100 萬捷克克朗之罰鍰。

第 46e 條 支付系統之行政違失

(1) A legal entity or a natural person carrying on business activities shall be deemed to have committed an administrative offence if it breaches the duty stipulated in a directly applicable legal rule of the European Communities.

- a) to levy the same charges for a cross-border payment as for a corresponding payment in the Czech Republic;
- b) to inform customers in accordance with a directly applicable legal rule of the European Communities about charges levied for payments, changes to these charges as well as charges for exchanging currencies related to payments;
- c) to communicate to each customer upon request his International Bank Account Number (IBAN) and its Bank Identifier Code (BIC);
- d) to indicate on a statement of account, or in an attachment thereto, the information referred to in letter c).

(2) A fine of up to CZK 5,000,000 shall be imposed for an administrative offence under paragraph 1(a).

(3) A fine of up to CZK 1,000,000 shall be imposed for an administrative offence under paragraph 1(b), (c) and (d).

Article 46f

Joint provisions on administrative offences

(1) A legal entity shall not be liable for an administrative offence if it proves that it made every effort that could possibly have been required to prevent the breach of its legal duty.

(2) The gravity of the administrative offence, particularly the manner in which it was committed and its consequences and circumstances, shall be taken into account in determining the amount of the fine to be imposed on a legal entity.

(3) A legal entity shall cease to be liable for an administrative offence if the Czech National Bank fails to open administrative proceedings on the offence within one year of the day the offence came to its knowledge, but no later than five years from the day the offence was committed.

(4) Administrative offences under Articles 46a to 46e shall be heard by the Czech National Bank.

(5) The Bank Board shall rule on appeals against decisions on administrative offences.

- (1)法人或執行業務行為之自然人，於違反可直接適用之下列歐洲共同體規定所定責任者，視為行政違失行為：
 - a) 於辦理跨國支付時，應收取與國內相當之費用。
 - b) 應依可直接適用之歐洲共同體法規，告知客戶有關支付系統收取費用、費率變更及有關支付之貨幣兌換費率等事項。
 - c) 於收到要求時，向每位客戶溝通其國際銀行帳號(IBAN)及其銀行識別碼(BIC)。
 - d) 前款資料應於對帳單或以對帳單附件之方式予以表明。
- (2)有前項 a 款情形者，最高可處 500 萬捷克克朗之罰鍰。
- (3)有第 1 項 b 款、c 款或 d 款情形者，最高可處 100 萬捷克克朗之罰鍰。

第 46f 條 行政違失之共同規定

- (1)法人如能證明其已盡力避免違反法令，而仍不免違規者，可免其行政違失之責任。
- (2)對法人之違失行為決定罰鍰額度時，應考量其違失之嚴重性，尤其是犯行方式、後果及情節等因素。
- (3)如本行於知悉違失情事之日起一年內，或於違失行為作成之日起五年內，未提起行政處置程序者，法人之行政責任應予免除。
- (4)依第 46a 條至第 46e 條所定之罰則，應由本行處分之。
- (5)本行理事會應對不服行政處分所提之訴願予以裁決。

(6) The provisions of this Act regarding the liability of, and sanctions against, legal entities shall apply to liability for conduct arising from or directly related to the business activity of a natural person.

(7) The fines for administrative offences imposed by the Czech National Bank shall be collected and enforced by the revenue authority having territorial competence. Revenue from fines imposed shall constitute a state budget revenue.

PART TEN

Financial Management of the Czech National Bank

Article 47

(1) The Czech National Bank shall manage its finances in compliance with a budget broken down so as to show clearly the operating and investment expenditure of the Czech National Bank.

(2) The Czech National Bank shall defray the necessary costs of its operations from its income. The profit it generates shall be used to replenish its reserve fund and other funds created from profits and for other purposes in the budgeted amount. It shall transfer the remaining profit to the state budget.

(3) Within three months of the end of the calendar year, the Czech National Bank shall submit its annual financial report to the Chamber of Deputies for review. This report shall include information on the salaries of the members of the Bank Board of the Czech National Bank.

(4) The Chamber of Deputies may either:

a) approve,

b) acknowledge, or

c) reject

the financial report of the Czech National Bank.

(5) If the Chamber of Deputies rejects the financial report of the Czech National Bank, the Czech National Bank shall within six weeks submit a revised report that complies with the requirements of the Chamber of Deputies.

Article 48

(1) The Czech National Bank shall keep accounts in accordance with a special legal rule.

(2) The annual accounts of the Czech National Bank shall be audited by one or more auditors appointed by agreement between the Bank Board and the Minister of Finance.

- (6)對於因自然人業務行為所生之責任，或與自然人業務行為直接相關之責任，法人應適用本法有關責任及裁罰之規定。
- (7)本行對行政違失所處罰鍰，應由具地域管轄權之稅捐稽徵主管機關徵收及執行，並列屬國家預算歲入。

第 10 章 本行之財務管理

- 第 47 條
- (1)本行之財務管理，應依能清楚反映本行之營運及投資支出情形而為之預算分類辦理。
 - (2)本行營運之花費，應以其收入支付之；其收益應使用於補充準備金及其他由收益所設之基金，與在預算金額內為其他目的之使用；並應將剩餘收益轉列國家預算。
 - (3)於曆年終了三個月內，本行應提出年度財務報告供眾議院審核；其報告內容，應包含本行理事會成員之薪資。
 - (4)眾議院對前項報告得以下列各款方式之一決定之：
 - a)通過。
 - b)認可。
 - c)否決。
 - (5)眾議院否決本行財務報告時，本行應依眾議院之要求，於六週內提出修正報告。

- 第 48 條
- (1)本行應依特別法規定開立帳戶。
 - (2)本行年度帳目應受本行理事會及財政部長協議指派一位以上稽核人員之稽查。

(3) As soon as the annual accounts are approved and audited, the Bank Board shall submit them to the Chamber of Deputies and publish them.

(4) The Czech National Bank shall publish an annual report containing basic information on monetary development.

(5) The Czech National Bank shall produce and publish every ten days a report on its financial position.

PART ELEVEN

General provisions

Article 49

All banking operations of the Czech National Bank, including balances on the accounts it keeps, shall be subject to banking secrecy.

Article 49a

Administrative fees for acts by the Czech National Bank pursuant to a special legal rule shall constitute income to the Czech National Bank.

Article 49b

(1) Within the limits of the law, the Czech National Bank shall issue provisions of the Czech National Bank (hereinafter referred to as "provisions") where it is authorised to do so by law. These provisions shall be binding on banks, credit unions, foreign bank branches, electronic money institutions and branches of foreign electronic money institutions.

(2) Each provision shall be signed by the Governor of the Czech National Bank.

(3) Each provision shall enter into force on the date of its promulgation in the Bulletin of the Czech National Bank (hereinafter referred to as the "Bulletin").

(4) Each provision shall take effect on the date stipulated therein. However, the earliest it can take effect is on the date of its promulgation in the Bulletin, namely the date of issue of the relevant Volume of the Bulletin.

(5) The provisions shall be marked in the Bulletin with serial numbers, with the series terminating at the end of each calendar year.

(6) The Czech National Bank shall issue official information documents of the Czech National Bank, in which it shall provide information, for example, on the Bank Board's interest rate decisions, interpretative opinions of the Czech National Bank, the conditions for the transactions of the Czech National Bank and facts important to persons operating on the financial market. The official information documents shall be signed by a Bank Board member and issued in the Bulletin.

- (3)年度帳目經通過及稽查後，本行理事會應將之
提送眾議院並刊布之。
- (4)本行應將包括貨幣金融發展之基本資料之年度
報告刊布之。
- (5)本行應就財務狀況，於每十天編製報告，並刊
布之。

第 11 章 一般性規定

第 49 條 本行所有金融操作，包括帳戶之收支情形，均應
加以保密。

第 49a 條 本行依特別法規定因業務所收取之行政費用，應
列為本行收入。

第 49b 條 (1)本行於法律限制範圍內，應依法律之授權發布
規章。此類規章具有拘束銀行、信用機構、外
國銀行分支機構、電子貨幣機構及外國電子貨
幣機構分支機構之法律效力。

(2)所有規章均須經本行總裁簽核。

(3)所有規章均於刊登本行公報之日起生效。

(4)所有規章均應於該規章內所定之日起生效；惟
其最早之生效日為刊登公報之日，亦即所登載
公報之出刊日。

(5)所有規章應以編列流水號之方式刊登於公報，
且該流水號應每年度重新起算。

(6)本行應發行官方資訊文件，例如理事會之利率
決定、本行之意見說明、本行之交易情況及攸
關金融市場運作人士之事實。此類文件應由一
名理事會成員簽核並刊登於公報。

(7) The Bulletin shall be issued in sequentially numbered Volumes marked with serial numbers, with the series terminating at the end of each calendar year.

(8) The Czech National Bank shall publish a copy of the Bulletin in a manner enabling remote access. However, this copy shall not be deemed the Bulletin under paragraph 3 and it shall not be possible to refer to its wording in administrative or other proceedings.

Article 50

(1) The staff of the Czech National Bank shall maintain confidentiality in the performance of their duties. This obligation shall remain in effect even after the termination of their employment or any similar relation to the Czech National Bank. The obligation of confidentiality in matters encountered in the performance of their duties shall also apply to the members of advisory bodies and to auditors.

(2) The staff of the Czech National Bank and the members of advisory bodies may be exempted from this obligation by the Governor on the grounds of the public interest.

(3) The staff of the Czech National Bank may not engage in entrepreneurial activities, participate in the entrepreneurial activities of other persons or hold offices in the statutory or other bodies of any corporation without the prior approval of the Bank Board. This provision shall not apply to the management of own assets and scientific, literary, journalistic, artistic and pedagogical activities. In all these activities, the staff of the Czech National Bank shall be obliged to prevent any conflict of interest or abuse of information acquired while performing their duties in the Czech National Bank.

(4) The staff of the Czech National Bank shall be obliged to follow the principles of professional ethics set forth in the Code of Ethics of the Czech National Bank, which shall be approved by the Bank Board.

PART TWELVE

Transitional and final provisions

Article 51

The Czech National Bank shall be established by the division of the State Bank of Czechoslovakia.

Article 52

A limit of seven per cent of the revenues of the state budget in the previous year shall be set exceptionally for 1993 for the total stock of credits granted to the Czech Republic pursuant to Article 30(2).

- (7)公報之發行應以連續號碼配合流水號方式編列冊數，且該流水號應每年度重新起算。
- (8)本行應發行可遠端接收之公報版本。惟此一版本不應被視為第3項所稱公報，亦不得於行政或其他訴訟中援引其內容。

- 第 50 條
- (1)本行職員負有保守其職務秘密之義務。此義務於其終止與本行間之僱用或任何類似關係後，仍應繼續履行。此保密義務亦適用於諮詢單位人員及稽核人員。
 - (2)本行職員及諮詢單位人員，得經總裁以公共利益為由，免除其保密義務。
 - (3)本行職員未事先取得理事會之同意者，不得從事企業經營、參與他人經營之企業活動，或任職於法定或其他類型之機構。本規定不適用於管理自有資產及科學、文學、旅遊、藝術及教育性質之活動；本行職員於從事此類活動時，應負有避免利益衝突或濫用因職務取得資料之責任。
 - (4)本行職員應遵循經理事會核准之本行政風法令所定之職業道德原則。

第 12 章 過渡及最終條款

- 第 51 條 本行係由捷克政府銀行 (the State Bank of Czechoslovakia) 分割成立。
- 第 52 條 除 1993 年外，應以政府前一年度預算稅收百分之七為上限，作為本行依第 30 條第 2 項對本國授信之信用總量。

Article 53

The rights and duties arising from the employment relations of the State Bank of Czechoslovakia with staff working within the territory of the Czech Republic shall be transferred to the Czech National Bank.

Article 54

The property of the State Bank of Czechoslovakia shall be transferred to the Czech National Bank to the extent set forth in a special legislative act.

Article 55

(1) Where the State Bank of Czechoslovakia is named in legal regulations issued prior to the date this Act takes effect and accepted into the legal order of the Czech Republic and in provisions, this shall be taken to mean the Czech National Bank as from the date this Act takes effect.

(2) Provisions issued by the State Bank of Czechoslovakia in force as of the date this Act takes effect shall be deemed provisions issued by the Czech National Bank.

(3) Legal acts performed by the State Bank of Czechoslovakia vis-a-vis persons having their registered address or permanent residence within the territory of the Czech Republic shall be deemed, as from the date this Act takes effect, legal acts performed by the Czech National Bank.

Article 56

cancelled

Article 57

Accounts kept by the State Bank of Czechoslovakia within the territory of the Czech Republic as of the date of dissolution of the State Bank of Czechoslovakia shall be deemed accounts kept by the Czech National Bank in compliance with this Act.

Article 58

(1) The present senior officers of the State Bank of Czechoslovakia appointed to their posts by the President of the Czech and Slovak Federal Republic from among the citizens of the Czech Republic pursuant to Article 6 of Act No. 22/1992 Coll., on the State Bank of Czechoslovakia, shall perform their duties as members of the Bank Board of the Czech National Bank until the day the members of the Bank Board of the Czech National Bank are appointed pursuant to Article 6(2) and (3).

(2) The Bank Board may allow a derogation from the provisions of Article 6 (5) for 1993.

第 53 條 捷克政府銀行與於本國境內之職員因勞務關係所生之權利及義務，應移轉至本行。

第 54 條 捷克政府銀行之資產，應依特別法規定移轉於本行。

第 55 條 (1)捷克政府銀行於本法生效前，於法令中所定之名稱，及其於本國法律及規章之地位，自本法生效日起均改為本行。

(2)由捷克政府銀行所訂定之規章，自本法生效日起視為本行所訂定。

(3)捷克政府銀行對登記住所或永久居留地為本國領土之人，所採取之法律行為，自本法生效日起，視為本行之行為。

第 56 條 (刪除)

第 57 條 捷克政府銀行於本國境內之帳戶，自該行解散之日起視為由本行依本法持有之。

第 58 條 (1)原經總統依捷克政府銀行第 22/1992 號法律第 6 條自捷克公民中指派而任職於該行之資深職員，應擔任本行理事會成員之職務至本行理事會依第 6 條第 2 項及第 3 項規定受任命之日為止。

(2)本行理事會得斟酌 1993 年僅部分適用第 6 條第 5 項任期規定之損失。

Article 59

The Budgetary Rules of the Republic shall apply to the Czech National Bank, with the exception of the provisions governing the duties of the central bodies of the state administration and those governing the inspection of budgetary financial management.

Article 60

Act No. 22/1992 Coll., on the State Bank of Czechoslovakia, is hereby repealed.

Article 60a
cancelled

Article 61

This Act shall take effect on 1 January 1993.

第 59 條 除有關國家中央行政機關之職責及預算財務管理之檢查等規章外，本行應適用捷克預算法(The Budgetary Rules of the Republic)。

第 60 條 捷克政府銀行第 22/1992 號法律於此廢止。

第 60a 條 （刪除）

第 61 條 本法自 1993 年 1 月 1 日起生效。

七、LAW NO. 4,595, OF
DECEMBER 31, 1964
巴西中央銀行法

LAW NO. 4,595, OF DECEMBER 31, 1964

CHAPTER III CENTRAL BANK OF THE FEDERATIVE

REPUBLIC OF BRAZIL

Appendix

CHAPTER I NATIONAL FINANCIAL SYSTEM

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第 1 章 國家金融體系

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LAW NO. 4,595, OF DECEMBER 31, 1964

Makes provisions on Monetary, Banking and Credit Policy Institutions, establishes the National Monetary Council and makes other provisions.

THE PRESIDENT OF THE REPUBLIC. I make it known that the National Congress decrees and I ratify the following law:

CHAPTER III
CENTRAL BANK OF THE FEDERATIVE REPUBLIC
OF BRAZIL

Article 8. The current Superintendency of Currency and Credit is hereby changed into a autonomous federal institution, with headquarters and venue in the Capital city of the Republic, under the name of Central Bank of the Federative Republic of Brazil, with its own legal personality and assets comprising the goods, rights and values transferred to it under this Law and appropriation of remaining interests and revenues resulting, on the date this Law, from application of Article 9 of Decree-Law no. 8,495, of 12.28.1945, such Decree-Law hereby expressly revoked.

Paragraph 1. The results earned by the Central Bank of Brazil, including its revenues and expenses incurred in all its operations shall be, as from January 1, 1988, assessed on an accrual basis and transferred to the National Treasury, after compensation of any losses incurred in previous fiscal years. (As amended by Decree-Law no. 2,376, of 11.25.1987)

Article 9. The Central Bank of the Federative Republic of Brazil shall comply, and cause to be complied, with the applicable provisions as established by the legislation in effect and rules issued by the National Monetary Council.

巴西中央銀行法

規範貨幣、金融及信用政策機構，
設立國家貨幣委員會，並訂定其他規定

茲以總統名義批准並公布國會通過之下列法律（註）：

第 3 章 巴西聯邦共和國中央銀行

第 8 條 貨幣與信用監督局變更為獨立聯邦機構，名稱為巴西聯邦共和國中央銀行（以下簡稱巴西中央銀行），其營運總部位於共和國之首都。巴西中央銀行具有法律人格，其資產包括依本法移轉予該行之物品、權利與其他有財產價值之物品，以及於本法生效日，依 1945 年 12 月 28 日第 8,495 號法令第 9 條規定撥給之餘留權益及收益，並同時廢止上開法令。

第 1 項 巴西中央銀行獲利結果，包括營運時所生收益及支出在內，自 1988 年 1 月 1 日起，於償付前一會計年度所生之損失後，應以權責基礎評價並移轉予國庫。（1987 年 11 月 25 日第 2,376 號法令修正之）

第 9 條 巴西中央銀行應遵守並督促所屬遵守法律之相關條款及國家貨幣委員會發布之規則。

註：本法第 1、2 章係規範巴西之「國家金融體系」、「國家貨幣委員會」與本章關係密切，爰併予翻譯而以附錄方式呈現。

Article 10. The Central Bank of the Federative Republic of Brazil shall, on an exclusive basis:

- I - Issue paper money and coins, under the conditions and limits authorized by the National Monetary Council; (Vetoed)
- II - Perform money supply services;
- III - Determine collection of up to one hundred percent of all demand deposits and up to sixty percent of other financial institutions' accounting securities, either by subscription of National Treasury Bills and Bonds or purchase of Federal Public Debt securities, or by deposit in kind, in any case delivered to the Central Bank of Brazil, under the form and conditions determined by it, including: (Included by Law no. 7,730, of 01.31.1989)
 - (a) adoption of different percentages, based on:
 - 1. geoeconomic regions;
 - 2. priorities applicable to the investment;
 - 3. nature of financial institutions;
 - (b) determination of percentages not subject to collection, provided the corresponding sums have been reinvested in agricultural funding under favorable interest rates and other conditions as set by it;
- IV- Receive the reserve requirements mentioned in this Article 10(III) above and voluntary demand deposits made by financial institutions under Article 19(III) and its Paragraph 2 hereof; (As renumbered as amended by Law no. 7,730, of 01.31.1989)
- V- Perform rediscount and lending operations to banking financial institutions and those institutions mentioned in Article 4(XIV)(b) and Article 49 hereof; (Renumbered by Law no. 7,730, of 01.31.1989)
- VI- Exercise control over credit, in all its forms; (Renumbered by Law no. 7,730, of 01.31.1989)
- VII- Control foreign capitals under applicable legislation; (Renumbered by Law no. 7,730, of 1.31.1989)
- VIII- Be the depository of official reserves in gold and foreign currency and Special Drawing Rights and, regarding the latter, perform all and any operations mentioned by the Articles of Agreement of the International Monetary Fund; (As amended by Decree-Law no. 581, of 05.14.1969) (Renumbered by Law no. 7,730, of 01.31.1989)

第 10 條 巴西中央銀行應具下列專屬職權：

- I- 依國家貨幣委員會授權之條件及限額，發行紙幣與硬幣。（已停止適用）
- II- 執行貨幣供應服務。
- III- 決定收存最高達 100% 之活期存款，以及最高達 60% 之其他金融機構列帳之有價證券；其方式包括認購國庫券或購買聯邦公共債券，或存放交付同樣有價證券予巴西中央銀行。收存之形式與條件由該行決定，包括：（涵蓋於 1989 年 1 月 31 日第 7,730 號法律）
 - (a) 依下列情形，採行不同百分比：
 - 1. 地理經濟區域。
 - 2. 與投資相關之優先性。
 - 3. 金融機構性質。
 - (b) 決定無須收存之百分比，但必須是相對應資金已依其所訂之有利利率與其他條件，轉投資於農業融資；
- IV- 收管前款規定之準備金及金融機構依第 19 條第(III)款、第 2 項規定所為之自願性活期存款。（1989 年 1 月 31 日第 7,730 號法律修正變更條次）
- V- 辦理對銀行業及第 4 條第(XIV)款第(b)目與第 49 條所定機構之重貼現及融通。（1989 年 1 月 31 日第 7,730 號法律變更條次）
- VI- 實施各種形式之信用管制。（1989 年 1 月 31 日第 7,730 號法律變更條次）
- VII- 依相關法律管制外國資本。（1989 年 1 月 31 日第 7,730 號法律變更條次）
- VIII- 擔任黃金、外幣與特別提款權之官方準備保管人，並針對最後一項特別提款權，履行與國際貨幣基金簽訂合約約定之各項操作。（1969 年 5 月 14 日第 581 號法令修正之）（1989 年 1 月 31 日第 7,730 號法律變更條次）

- IX- Supervise financial institutions and apply penalties envisaged in applicable legislation; (Renumbered by Law no. 7,730, of 01.31.1989)
- X- Grant authorization to financial institutions, enabling them to: (Renumbered by Law no. 7,730, of 01.31.1989)
 - (a) operate within the country;
 - (b) establish and transfer their headquarters and dependencies, including in/to other countries;
 - (c) be transformed, merged, incorporated or took over;
 - (d) perform operations of foreign exchange, real credit and customary sale of federal, state and local public debt securities, stocks, debentures, mortgage notes and other credit securities;
 - (e) have their terms for operation extended;
 - (f) change their bylaws;
 - (g) assign or, by any other form, transfer the control on their capital. (Included by Decree-Law no. 2,321, of 2.25.1987)
- XI- Set the conditions for inauguration and performance in any management office of private financial institutions, including performance of any tasks in consulting, fiscal and similar bodies, according to rules issued by the National Monetary Council; (Renumbered by Law no. 7,730, of 01.31.1989)
- XII- Conduct, as an instrument of monetary policy, purchase and sale operations of federal public securities; (Renumbered by Law no. 7,730, of 01.31.1989)
- XIII- Determine the recording, by the headquarters of financial institutions, of data identifying any company that have been operating with its branches for over one year; (Renumbered by Law no. 7,730, of 01.31.1989)

Paragraph 1. In performing the duties mentioned in this Article 10(VI), based on rules set by the National Monetary Council, the Central Bank of the Federative Republic of Brazil shall examine the requests submitted to it and decide in favor or against the authorization sought, with powers (Vetoed) to include any clauses that it may deem appropriate in the interest of the public.

Paragraph 2. Subject to the provisions of Paragraph 1 above, foreign financial institutions depend on authorization of the Executive Branch, to be issued by Decree, to operate in the country. (Vetoed)

- IX- 監督金融機構並依法律規定給予處分。(1989 年 1 月 31 日第 7,730 號法律變更條次)
- X- 許可金融機構辦理下列事項：(1989 年 1 月 31 日第 7,730 號法律變更條次)
 - (a) 在國內營運。
 - (b) 在其他國家設立或遷移總部或隸屬單位。
 - (c) 改組、合併、被併購或被接管。
 - (d) 進行外匯交易、實際信用操作，以及依慣例出售聯邦、州與地方公債、股票、債券、抵押票券與其他信用證券。
 - (e) 展延營運期間。
 - (f) 變更內部章程。
 - (g) 讓與或以其他形式移轉對資本之控制。(涵蓋於 1987 年 2 月 25 日第 2,321 號法令)
- XI- 依國家貨幣委員會發布之規則，訂定民營金融機構管理人員之任用資格與職務，以及諮詢、財務與類似單位人事任用規則。(1989 年 1 月 31 日第 7,730 號法律變更條次)
- XII- 從事聯邦公債之買賣，作為貨幣政策之工具。(1989 年 1 月 31 日第 7,730 號法律變更條次)
- XIII- 訂定金融機構總部應提供其分行與往來超過一年以上公司之交易資料範圍。(1989 年 1 月 31 日第 7,730 號法律變更條次)

第 1 項 巴西中央銀行依國家貨幣委員會所定規則，行使第 10 條第(VI)款所定職務時，應審查對其所提之申請，於決定准駁時，(已停止適用)得考量其認為有利於大眾利益之條款。

第 2 項 依上述第 1 項規定，外國金融機構應取得行政部門之許可，始得在本國營運。(已停止適用)

Article 11. The Central Bank of the Federative Republic of Brazil may, in addition:

- I- Represent the Brazilian Government before foreign and international financial institutions;
- II- Promote, as an agency of the Federal Government, placement of domestic and foreign loans, and remain in charge of such loans' services;
- III- Act towards regular operation of foreign exchange market, relative stability of foreign exchange rates and balance of payments equilibrium and, for such purposes, purchase and sale gold and foreign currency, perform credit operations abroad, including those related to Special Drawing Rights, and segregate between financial and commercial foreign exchange markets; (As amended by Decree-law no. 581, of 05.14.1969)
- IV- Purchase and sale securities of public and private joint corporations and State-owned corporations;
- V- Issue its own securities, according to conditions set by the National Monetary Council;
- VI- Regulate clearance of checks and other instruments;
- VII- Supervise on a permanent basis, in financial and capital markets, corporations that, directly or otherwise, interfere in such markets and supervise modes and operating processes used by such corporations;
- VIII- Provide, under the control of the National Monetary Council, the services of its Secretariat.

Paragraph 1. In performing the duties mentioned in Article 10(VIII) hereof, the Central Bank of Brazil may examine books and documents of natural persons and legal entities controlling a financial institutions, remaining such persons and entities subject to the provisions of Article 44, Paragraph 8, hereof. (Included by Decree-Law no. 2,321, of 02.15.1987)

Paragraph 2. The Central Bank of the Federative Republic of Brazil shall establish offices, as authorized by the National Monetary Council, in different geo-economic regions of the country, in view of administrative decentralization for distribution and collection of currency and compliance with decisions taken by such National Monetary Council or determined by law. (Renumbered by Decree-Law no. 2,321, of 02.25.1987)

Article 12. The Central Bank of the Federative Republic of Brazil shall operate solely with public and private financial institutions, and may not perform banking operations of any nature with other public and private law persons, except those expressly authorized by law.

第 11 條 巴西中央銀行其他職權包括：

- I- 代表巴西政府與外國暨國際金融機構交涉。
- II- 以聯邦政府機關之身分，促進國內與國外之借款機制，並負責該等借款之服務。
- III- 致力於外匯交易市場之正常運作、匯率之相對穩定及國際收支之平衡，並為達此目的，而買賣黃金與外國貨幣、執行境外信用操作，包括與特別提款權有關者，以及區隔金融與商業外匯交易市場。（1969 年 5 月 14 日第 581 號法令修正之）
- IV- 買賣公民營合資公司及國營公司之有價證券。
- V- 依國家貨幣委員會所定條件，發行有價證券。
- VI- 規範票據與其他支付工具之交換作業。
- VII- 直接或以其他方式長期監督妨礙金融與資本市場之公司，以及該公司之管理模式與營運程序。
- VIII- 在國家貨幣委員會之控管下，提供其秘書處服務。

第 1 項 巴西中央銀行行使第 10 條第(VIII)款所定職務時，得檢查對金融機構有控制權之自然人與法人之帳簿與文件，並使該等自然人與法人受到第 44 條第 8 項規定之規範。（涵蓋於 1987 年 2 月 15 日第 2,321 號法令）

第 2 項 巴西中央銀行應依國家貨幣委員會之授權，於本國不同地理經濟區域設立辦公室，以分散貨幣收付之行政作業，並遵守國家貨幣委員會所為之決定或法律之規定。（1987 年 2 月 15 日第 2,321 號法令變更條次）

第 12 條 巴西中央銀行之營業對象僅限於公、民營金融機構，且除法律明文授權者外，不得與其他公、私法人為任何性質之銀行業務往來。

Article 13. Duties and services under the responsibility of the Central Bank, when not directly performed by it, shall be contracted preferably with Banco do Brasil S.A., except in cases expressly authorized by the National Monetary Council. (As amended by Decree-law no. 278, of 02.28.1967)

Article 14. The Central Bank of Brazil shall be managed by a Board of Governors comprising five (5) members, one of whom shall be the Chairman, selected by the National Monetary Council among its members as mentioned by Article 6(IV) hereof. (As amended by Law no.5,362, of 11.30.1967) (See Decree no. 91,961, of 11.19.1985)

Paragraph 1. The Governor of the Central Bank of the Federative Republic of Brazil shall be replaced by the member of the Board of Governors designated by the National Monetary Council.

Paragraph 2. Termination of the term of office, resignation or loss of membership of the National Monetary Council shall determine, likewise, loss of the title of Governor of the Central Bank of the Federative Republic of Brazil.

Article 15. The bylaws of Central Bank of the Federative Republic of Brazil, mentioned by Article 4(XXVII) hereof, shall set the duties of the Governor and members of the Board of Governors and specify the cases that will depend on decision of the Board, such decision to be taken by majority of votes, with the attendance of not less than the Governor or his substitute and two other members of the Board, being the Governor entitled to a casting vote.

Paragraph 1. The Board of Governors shall meet, ordinarily, once each week and, specially, whenever necessary, either convened by the Governor or by request of not less than two members of the Board.

Article 16. Revenues of the Central Bank of Brazil comprise any income from: (As amended by Decree-Law no. 2,376, of 11.25.1987)

I- financial operations and other investments of its funds; (As amended by Decree-Law no. 2,376, of 11.25.1987)

第 13 條 中央銀行應負之職務與服務非由其直接執行者，除國家貨幣委員會明示授權者外，宜委由巴西銀行（Banco do Brasil S.A.）為之。（1967 年 2 月 28 日第 278 號法令修正）

第 14 條 巴西中央銀行應由理事會經理之，理事會由 5 名理事組成，其中一名為主席，由國家貨幣委員會自第 6 條第(IV)款所列之委員中選任。（1967 年 11 月 30 日第 5,362 號法律修正之）（詳見 1985 年 11 月 19 日第 91,961 號法令）

第 1 項 巴西中央銀行總裁應由國家貨幣委員會指定之理事會理事充任之。

第 2 項 國家貨幣委員會委員之任期屆滿、解任或喪失資格時，其擔任巴西中央銀行總裁之職銜亦同時喪失。

第 15 條 第 4 條第(XXVII)款所定之巴西中央銀行章程，應明定總裁及理事會理事之職務，並明定應由理事會決議之事項。理事會決議應採多數決，至少有總裁或其代理人及其他兩名理事出席議決之。主席擁有投決定票之權。

第 1 項 理事會應每週開會一次，必要時，得由總裁或至少兩名理事之要求召開之。

第 16 條 巴西中央銀行收益包括下列各款收入：（1987 年 11 月 25 日第 2,376 號法令修正之）

I- 中央銀行資金之金融操作及其他投資。（1987 年 11 月 25 日第 2,376 號法令修正之）

- II- foreign exchange and gold purchase and sale operations and any other dealings with foreign currency; (As amended by Decree-Law no. 2376, of 11.25.1987)
- III- occasional earnings, including those derived from fines and delinquent interests applied under applicable legislation; (As amended by Decree-Law no. 2,376, of 11.25.1987)

Paragraph 1. Out of the foreign exchange operations mentioned by this Article 16(II) conducted as from the day this Law becomes effective, seventy-five percent (75%) of the amount related to profits realized in the purchase and sale of foreign currency shall be deposited in a specific monetary reserve account of the Central Bank of Brazil, as may be established by the National Monetary Council. (See Law no. 5,413, of 1966) (Renumbered by Decree no. 2,076, of 12.20.1983)

Paragraph 2. At the discretion of the National Monetary Council, the following funds may also be channeled to the monetary reserve account mentioned by Paragraph 1 above: (Paragraph included by Decree-Law no. 2,076, of 12.20.1983)

- (a) specific supplies from the Central Bank of Brazil to Banco do Brasil S.A., granted under Article 19, Paragraph 1, hereof;
- (b) special supplies from the Central Bank of Brazil to Funds and Programs administered by it.

Paragraph 3. The National Monetary Council shall establish, under the provisions of Article 19, Paragraph 1, hereof, in each fiscal year, the bases for remuneration of operations mentioned in this Article 16, Paragraph 2, above, and the conditions for incorporating such revenues to the above monetary reserve account. (Paragraph included by Decree-Law no. 2,076, of 12.20.1983)

- II- 外匯交易與黃金買賣操作及其他外幣交易。（1987 年 11 月 25 日第 2,376 號法令修正之）
- III- 非經常性收入，包括依相關法律所科之罰鍰與滯納利息等。（1987 年 11 月 25 日第 2,376 號法令修正之）

第 1 項 自本法生效日起從事本條第(II)款所定之外匯交易操作，其中因買賣外幣所實現利益金額之 75%，應存放於國家貨幣委員會於巴西中央銀行開立之特定貨幣準備帳戶。（詳見 1966 年第 5,413 號法律）（1983 年 12 月 20 日第 2,076 號法令變更條次）

第 2 項 依國家貨幣委員會之決議，下列資金亦得存放於前述第 1 項所定之貨幣準備帳戶：（本項規定係涵蓋於 1983 年 12 月 20 日第 2,076 號法令）

- (a) 巴西中央銀行依第 19 條第 1 項之授權，對巴西銀行所提供之特定資金。
- (b) 巴西中央銀行對其管理之基金與計畫案所提供之特別資金。

第 3 項 國家貨幣委員會應依第 19 條第 1 項規定，於每一會計年度，訂定本條第 2 項所定操作報酬之基準，以及將該等收益納入前述貨幣準備帳戶之條件。（本項規定係涵蓋於 1983 年 12 月 20 日第 2,076 號法令）

Appendix

CHAPTER I
NATIONAL FINANCIAL SYSTEM

Article 1 The National Financial System, structured and regulated by this Law, shall comprise:

- I- the National Monetary Council;
- II- the Central Bank of Brazil; (As amended by Decree-Law no. 278, of 02/28/1967);
- III- Banco do Brasil S.A.;
- IV- National Bank for Economic Development;
- V- other public and private financial institutions.

CHAPTER II
NATIONAL MONETARY COUNCIL

Article 2. The Board of the current Superintendency of Currency and Credit is hereby extinguished, and, in its place, the National Monetary Council is established with the purpose of formulating currency and credit policies, as foreseen by this law, for the economic and social development of the country.

Article 3. The purpose of the National Monetary Council policy shall be:

- I- Adapting money supply to the real requirements of the national economy and the development process thereof;
- II- Regulating the domestic value of the currency, anticipating or correcting inflationary and deflationary surges, of domestic origin or otherwise, economic depressions and other unbalances resulting from short-term events;
- III- Regulating the foreign value of the currency and the equilibrium of the country balance of payment, securing the best use of funds in foreign currency;
- IV- Setting guidelines for using funds of financial institutions, both public and private, with a view to secure, in different regions of the country, favorable conditions for an harmonic development of the domestic economy;
- V- Securing improvement of financial institutions and instruments, with a view to provide greater efficiency of the payment system and use of funds;

附 錄

第 1 章 國家金融體系

第 1 條 依本法所建構及規範之國家金融體系，應包括：

- I- 國家貨幣委員會。
- II- 巴西中央銀行。（1967 年 2 月 28 日第 278 號法令修正之）
- III- 巴西銀行（Banco do Brasil S.A.）。
- IV- 國家經濟發展銀行。
- V- 其他公民營金融機構。

第 2 章 國家貨幣委員會

第 2 條 貨幣暨信用監督委員會自此裁撤，茲設立國家貨幣委員會，依國家經濟與社會之發展，制定貨幣及信用政策。

第 3 條 國家貨幣委員會之目的在於：

- I- 依國家經濟及其發展過程之實際需要，調整貨幣供給。
- II- 調節通貨幣值、預測或導正驟然產生之通貨膨脹或通貨緊縮，以及因短期事件造成之經濟蕭條與其他失衡。
- IV- 調節通貨與外幣兌換價值及國家收支均衡，並確保外幣資產之最佳利用。
- V- 訂定公民營金融機構資金之使用準則，俾確保國家不同區域均具備使國內經濟順暢發展之最佳條件。

- VI- Caring for financial institutions liquidity and solvency;
- VII- Coordinating the monetary, credit, budget, fiscal and public debt policies, both domestic and foreign.

Article 4. The National Monetary Council shall, under directives established by the President of the Republic: (As amended by Law no. 6,045, of 05/15/1974)

- I- Authorize issuances of paper money (Vetoed), which shall be pending legislative authorization when intended to direct funding by the Central Bank of Brazil of credit operations with the National Treasury, according to Article 49 hereof (See Law no. 8,392, of 12.30.1991).

The National Monetary Council may, in addition, authorize the Central Bank of the Federative Republic of Brazil to issue, on an yearly basis, up to 10% (ten percent) of the money supply circulating on December 31 of the previous year in order to meet the requirements of production activities and circulation of the country wealth, and, shall apply for authorization of the Legislative Branch through Message of the President of the Republic regarding issuances that, justifiably, may be necessary beyond said limit.

Whenever urgent and unforeseen circumstances related to funding of such activities so require, the National Monetary Council may authorize indispensable issuances, promptly applying for, through Message of the President of the Republic, ratification by the Legislative Branch for such issuances made;

- II- Establish conditions for the Central Bank of the Federative Republic of Brazil to issue coercive legal tender paper money (Vetoed), under the terms and limits originated in this law, as well as money supply regulations;
- III- Approve monetary budgets prepared by the Central Bank of the Federative Republic of Brazil, in which the global requirements of money and credit shall be estimated;
- IV- Determine the general characteristics (Vetoed) of bills and coins;
- V- Establish foreign exchange policy guidelines and rules, including those related to purchase and sale of gold and any operations in Special Drawing Rights (SDR) and foreign currency (As amended by Decree-Law no. 581, of 05/14/1969);
- VI - Discipline credit in all its modes and credit operations in all their forms, including acceptances and granting of any guarantees by financial institutions;
- VII - Coordinate the policy mentioned by Article 3 hereof with that of Federal Government investments;

VI- 支應金融機構之流動性與償債能力。

VII- 整合國內外貨幣、信用、預算、財政及公共債務政策。

第 4 條 國家貨幣委員會應依總統指令：（1974 年 5 月 15 日第 6,045 號法律修正之）

I- 授權發行紙幣（已停止適用），如依第 49 條規定由巴西中央銀行對國庫直接融通資金，應取得法律授權（詳見 1991 年 12 月 30 日第 8,392 號法律）。

國家貨幣委員會得授權巴西中央銀行發行較前一年度 12 月 31 日之通貨供給額增加最高達 10% 之紙幣，俾滿足生產活動與國家財富流通之需要；必要時，應透過總統提請立法機關授權為超過上述限額之發行。

遇有緊急及不可預見之狀況致有資金需求時，國家貨幣委員會得授權為必要之發行，並提經總統送請立法機關追認。

II- 依本法規定之條件與限額及貨幣供給之法令，訂定巴西中央銀行發行具法償效力紙幣之條件（已停止適用）。

III- 預估全球貨幣與信用需求，核定巴西中央銀行準備之貨幣預算。

IV- 訂定紙幣與硬幣之一般規格（已停止適用）。

V- 訂定外匯政策準則與規範，包括與買賣黃金、特別提款權與外幣操作相關之事項（1969 年 5 月 14 日第 581 號法令修正之）。

VI- 建立信用種類與信用操作之秩序，包括金融機構之承兌與保證。

VII- 整合第 3 條規定之政策與聯邦政府之投資政策。

- VIII- Regulate the establishment, operation and supervision of those who carry out activities regulated by this law, as well as application of the penalties envisaged;
- IX - Limit, whenever necessary, interest rates, discounts, commissions and any other means of banking and financial operations and services remuneration, including those rendered by the Central Bank of the Federative Republic of Brazil, granting favorable rates to the funding targeted to promote:
- soil recovery and fertilization;
 - reforestation;
 - fight against epizootics and plagues in rural activities;
 - rural electrification;
 - mechanization;
 - irrigation;
 - investments indispensable to farming activities.
- X- Determine the top percentage of funds that financial institutions may lend to a single customer or group of companies;
- XI- Establish indices and other technical conditions for cash-on-hand, mobilizations and other asset rates to be complied with by financial institutions;
- XII- Issue general accounting and statistic rules to be complied with by financial institutions;
- XIII- Limit, not less than every two years, the minimum capital of private financial institutions, taking into account their nature and location of their headquarters and branches or offices;
- XIV- Establish collection of up to 60% (sixty percent) of total deposits and/or other accounting securities held by financial institutions, either as subscriptions of National Treasury bills or bonds or purchase of Federal Public Debt securities, or as cash deposit, in any case delivered to the Central Bank of Brazil under the terms and conditions as determined by the National Monetary Council who may: (As amended by Decree-Law no. 1,959, of 09/14/1982)
- (a) apply different percentages according to the: (As amended by Decree-Law no. 1,959, of 09.14.1982)
- geoeconomic regions; (As amended by Decree-Law no. 1,959, of 09/14/1982)

- VIII- 規範受本法規範機構之設立、營運及監督，並採取適當之懲處。
- IX- 於必要時，限制利率、貼現率、佣金及其他與銀行業、金融操作及服務酬勞有關之收入，亦包括巴西中央銀行所提供者，俾促進下列事項之融資，並給與較優惠費率：
- 土壤復育與施肥。
 - 森林再造。
 - 防制農村活動之動物流行病與疫情。
 - 農村電氣化。
 - 機械化。
 - 灌溉。
 - 對農業活動之必要投資。
- X- 訂定金融機構借款予單一客戶或公司集團之最高百分比。
- XI- 訂定金融機構應遵循之庫存現金、流動資產及其他資產比率之指標及其他營業條件。
- XII- 發布金融機構應遵循之一般會計與統計規則。
- XIII- 審酌民營金融機構之性質及其總部與分行所在地等因素，訂定其最低資本額，至少每兩年一次。
- XIV- 以認購國庫券、公債或購買聯邦公債有價證券或現金存款方式，就收取金融機構持有之存款總額及/或其他會計有價證券規定其比率，最高可達 60%，並依貨幣政策委員會所定條件及期限，交付予巴西中央銀行。貨幣委員會得：（1982 年 9 月 14 日第 1,959 號法令修正之）
- (a) 依下列情況適用不同百分比：
- 地理區域。（1982 年 9 月 14 日第 1,959 號法令修正之）

- priority attached to the collections; (As amended by Decree-Law no. 1,959, of 09/14/1982)
 - nature of financial institutions; (As amended by Decree-Law no. 1,959, of 09/14/1982)
 - (b) determine percentages that are not subject to collection, provided such sums are reinvested in farm funding, under favorable interest rates and other conditions set by the National Monetary Council; (As amended by Decree-law no. 1,959, of 09/14/1982) (See Article 10 (III));
- XV- Establish that public financial institutions shall deduct the deposits of public law legal entities shareholders of such financial institutions, as well as from their respective self-governed agencies and private and public joint stock companies, in the calculations mentioned by this Article 4(XIV) above;
- XVI- Mandatorily forward to the National Congress, not later than the last day of the subsequent month, reports and charts accounting for investments made from compulsory reserves, (Vetoed).
- XVII- Regulate rediscount and lending operations conducted with any public and private banking institutions, by setting limits, terms and other conditions;
- XVIII- Assign to the Central Bank of the Federative Republic of Brazil the monopoly of foreign exchange operations in case of actual or foreseeable imminent severe external imbalance;
- XIX- Establish rules to be complied with by the Central Bank of the Federative Republic of Brazil in its transactions with public securities and securities of entities in which the State is a stakeholder;
- XX- Authorize the Central Bank of the Federative Republic of Brazil and public federal financial institutions to conduct subscription, purchase and sale of stocks and other instruments issued by, or under the responsibility of, public and private joint companies and state-owned companies;
- XXI- Regulate Stock Exchange and public fund brokerage activities;
- XXII- Establish rules for operation of public financial institutions in order to preserve their soundness and ally their operation to the targets of this law;
- XXIII- Set to a ceiling of up to fifteen (15) times the sum of paid-in capital and free reserves, the limit above which excess deposits of financial institutions shall be placed with the Central Bank of the Federative Republic of Brazil or invested according to rules established by the National Monetary Council;

—收取之優先順序。(1982年9月14日第1,959號法令修正之)

—金融機構性質。(1982年9月14日第1,959號法令修正之)

(b) 訂定無須收取之比率，但該等金額應以優惠利率並依國家貨幣委員會規定之其他條件，再投資於農業資金。(1982年9月14日第1,959號法令修正之)
(詳見第10條第(III)款)

XV- 於計算第(XIV)款所定比率時，公營金融機構應扣除該機構之公法人股東、個別自律機構與公民營合股公司之存款金額。

XVI- 以法定準備金投資者，至遲於次月之末日，應向國會提出該項投資之報告與圖表。(已停止適用)

XVII- 就公民營銀行機構所為之重貼現與借款操作，規定限額、期間及其他條件。

XVIII- 於實際發生或可預見緊急嚴重外部失衡時，指定由巴西中央銀行獨占外匯操作。

XIX- 訂定巴西中央銀行買賣國營事業公共證券及有價證券應遵行之規則。

XX- 授權巴西中央銀行與公營聯邦金融機構認購或買賣由公民營合資公司或國營公司所發行或由其負責之股票及其他證券。

XXI- 規範證券交易所與公共基金經紀商業務。

XXII- 訂定公營金融機構營運規則，確保其健全經營，並使其營運與本法目標相結合。

XXIII- 以實收資本及自由準備金總合最高達15倍之金額為上限，金融機構逾越該限額之超額存款，應存放於巴西中央銀行，或依國家貨幣委員會所定規則進行投資。

- XXIV-Decide on its own organization; preparing its by-laws within thirty (30) days;
- XXV-Decide on the technical and administrative framework of the Central Bank of the Federative Republic of Brazil and determine its staff, as well as establish salaries and compensations of its employees, officials and directors, according to proposals submitted by the Central Bank of the Federative Republic of Brazil Governor; (See Law no. 9,650, of 05.27.1998)
- XXVI- Examine appeals of the Central Bank of the Federative Republic of Brazil decisions; (See Law no. 9,069, of 06.29.1995)
- XXVII- Pass the by-laws and accounts of the Central Bank of the Federative Republic of Brazil and decide on its budget and accounting systems, as well as on the form and time for transfer of its results to the National Treasury, without prejudice of the Federal Court of Accounts duties; (As amended by Decree-Law no. 2,376, of 11.25.1987) (See Article 10(III))
- XXVII- Apply to foreign banks operating in Brazil the same hindrances and restrictions applicable to Brazilian banks established or intended to be established in their countries;
- XXIX-Cooperate with the National Senate in examining procedures of State, Federal District and Municipality loans, complying with the provisions of Article 63(II) of the Federal Constitution;
- XXX- Issue rules and regulations for the nominations and other effects of Article 7 hereof; (See Law no. 9,069, of 06.29.1995)
- XXXI- Issue regulations for foreign exchange, including swaps, setting limits, rates, terms and other conditions;
- XXXII- Regulate term deposits of financial institutions and other institutions authorized to operate by the Central Bank of Brazil, including deposits made among institutions under the same capital control and among linked institutions. (As amended by Decree-Law no. 2,290, of 1986)

Paragraph 1. The National Monetary Council, performing the duties mentioned in this Article 4(VIII), may determine the Central Bank of the Federative Republic of Brazil to refuse granting new financial institutions authorization to operate based on requirements of general nature.

Paragraph 2. The Central Bank of the Federative Republic of Brazil shall be in charge of supervising the performance of monetary budgets and report on the matter to the National Monetary Council, giving the suggestion it may find appropriate.

- XXIV-定其內部組織；於 30 天內備妥其章程。
- XXV-決定巴西中央銀行之營業與行政管理架構，進用其人員，並依巴西中央銀行總裁提議，訂定其受雇人員、職員與理事之薪資與報酬。（詳見 1998 年 5 月 27 日第 9,650 號法律）
- XXVI-對巴西中央銀行處分提起訴願案之審核。（詳見 1995 年 6 月 29 日第 9,069 號法律）
- XXVII-審定巴西中央銀行規章及帳目，決定其預算與帳務系統，在不違反聯邦會計法院職掌下，訂定將其盈餘移轉予國庫之方式與時間。（1987 年 11 月 25 日第 2,376 號法令修正之）（詳見第 10 條第(III)款）
- XXVIII-本國銀行於外國設立分支機構所受之阻礙與限制，亦同等適用於該外國之銀行於巴西境內之營運。
- XXIX-依據聯邦憲法第 63 條第(II)款規定，與參議院合作查核政府、聯邦特區與直轄市之貸款程序。
- XXX-發布有關第 7 條提名及其他效果之規則與法規。（詳見 1995 年 6 月 29 日第 9,069 號法律）
- XXXI-發布外匯交易法規，包括換匯、設定限額、匯率、期間與其他條件。
- XXXII-規定金融機構與巴西中央銀行授權營運之其他機構收受之定期存款，包括資本受相同控管之機構間存款，以及相關機構間之存款。（1986 年第 2,290 號法令修正之）

第 1 項 國家貨幣委員會執行第 4 條第(VIII)款職掌時，得依一般性規定，決定巴西中央銀行拒絕核發新金融機構執照。

第 2 項 巴西中央銀行應負責監督貨幣預算之執行，並就該等事項向國家貨幣委員會提出報告及建議。

Paragraph 3. Issuance of metal currency shall be always made against withdrawal (Vetoed) of the same amount in paper bills.

Paragraph 4. The National Monetary Council may invite authorities, natural persons and entities to give the clarifications it deems necessary.

Paragraph 5. In cases mentioned by Article 4(I) and Article 49, Paragraph 6, hereof, if the National Congress refuses to ratify a past performed extraordinary issuance, the relevant authorities shall be liable according to Law no. 1,059, of 04.10.1950.

Paragraph 6. The National Monetary Council shall submit to the National Congress, not later than March 31 each year, a report on the country's money and credit performance during the previous year, detailing the measures taken to comply with the targets of this law, explaining the specific amounts of paper money issued to support productive activities.

Paragraph 7. The National Housing Bank is the main instrument for conducting the Federal Government housing policy and is included in the national financial system, jointly with the housing credit societies, under the direction, authorization, coordination and supervision of the National Monetary Council and the Central Bank of the Federative Republic of Brazil regarding performance of such policy, revoked the special provisions contrary thereto. (See Law no. 9,069, of 6.29.1955)

Article 5. Deliberations of the National Monetary Council are deemed to be a responsibility of its Chairperson for the purpose of Article 104(I)(b) of the Federal Constitution, and are binding over official entities, including autonomous institutions and joint public and private corporations, in activities dealing with financial and capital markets.

Article 6. The following are members of the National Monetary Council: (As amended by Law no. 5,362, of 11.30.1967) (See Law no. 9,069, of 6.29.1955)

- I- The Ministry of Finance, who shall be the National Monetary Council Chairperson; (As amended by Law no. 5,362, of 11.30.1967)
- II- The President of Banco do Brasil S.A. (As amended by Law no. 5,362, of 11.30.1967)

第 3 項 發行金屬通貨時應收回（已停止適用）等額之紙鈔。

第 4 項 國家貨幣委員會於必要時，得邀請主管機關、自然人與法人團體提出解釋。

第 5 項 有第(I)款及第 49 條第 6 項規定之情形，國會拒絕追認已為之超額發行時，相關主管機關應依 1950 年 4 月 10 日第 1,059 號法律負責。

第 6 項 國家貨幣委員會應於每年 3 月 31 日前，向國會提出前一年度國家貨幣與信用績效報告，詳述依據本法目標所採行之措施，說明為支援生產性活動而發行紙幣之特定金額。

第 7 項 國家住宅銀行係執行聯邦政府住宅政策之主要機構，依國家貨幣委員會及巴西中央銀行之指示、授權、整合及監督為之，與住宅信用協會共同被納入國家金融體系之中，與該政策相反之特殊條款刪除。（詳見 1995 年 6 月 29 日第 9,069 號法律）

第 5 條 就聯邦憲法第 104 條第(I)(b)款目的而言，國家貨幣委員會之審議由其主席負責，其決議得拘束從事金融與資本市場活動之法定實體，包括自律機構及公民營合資公司在內。

第 6 條 國家貨幣委員會成員如下：（1967 年 11 月 30 日第 5,362 號法律修正之）（詳見 1995 年 6 月 29 日第 9,069 號法律）

I- 財政部長，為國家貨幣委員會主席。（1967 年 11 月 30 日第 5,362 號法律修正之）

II- 巴西銀行（Banco do Brasil S.A.）董事長。（1967 年 11 月 30 日第 5,362 號法律修正之）

- III- The President of the National Development Economic Bank - BNDES
(As amended by Law no. 5,362, of 11.30.1967)
- IV- Seven members appointed by the President of the Republic, after approved by the National Senate, selected among Brazilians of good repute, knowledgeable in economic and financial matters, for a renewable term of 7 (seven) years. (As amended by Law no. 5,362, of 11.30.1967)

Paragraph 1. The National Monetary Council shall deliberate by majority of votes and a quorum of not less than six (6) members, and the Chairperson shall have a right to cast a vote.

Paragraph 2. Meetings of the National Monetary Council (Vetoed) may be attended by the Minister of Industry and Commerce and the Ministry for Planning and Economic Affairs, whose speeches must be reflected in the minutes of such meetings.

Paragraph 3. In his absences or impediments, the Ministry of Finance shall be replaced as the National Monetary Council Chairman by the Ministry of Industry and Commerce and, in the absence of the latter, by the Minister for Planning and Economic Affairs.

Paragraph 4. Exclusively relevant reasons, expounded in a clearly based National Monetary Council document, may cause dismissal of a member mentioned in this Article 6(IV).

Paragraph 5. In case of a member vacancy, his substitute shall be appointed according to the provisions of Article 6(IV) above to complete the term of the vacant member.

Paragraph 6. Members of the National Monetary Council mentioned by Article 6(IV) above shall be selected taking into consideration, to the extent possible, the different geoeconomic regions of the country.

Article 7. The following Consulting Commissions shall operate jointly with the National Monetary Council: (See Law no. 9,069, of 6.29.1995)

- III- 國家發展經濟銀行（BNDES）董事長。（1967 年 11 月 30 日第 5,362 號法律修正之）
- IV- 總統提名經國會同意任命之 7 位具良好聲譽、熟悉經濟與財政事務之巴西公民擔任委員，任期 7 年，得連選連任。（1967 年 11 月 30 日第 5,362 號法律修正之）

第 1 項 國家貨幣委員會議決事項採多數決，法定出席人數不得少於 6 名委員。可否同數時，取決於主席。

第 2 項 工業暨商業部長及規劃暨經濟事務部長得出席國家貨幣委員會會議（已停止適用），其發言應記載於會議紀錄。

第 3 項 財政部長缺席或無法擔任主席時，由工業暨商業部長代理；於後者缺席時，由規劃暨經濟事務部長代理。

第 4 項 解任第(IV)款選任之委員，應有絕對適切之理由，並載明於國家貨幣委員會之文件。

第 5 項 委員出缺時，應依第(IV)款規定任命繼任人員接替出缺委員所剩任期。

第 6 項 選任第(IV)款之國家貨幣委員會委員，應儘可能考量國家不同地理經濟區域之代表性。

第 7 條 下列諮詢委員會應與國家貨幣委員會共同運作：（詳見 1995 年 6 月 29 日第 9,069 號法律）

- I - Banking Consulting Commission, comprising representatives of:
 - 1 - *Conselho Nacional de Economia*, the National Economics Council;
 - 2 - the Central Bank of the Federative Republic of Brazil;
 - 3 - Banco do Brasil S.A.;
 - 4 - the National Economic Development Bank;
 - 5 - *Conselho Superior das Caixas Econômicas Federais*, the National Federal Saving Banks Higher Council;
 - 6 - *Banco Nacional de Crédito Cooperativo*, the National Cooperative Credit Bank;
 - 7 - *Banco do Nordeste do Brasil*, the Brazilian Northeast Bank;
 - 8 - *Banco de Crédito da Amazônia*, the Amazon Credit Bank;
 - 9 - State Banks and Savings Banks;
 - 10 - Private Banks;
 - 11 - Credit, Financing and Investment Societies;
 - 12 - Stock Exchanges;
 - 13 - Commerce;
 - 14 - Manufacture;
 - 15 - Farming;
 - 16 - Cooperatives operating in credit.
- II - Capital Markets Consulting Commission, comprising representatives of:
 - 1 - the Ministry of Industry and Commerce;
 - 2 - the National Economics Council;
 - 3 - the Central Bank of the Federative Republic of Brazil;
 - 4 - the National Economic Development Bank;
 - 5 - Private Banks;
 - 6 - Credit, Financing and Investment Societies;
 - 7 - Stock Exchanges;
 - 8 - *Companhias de Seguro Privados e Capitalização*, the Private Insurance and Capitalization Companies;
 - 9 - *Caixa de Amortização*, the Amortization Office;
- III - Rural Credit Consulting Commission, comprising representatives of:
 - 1 - the Ministry of Agriculture;

- I- 銀行業諮詢委員會，包含下列機構代表：
 - 1- 國家經濟委員會。
 - 2- 巴西中央銀行。
 - 3- 巴西銀行。
 - 4- 國家經濟發展銀行。
 - 5- 國家聯邦儲蓄銀行高等委員會。
 - 6- 國家合作信用銀行。
 - 7- 巴西東北銀行。
 - 8- 亞馬遜信用銀行。
 - 9- 國營銀行及儲蓄銀行。
 - 10- 民營銀行。
 - 11- 信用、金融與投資協會。
 - 12- 證券交易所。
 - 13- 商業界。
 - 14- 製造業。
 - 15- 農業經營者。
 - 16- 信用合作社。
- II- 資本市場諮詢委員會，包含下列機構代表：
 - 1- 工業暨商業部。
 - 2- 國家經濟委員會。
 - 3- 巴西中央銀行。
 - 4- 國家經濟發展銀行。
 - 5- 民營銀行。
 - 6- 信用、金融與投資協會。
 - 7- 證券交易所。
 - 8- 民營保險及資本化公司。
 - 9- 攤銷署。
- III- 農村信用諮詢委員會，包含下列機構代表：
 - 1- 農業部。

- 2 - *Superintendência da Reforma Agrária*, the Agrarian Reform Superintendency;
- 3 - *Superintendência Nacional de Abastecimento*, the National Supply Superintendency;
- 4 - the Central Bank of the Federative Republic of Brazil;
- 5 - *Carteira de Crédito Agrícola e Industrial*, the Farming and Industrial Credit Department of Banco do Brasil S.A.;
- 6 - *Carteira de Colonização*, the Land Settlements Department of Banco do Brasil S.A.;
- 7 - *Banco Nacional de Crédito Cooperativo*, the National Cooperative Credit Bank;
- 8 - the Brazilian Northeast Bank;
- 9 - the Amazon Credit Bank S.A.;
- 10 - *Instituto Brasileiro do Café*, the Brazilian Coffee Institute;
- 11 - *Instituto do Açúcar e do Alcool*, the Sugar and Alcohol Institute;
- 12 - Private Banks;
- 13 - *Confederação Rural Brasileira*, the Brazilian Rural Confederation;
- 14 - Public State and Municipality Financial Institutions operating in rural credit;
- 15 - Farming Credit Cooperatives.

IV - (Vetoed)

- 1 - (Vetoed);
- 2 - (Vetoed);
- 3 - (Vetoed);
- 4 - (Vetoed);
- 5 - (Vetoed);
- 6 - (Vetoed);
- 7 - (Vetoed);
- 8 - (Vetoed);
- 9 - (Vetoed);
- 10 - (Vetoed);
- 11 - (Vetoed);
- 12 - (Vetoed);
- 13 - (Vetoed);
- 14 - (Vetoed);

- 2-農業改革監理局。
- 3-國家供給監理局。
- 4-巴西中央銀行。
- 5-巴西銀行農業暨工業信用部。
- 6-巴西銀行土地租借部門。
- 7-國家信用合作銀行。
- 8-巴西東北銀行。
- 9-亞馬遜信用銀行。
- 10-巴西咖啡協會。
- 11-糖暨酒類協會。
- 12-民營銀行。
- 13-巴西農村聯盟。
- 14-經營農村信用之國立及市立金融機構。
- 15-農業信用合作社。

IV-（已停止適用）

- 1-（已停止適用）。
- 2-（已停止適用）。
- 3-（已停止適用）。
- 4-（已停止適用）。
- 5-（已停止適用）。
- 6-（已停止適用）。
- 7-（已停止適用）。
- 8-（已停止適用）。
- 9-（已停止適用）。
- 10-（已停止適用）。
- 11-（已停止適用）。
- 12-（已停止適用）。
- 13-（已停止適用）。
- 14-（已停止適用）。

- 15 - (Vetoed);
- V - Industrial Credit Consulting Commission, comprising representatives of:
- 1 - the Ministry of Industry and Commerce;
 - 2 - the Extraordinary Ministry for Planning and Economic Affairs;
 - 3 - the Central Bank of the Federative Republic of Brazil;
 - 4 - the National Economic Development Bank;
 - 5 - the Farming and Industrial Credit Department of Banco do Brasil S.A.;
 - 6 - Private Banks;
 - 7 - Credit, Financing and Investment Societies;
 - 8 - Manufacture;

Paragraph 1. The organization and operation of Consulting Commissions shall be regulated by the National Monetary Council, which shall establish rules:

- (a) granting such Consulting Commissions initiative before the National Monetary Council;
- (b) setting terms for the mandatory fulfillment of offices in such Consulting Commissions;
- (c) making mandatory the hearing by the National Monetary Council of such Consulting Commissions when dealing with matters under the scope of the Commissions, except for cases where confidentiality is imposed.

Paragraph 2. Representatives mentioned by this Article shall be nominated by the respectively corresponding entities mentioned herein and appointed by the National Monetary Council.

Paragraph 3. The National Monetary Council, by vote of two thirds (2/3) of its members, may extend the scope of the Consulting Commissions, as well as allow participation of representatives of entities not mentioned in this Article 7, provide such representative's post is directly related to such representatives' duties.

15-（已停止適用）。

V- 產業信用諮詢委員會，包含下列機構代表：

- 1-工業暨商業部。
- 2-規劃與經濟事務特別部。
- 3-巴西中央銀行。
- 4-國家經濟發展銀行。
- 5-巴西銀行農業暨工業信用部。
- 6-民營銀行。
- 7-信用、金融與投資協會。
- 8-製造業。

第 1 項 諮詢委員會之組織及運作應受國家貨幣委員會規範，並應訂立下列規則：

- (a) 授與該諮詢委員會有較國家貨幣委員會優先之提案權。
- (b) 訂定該諮詢委員會受任履行職務之期間。
- (c) 除應保密之事項外，於處理該委員會職務範圍內之事項時，貨幣委員會應對該諮詢委員會進行聽證。

第 2 項 本條之代表由其所屬之機構或團體提名，由貨幣委員會任命。

第 3 項 國家貨幣委員會經其三分之二委員投票之決議，得擴充諮詢委員會範圍，並許可本條規定以外之機構、團體之代表參與，惟該代表職務須與該代表職責具有直接關係。

LAW NO. 4,595, OF DECEMBER 31, 1964

八、RUSSIAN FEDERATION FEDERAL LAW

On the Central Bank of
the Russian Federation
(Bank of Russia)

俄羅斯聯邦中央銀行法

RUSSIAN FEDERATION
FEDERAL LAW
On the Central Bank of the Russian Federation (Bank of Russia)

- Chapter I. General Provisions*
- Chapter II. Bank of Russia Capital*
- Chapter III. The National Banking Board
and Governing Bodies of the Bank of Russia*
- Chapter IV. Relations between the Bank of Russia and Bodies
of State Power and Local Self-government*
- Chapter V. Bank of Russia Reporting*
- Chapter VI. Cash Management*
- Chapter VII. Monetary Policy*
- Chapter VIII. Bank of Russia Banking Operations
and Transactions*
- Chapter IX. International and Foreign Economic Activities
of the Bank of Russia*
- Chapter X. Banking Regulation and Banking Supervision*
- Chapter XI. Bank of Russia Relations with Credit Institutions*
- Chapter XII. The Management of Non-Cash Settlements*
- Chapter XIII. Bank of Russia Organisational Principles*
- Chapter XIV. Bank of Russia Employees*
- Chapter XV. Bank of Russia Audit*
- Chapter XVI. Final Provisions*

俄羅斯聯邦中央銀行法

法 務 室 林 男 錡 譯

- 第 1 章 通 則
- 第 2 章 本行資本
- 第 3 章 國家銀行委員會與本行之決策組織
- 第 4 章 本行與其他機關及地方自治政府間之
關係
- 第 5 章 本行之報告
- 第 6 章 現金管理
- 第 7 章 貨幣政策
- 第 8 章 本行之業務與交易
- 第 9 章 國際與對外國經濟活動
- 第 10 章 銀行管理與監督
- 第 11 章 本行與信用機構之關係
- 第 12 章 非現金清算之管理
- 第 13 章 本行之組織原則
- 第 14 章 本行之職員
- 第 15 章 財務審查
- 第 16 章 附 款

RUSSIAN FEDERATION FEDERAL LAW

On the Central Bank of the Russian Federation (Bank of Russia)

**(with amendments made by Federal Law No. 5-FZ,
dated January 10, 2003;**

Federal Law No. 180-FZ, dated December 23, 2003;

Federal Law No. 58-FZ, dated June 29, 2004;

Federal Law No. 97-FZ, dated July 29, 2004;

Federal Law No. 61-FZ, dated June 18, 2005;

Federal Law No. 90-FZ, dated July 18, 2005;

Federal Law No. 60-FZ, dated May 3, 2006;

Federal Law No. 85-FZ, dated June 12, 2006;

Federal Law No. 246-FZ, dated December 29, 2006;

Federal Law No. 247-FZ, dated December 29, 2006;

Federal Law No. 24-FZ, dated March 2, 2007;

Federal Law No. 63-FZ, dated April 26, 2007;

Federal Law No. 171-FZ, dated October 13, 2008;

Federal Law No. 174-FZ, dated October 13, 2008;

Federal Law No. 176-FZ, dated October 27, 2008;

Federal Law No. 274-FZ, dated December 25, 2008;

Federal Law No. 276-FZ, dated December 25, 2008;

Federal Law No. 317-FZ, dated December 30, 2008)

Chapter I. General Provisions

Article 1. The status, purposes, functions and powers of the Central Bank of the Russian Federation (Bank of Russia) are stipulated by the Constitution of the Russian Federation, this Federal Law and other federal laws.

The Bank of Russia shall fulfil the functions and exercise the powers stipulated by the Constitution of the Russian Federation and this Federal Law independently from other federal bodies of state power, the bodies of state power of the constituent entities of the Russian Federation and local self-government bodies.

The Bank of Russia shall be a legal entity. The Bank of Russia shall have a stamp with the image of the National Emblem of the Russian Federation and its own name.

The central bodies of the Bank of Russia shall be based in Moscow.

俄羅斯聯邦中央銀行法

(2003 年 1 月 10 日之聯邦法第 5-FZ 號、
2003 年 12 月 23 日之聯邦法第 180-FZ 號、
2004 年 6 月 29 日之聯邦法第 58-FZ 號、
2004 年 7 月 29 日之聯邦法第 97-FZ 號、
2005 年 6 月 18 日之聯邦法第 61-FZ 號、
2005 年 7 月 18 日之聯邦法第 90-FZ 號、
2006 年 5 月 3 日之聯邦法第 60-FZ 號、
2006 年 6 月 12 日之聯邦法第 85-FZ 號、
2006 年 12 月 29 日之聯邦法第 246-FZ 號、
2006 年 12 月 29 日之聯邦法第 247-FZ 號、
2007 年 3 月 2 日之聯邦法第 24-FZ 號、
2007 年 4 月 26 日之聯邦法第 63-FZ 號、
2008 年 10 月 13 日之聯邦法第 171-FZ 號、
2008 年 10 月 13 日之聯邦法第 174-FZ 號、
2008 年 10 月 27 日之聯邦法第 176-FZ 號、
2008 年 12 月 25 日之聯邦法第 274-FZ 號、
2008 年 12 月 25 日之聯邦法第 276-FZ 號、
2008 年 12 月 30 日之聯邦法第 317-FZ 號修正)

第 1 章 通 則

第 1 條

俄羅斯聯邦中央銀行（以下簡稱本行）之地位、目的、職責與權力，依聯邦憲法、本法與其他聯邦法律規定。

本行應依聯邦憲法與本法規定，獨立於其他聯邦機關、聯邦憲政實體之機關與地方自治機關之外，履行職責及行使權力。

本行為法人。本行圖章應具有聯邦國徽圖案及本行名稱。

本行總行設於莫斯科。

Article 2. The authorised capital and other property of the Bank of Russia shall be in federal ownership. In pursuance of its purposes and in accordance with the procedure established by this Federal Law, the Bank of Russia shall exercise its powers to own, use and manage its property, including the gold and currency (international) reserves of the Bank of Russia. This property may not be confiscated or encumbered with obligations without Bank of Russia consent unless the federal law stipulates otherwise.

The state shall not be liable for the obligations of the Bank of Russia and the Bank of Russia shall not be liable for the obligations of the state unless they have assumed such obligations or unless federal laws stipulate otherwise.

The Bank of Russia shall cover its expenses with its own revenues.

Article 3. The purposes of the Bank of Russia shall be as follows:

- 1) to protect the ruble and ensure its stability;
 - 2) to develop and strengthen the banking system of the Russian Federation;
 - 3) to ensure the effective and uninterrupted functioning of the payment system.
- Deriving profit shall not be the purpose of the Bank of Russia.

Article 4. The Bank of Russia shall fulfil the following functions:

- 1) it shall elaborate and pursue in collaboration with the Government of the Russian Federation a single state monetary policy;
- 2) it shall be the sole issuer of cash money and organiser of cash turnover;
- 2.1) it shall approve the graphic representation of the ruble as a sign;
(point 2.1 was introduced by Federal Law No. 85-FZ, dated June 12, 2006)
- 3) it shall be the last-resort creditor for credit institutions and it shall organise the system to refinance them;
- 4) it shall set the rules to effect settlements in the Russian Federation;
- 5) it shall set the rules to conduct banking operations;
- 6) it shall manage the budget accounts of all levels of the budget system of the Russian Federation, unless federal laws stipulate otherwise, by effecting settlements on behalf of the authorised bodies of executive power and state extra-budgetary funds entrusted with the task of organising the execution of and executing the budgets;

第 2 條

本行之法定資本及其他財產為聯邦所有。本行行使擁有、使用及管理包括本行黃金及通貨（國際）準備等財產之權力，應基於履行其經營目標及依本法所定程序為之。本行財產除聯邦法律另有規定外，未經本行同意，不得沒收或設定負擔。

除雙方已承擔債務或聯邦法律另有規定外，政府不承擔本行之債務，本行亦不承擔政府之債務。

本行應以自有收入負擔支出。

第 3 條

本行之經營目標如下：

- (1)保護盧布及確保其幣值穩定。
- (2)發展及強化聯邦金融體系。
- (3)確保支付系統運作之有效率及不中斷。

本行不以營利為目的。

第 4 條

本行應履行下列職責：

- (1)本行應與聯邦政府合作，力行單一國家貨幣政策。
- (2)本行為通貨之專屬發行人及通貨發行量之監控者。
- (2.1)本行應核定足以作為表徵之盧布圖樣。（本款係 2006 年 6 月 12 日聯邦法第 85-FZ 號增定）
- (3)本行為信用機構之最後融通者，並應建構提供信用機構再融通之體系。
- (4)本行應制定聯邦清算規則。
- (5)本行應制定銀行業務管理規則。
- (6)除聯邦法律另有規定外，本行應以代表行政機關及應受監控與執行預算之國家預算外基金進行清算之方式，而管理聯邦各級預算體系之預算帳戶。

- 7) it shall efficiently manage the international reserves of the Bank of Russia;
- 8) it shall adopt decisions on the state registration of credit institutions, issue licences to credit institutions to conduct banking operations and suspend and revoke them;
- 9) it shall exercise supervision over the activities of credit institutions and banking groups (hereinafter referred to as banking supervision);
- 10) it shall register the issue of securities by credit institutions in compliance with federal laws;
- 11) it shall conduct on its own behalf or on behalf of the Government of the Russian Federation all kinds of banking operations and other transactions necessary for the fulfilment by the Bank of Russia of its functions;
- 12) it shall organise and exercise foreign exchange regulation and foreign exchange control in compliance with the legislation of the Russian Federation;
- 13) it shall establish the procedure for effecting settlements with international organisations, foreign states and also with legal entities and private individuals;
- 14) it shall set the accounting and reporting rules for the banking system of the Russian Federation;
- 15) it shall set and publish the official rates of foreign currencies against the ruble;
- 16) it shall participate in making a forecast of the Russian Federation balance of payments and organise the compilation of the Russian Federation balance of payments;
- 17) it shall establish the procedure and terms for currency exchanges to organise operations to buy and sell foreign exchange and issue, suspend and revoke permits for currency exchanges to organise operations to buy and sell foreign exchange;
- 18) it shall analyse and forecast the state of the Russian Federation economy as a whole and by region, especially monetary, currency and price aspects, and publish the corresponding materials and statistical data;
- 18.1) it shall effect Bank of Russia payments on household deposits with bankrupt banks not covered by the mandatory deposit insurance system in the cases stipulated and according to the procedure established by the federal law;
(*point 18.1 was introduced by Federal Law No. 97-FZ, dated July 29, 2004*)
- 19) it shall fulfil other functions in compliance with federal laws.

Article 5. The Bank of Russia shall be accountable to the State Duma of the Federal Assembly of the Russian Federation.
The State Duma shall:

- (7)本行應有效管理本行之國際準備。
- (8)本行應決定信用機構之登記、發照經營銀行業務、停業及廢止許可。
- (9)本行應監督管理信用機構及銀行集團之業務（以下簡稱銀行監理）。
- (10)本行應依聯邦法律辦理信用機構發行有價證券之登記。
- (11)本行應自行或代表聯邦政府辦理各項銀行業務，並執行本行職責所必需之其他交易。
- (12)本行應依聯邦法律執行外匯管理與管制。
- (13)本行應建立與國際組織、外國政府、其他法人與自然人間之清算程序。
- (14)本行應制定聯邦銀行體系之會計與財務報表規則。
- (15)本行應制定及公布盧布對外國貨幣之官方匯率。
- (16)本行應參與聯邦國際收支平衡表之預測，並編製該表。
- (17)本行應規定辦理買賣外匯之程序與條件，並核發、暫停及廢止其許可。
- (18)本行應分析及預測聯邦總體及區域經濟，特別是金融、通貨及物價方面，並公布相關之資料及統計數據。
- (18.1)本行應依聯邦法律所定情事並依其程序，向未納入法定存款保險之破產銀行支付家計存款。（本款係 2004 年 7 月 29 日聯邦法第 97-FZ 號增定）
- (19)本行應依聯邦法律履行其他職責。

第 5 條

本行應對聯邦下議院負責。

下議院應：

- 1) appoint and dismiss the Bank of Russia Chairman at the proposal of the Russian Federation President;
- 2) appoint and dismiss members of the Bank of Russia Board of Directors (hereinafter referred to as the Board of Directors) at the proposal of the Bank of Russia Chairman with the agreement of the Russian Federation President;
- 3) delegate and recall representatives of the State Duma in the National Banking Board within its quota;
- 4) consider guidelines for the single state monetary policy and adopt decisions on them;
- 5) consider annual reports of the Bank of Russia and adopt decisions on them;
- 6) take a decision on an inspection by the Audit Chamber of the Russian Federation of the financial and economic activities of the Bank of Russia and its units and divisions. Such a decision may only be taken on the basis of a proposal of the National Banking Board;
- 7) conduct parliamentary hearings on the activities of the Bank of Russia with the participation of its representatives;
- 8) hear reports by the Bank of Russia Chairman on the activities of the Bank of Russia (when annual reports and guidelines for the single state monetary policy are presented).

The Bank of Russia shall provide information to the State Duma and Russian Federation President in accordance with the procedure established by federal laws.

Article 6. The Bank of Russia shall be entitled to refer a claim to court in accordance with the procedure established by Russian Federation legislation. The Bank of Russia shall be entitled to appeal for the protection of its interests to international courts, courts of foreign states and arbitration courts.

Article 7. On issues within its competence under this Federal Law and other federal laws, the Bank of Russia shall issue normative acts in the form of directives, regulations and instructions binding for the federal bodies of state power, the bodies of state power of the constituent entities of the Russian Federation and local self-government bodies and all legal entities and private individuals.

The rules for drafting Bank of Russia normative acts shall be set by the Bank of Russia on its own.

Bank of Russia normative acts shall come into force 10 days after their official release in the official publication of the Bank of Russia, The Bank of Russia Bulletin, except for the cases stipulated by the Board of Directors. Bank of Russia normative acts shall not be retroactive.

- (1)依總統之提議，任免理事主席。
 - (2)依理事主席經總統同意之提議，任免本行理事會（以下簡稱理事會）成員。
 - (3)於限額內指派及召回下議院於國家銀行委員會內之代表。
 - (4)審查單一國家貨幣政策之指導方針，並通過相關決議。
 - (5)審查本行年度報告，並通過相關決議。
 - (6)就聯邦審計局對於本行、本行內部單位及分行之財務與經濟活動所實施之檢查作成決議。該決議僅於國家銀行委員會提出時，始得為之。
 - (7)舉辦與本行業務有關並指派代表參加之公聽會。
 - (8)聽取理事會主席關於本行業務之報告（於送交年度報告及單一國家貨幣政策之指導方針時提出）。
- 本行應依聯邦法律所定程序，向下議院及總統提供資訊。

第 6 條

本行有權依聯邦法律所定程序向法院提起訴訟。

本行為保護自身利益，有權向國際法院、外國法院及仲裁法庭提起上訴。

第 7 條

本行依本法及其他聯邦法律所定職掌範圍內，應以指令、規則及指示之形式發布規章，以拘束聯邦機關、聯邦憲政實體之機關、地方自治機關、所有法人及自然人。

本行規章，應由本行自行擬訂。

除理事會另有規定外，本行頒訂之規章應自登載於本行官方出版品《俄羅斯銀行公報》10 日後生效。本行規章不得為溯及既往之規定。

Bank of Russia normative acts shall be registered according to the procedure established for the state registration of the regulatory legal acts of the federal bodies of executive power.

(in the wording of Federal Law No. 58-FZ, dated June 29, 2004)

State registration shall not be required for Bank of Russia normative acts establishing:

- 1) the exchange rates of foreign currencies against the ruble;
- 2) changes in interest rates;
- 3) reserve requirements;
- 4) compulsory standards for credit institutions and banking groups;
- 5) direct quantitative restrictions;
- 6) accounting and reporting rules for the Bank of Russia;
- 7) the procedure for ensuring the functioning of the Bank of Russia system.

According to the procedure established for the federal bodies of executive power, other Bank of Russia normative acts may not be subject to the registration.

(part 6 in the wording of Federal Law No. 58-FZ, dated June 29, 2004)

Full texts of Bank of Russia normative acts shall be sent to all registered credit institutions whenever necessary.

Bank of Russia normative acts may be appealed against in court in accordance with the procedure established for disputing the normative legal acts of the federal bodies of state power.

Draft federal laws and draft normative legal acts of the federal bodies of executive power relating to the fulfilment by the Bank of Russia of its functions shall be sent to the Bank of Russia for its appraisal.

Article 8. The Bank of Russia shall not be entitled to participate in the capital of credit institutions unless federal laws stipulate otherwise.

Paragraph 1 of this Article shall not apply to Bank of Russia participation in the capital of the Savings Bank of the Russian Federation (hereinafter referred to as Sberbank).

A decrease or alienation of the Bank of Russia stake in the authorised capital of Sberbank, which does not lead to a reduction of this stake to less than 50 per cent plus one voting share, shall be agreed by the Bank of Russia with the Government of the Russian Federation.

本行規章應依聯邦行政機關法就國家登記所定程序辦理登記。（依 2004 年 6 月 29 日聯邦法第 58-FZ 號規定之用詞）

本行下列規章無須辦理國家登記：

- (1) 盧布對外國貨幣之匯率。
- (2) 利率調整。
- (3) 法定準備。
- (4) 信用機構與銀行集團之強制性標準。
- (5) 直接數量限制。
- (6) 本行之會計報表規則。
- (7) 確保本行系統運作之程序。

依聯邦行政機關所定程序，其他本行規章得不辦理登記。

（本項依 2004 年 6 月 29 日之聯邦法第 58-FZ 號規定之用詞）

必要時，本行規章應分送所有已登記之信用機構。

依聯邦行政機關法所定異議程序，對本行規章亦得於法院提出異議。

聯邦行政機關於草擬聯邦法律草案及規章草案，涉及本行職權之行使時，應洽會本行意見。

第 8 條

除聯邦法律另有規定外，本行不得投資信用機構。

前項規定不適用於本行對俄羅斯聯邦儲蓄銀行（以下簡稱儲蓄銀行）之投資。

本行降低或轉讓對儲蓄銀行之法定持股，應經聯邦政府之同意，但其持股不得低於 50% 加一表決權股。

A decrease or alienation of the Bank of Russia stake in the authorised capital of Sberbank, which leads to a reduction of this stake to less than 50 per cent plus one voting share, shall be effected pursuant to the federal law.

The Bank of Russia shall not be entitled to participate in the capital or be a member of other commercial or non-commercial organisations if they do not provide support to the activities of the Bank of Russia and its institutions, organisations and employees, except for the cases established by federal laws.

Paragraph 1 and Paragraph 5 of this Article shall not apply to Bank of Russia operations on the open market conducted pursuant to Article 39 of this Federal Law.

(article 8 is in the wording of Federal Law No. 176-FZ, dated October 27, 2008)

Article 9. The Bank of Russia may participate in the capital and activities of international organisations that promote monetary and banking co-operation, including co-operation between central banks of foreign states.

Relations between the Bank of Russia and credit institutions of foreign states shall be established in compliance with international treaties of the Russian Federation, federal laws and interbank agreements.

Chapter II. Bank of Russia Capital

Article 10. The Bank of Russia shall have an authorised capital of 3 billion rubles.

Article 11. Profit of the Bank of Russia shall be the difference between the amount of income derived from banking operations and transactions stipulated by Article 46 of this Federal Law and income from the participation in the capital of credit institutions and the expenses relating to the fulfilment by the Bank of Russia of its functions stipulated in Article 4 of this Federal Law.

Chapter III. The National Banking Board and Governing Bodies of the Bank of Russia

Article 12. The National Banking Board shall be a collegiate body of the Bank of Russia.

本行降低或轉讓對儲蓄銀行之法定持股，致低於 50% 加一表決權股時，應有聯邦法律之規定為依據。

除聯邦法律另有規定外，對本行及其機構、組織與職員之活動未提供支持之其他商業或非商業機構，本行不得對其投資或成為其成員。

第 1 項及第 5 項規定不適用於本行依第 39 條從事之公開市場操作。（本條依 2008 年 10 月 27 日聯邦法第 176-FZ 號規定之用詞）

第 9 條

本行得投資及參與促進貨幣與金融合作之國際組織之活動，並包括與外國中央銀行間之合作。

本行與外國信用機構間之關係，應符合聯邦國際條約、聯邦法律及銀行間協議。

第 2 章 本行資本

第 10 條

本行法定資本為 30 億盧布。

第 11 條

本行之利潤為依第 46 條規定之營運與交易之收入及投資信用機構之收入，減去執行第 4 條所定職權支出之差額。

第 3 章 國家銀行委員會與本行之決策組織

第 12 條

國家銀行委員會為本行之合議制組織。

The National Banking Board shall be comprised of 12 members, of whom two shall be delegated by the Federation Council of the Federal Assembly of the Russian Federation from Federation Council members, three by the State Duma from State Duma deputies, three by the Russian Federation President and three by the Russian Federation Government. The National Banking Board shall also include the Bank of Russia Chairman.

Members of the National Banking Board shall be recalled by the body of state power that has delegated them to the National Banking Board.

Members of the National Banking Board, except the Bank of Russia Chairman, shall not work in the Bank of Russia on a full-time basis and shall not receive any remuneration for these activities.

The Chairman of the National Banking Board shall be elected by a majority of votes of the total number of Board members.

The Chairman of the National Banking Board shall exercise general guidance of its activities and chair its sessions. In the absence of the Chairman of the National Banking Board, his functions shall be fulfilled by his deputy, elected from among the members of the National Banking Board by a majority of votes of the total number of Board members.

The National Banking Board shall adopt decisions by a majority of votes of the Board members present with a quorum of seven.

When the National Banking Board adopts decisions, the opinion of Board members in a minority shall be written down at their request in the minutes of the Board meeting.

Should the votes be equally divided, the Chairman of the National Banking Board meeting shall have the deciding vote.

The National Banking Board shall meet at least once every three months.

The meetings of the National Banking Board shall be called by the Chairman of the National Banking Board or in his absence by his deputy and also at the request of the Bank of Russia Chairman or at least three members of the National Banking Board.

The members of the National Banking Board shall be notified about a meeting of the National Banking Board in advance.

Article 13. The competence of the National Banking Board shall include the following:

- 1) considering Bank of Russia annual reports;
- 2) approving on the basis of the Board of Directors' proposals for the next year no later than December 15 of the preceding year:

國家銀行委員會由 12 人組成，其中 2 人由聯邦上議院指派其成員擔任，3 人自下議院議員選任，3 人由總統指派，3 人由聯邦政府指派，另一名成員則為理事主席。

國家銀行委員會成員由其任命之機關解任。

除理事主席外，國家銀行委員會成員，不得於本行專任，且不得領取薪給。

國家銀行委員會主席由委員會全體成員過半數同意選出。

國家銀行委員會主席綜理其活動，並於會期中擔任主席。主席缺席時，由委員會成員全體過半數同意選出之副主席代行其職權。

國家銀行委員會會議之決議由出席委員過半數之同意行之，法定出席人數 7 人。

於國家銀行委員會通過決議時，少數意見應依發言委員之要求，列入會議紀錄。

於表決可否同數時，由會議主席決定之。

國家銀行委員會應至少每 3 個月召開一次會議。

國家銀行委員會會議由主席召集；主席缺席時，由副主席召集；亦得依理事主席或至少 3 名國家銀行委員會成員之要求而召集。

國家銀行委員會會議召開事宜，應於事前通知委員會成員。

第 13 條

國家銀行委員會權限如下：

- (1) 審查本行年度報告。
- (2) 於當年 12 月 15 日前，核定理事會所提次年度預算案：

- ① the total amount of expenses for the maintenance of Bank of Russia employees;
- ② the total amount of expenses for the provision of pensions, life insurance and medical insurance for Bank of Russia employees;
- ③ the total amount of capital investments;
- ④ the total amount of other administrative and business expenses;
- 3) approving, if necessary, on the basis of the Board of Directors' proposals additional expenses for the maintenance of Bank of Russia employees, additional expenses for the provision of pensions, life insurance and medical insurance for Bank of Russia employees and additional capital investments and also approving other additional administrative and business expenses;
- 4) considering issues pertaining to the upgrading of the banking system of the Russian Federation;
- 5) considering draft guidelines for the single state monetary policy and guidelines for the single state monetary policy;
- 6) deciding issues pertaining to Bank of Russia participation in the capital of credit institutions;
- 7) appointing the chief auditor of the Bank of Russia and considering his reports;
- 8) considering on a quarterly basis the Board of Directors' information on the main issues relating to the activities of the Bank of Russia:
 - ① implementing the guidelines for the single state monetary policy;
 - ② banking regulation and banking supervision;
 - ③ implementing the policy of foreign exchange regulation and foreign exchange control;
 - ④ organising the settlement system in the Russian Federation;
 - ⑤ executing the Bank of Russia expense budget;
 - ⑥ drafting laws and other normative acts relating to banking;
- 9) appointing an audit firm to audit Bank of Russia annual financial statements;
- 10) approving at the proposal of the Board of Directors accounting and reporting rules for the Bank of Russia;
- 11) submitting proposals to the State Duma on conducting an inspection by the Audit Chamber of the Russian Federation of the financial and economic activities of the Bank of Russia and its units and divisions;
- 12) approving at the proposal of the Board of Directors the procedure for making Bank of Russia provisions and the procedure for allocating Bank of Russia profit left at the disposal of the Bank of Russia;
- 13) approving at the proposal of the Board of Directors the report on Bank of Russia expenses for the maintenance of Bank of Russia employees, the provision of pensions, life insurance and medical insurance for Bank of Russia employees, capital investments and other administrative and business needs.

- ①本行職員薪資費用總額。
 - ②本行職員退休金、人壽保險與醫療保險費用總額。
 - ③資本投資總額。
 - ④其他行政與營業費用總額。
- (3)於必要時，核定理事會提出之本行職員薪資、退休金、人壽保險與醫療保險費之額外費用、追加之資本投資及其他額外之行政與營業費用。
- (4)審查提升聯邦金融體系品質之議題。
- (5)審查單一國家貨幣政策之指導方針。
- (6)決定有關本行投資信用機構之事項。
- (7)任命本行之審計長並審查其報告。
- (8)每季審查理事會關於本行營運主要議題之資訊：
- ①執行單一國家貨幣政策之指導方針。
 - ②銀行之管理與監督。
 - ③執行外匯管理與管制政策。
 - ④監控聯邦清算系統。
 - ⑤執行本行預算。
 - ⑥草擬關於銀行業之法律與其他規章。
- (9)指定會計公司查核本行年度財務報表。
- (10)核定理事會所提本行之會計與報表規則。
- (11)向下議院提案，由聯邦審計局檢查本行及內部單位、分行之財務與經濟活動。
- (12)核定理事會所提本行訂定規章之程序，以及分配留由本行支配利潤之程序。
- (13)核定理事會所提有關本行支付職員薪資、提供職員退休金、人壽保險與醫療保險費用、資本投資及其他管理與營業所需費用之報告。

Article 14. The Bank of Russia Chairman shall be appointed by the State Duma for a term of four years by a majority of votes of the total number of State Duma deputies.

A candidate for the post of Bank of Russia Chairman shall be proposed by the Russian Federation President no later than three months before the term of the incumbent Bank of Russia Chairman expires.

Should the Bank of Russia Chairman be dismissed before his term expires, the Russian Federation President shall propose a candidate for the post within two weeks of the day of the dismissal.

Should a candidate proposed for the appointment as Bank of Russia Chairman be turned down, the Russian Federation President shall propose a new candidate within two weeks. One candidate may not be proposed more than twice.

No person may hold the post of the Bank of Russia Chairman for more than three consecutive terms.

The State Duma shall be entitled to dismiss the Bank of Russia Chairman upon the proposal of the Russian Federation President.

The Bank of Russia Chairman may only be dismissed in the following cases:

- 1) when his term expires;
- 2) if he is unable to fulfil his duties for health reasons confirmed by a government medical commission;
- 3) if he submits a letter of resignation;
- 4) if he has committed an indictable crime established by a court ruling that has come into force;
- 5) if he has violated any federal law regulating the activities of the Bank of Russia.

Article 15. The Board of Directors shall be comprised of the Bank of Russia Chairman and 12 Board members.

Members of the Board of Directors shall work in the Bank of Russia on a full-time basis.

Members of the Board of Directors shall be appointed by the State Duma for a term of four years at the proposal of the Bank of Russia Chairman, with the agreement of the Russian Federation President.

Members of the Board of Directors shall be dismissed:

- 1) by the Bank of Russia Chairman upon the expiry of the term indicated in this Article;
- 2) by the State Duma at the proposal of the Bank of Russia Chairman before the expiry of the term indicated in this Article.

第 14 條

理事主席由下議院議員過半數之同意任命之。任期 4 年。

理事主席候選人由總統於現任主席任期屆滿前 3 個月提名。

理事主席於任期屆滿前遭解任時，總統應自其解任之日起兩週內提名候選人。

總統提名之理事主席候選人遭否決時，應於兩週內提名新候選人。同一候選人不得提名超過 2 次。

理事主席不得連任超過 3 任。

下議院有權依總統提議解任理事主席。

理事主席僅得於下列情形被解任：

- (1)任期屆滿。
- (2)因健康因素，經政府醫療委員會確認其不能履行職責。
- (3)提出辭呈。
- (4)因犯罪被起訴，並經法院判決有罪確定。
- (5)違反規範本行運作之聯邦法律。

第 15 條

理事會由理事主席與 12 名理事組成。

理事會成員為專任。

理事會成員由理事主席提名，經總統同意，由下議院任命，任期 4 年。

理事會成員得於下列情形被解任：

- (1)任期屆滿時，由理事主席解任之。
- (2)任期屆滿前，依理事主席提議，由下議院解任之。

Article 16. Meetings of the Board of Directors shall be chaired by the Bank of Russia Chairman and in his absence by a Board member deputising for him. The Board of Directors shall adopt decisions by a majority of votes of the Board members present at the meeting with a quorum of seven and the Bank of Russia Chairman or a person deputising for him must be present at the meeting. The minutes of a Board meeting shall be signed by the person who chaired the meeting and one of the Board members. When the Board of Directors adopts decisions relating to monetary policy, the opinion of those Board members in a minority shall be written down in the minutes of the Board meeting at their request.

Heads of Bank of Russia regional branches may be invited to participate in Board meetings.

Article 17. The Board of Directors shall meet at least once a month. Board meetings shall be called by the Bank of Russia Chairman or a person deputising for him or at the request of at least three Board members. Board members shall be notified about a Board meeting in advance.

Article 18. The Board of Directors shall fulfil the following functions:

- 1) it shall elaborate in collaboration with the Russian Federation Government draft guidelines for the single state monetary policy and guidelines for the single state monetary policy and submit these documents for consideration to the National Banking Board, the Russian Federation President, the Russian Federation Government and the State Duma pursuant to Article 45 of this Federal Law and ensure their implementation;
- 2) it shall approve the Bank of Russia annual financial statements, consider the auditor's report on Bank of Russia annual financial statements and the report of the Audit Chamber of the Russian Federation on the results of an audit of Bank of Russia accounts and operations covered by the Russian Federation State Secrets Law and submit these documents as part of the Bank of Russia Annual Report to the National Banking Board and the State Duma;
- 3) it shall approve the report on Bank of Russia activities, conduct an analysis of the state of the Russian economy pursuant to Article 25 of this Federal Law and submit these documents as part of the Bank of Russia Annual Report to the National Banking Board and the State Duma;
- 4) it shall consider and submit to the National Banking Board for approval for the next year with calculations and rationales no later than December 1 of the preceding year:

第 16 條

理事會會議主席由理事主席擔任；其缺席時，由代理理事擔任之。

理事會決議，應由出席理事過半數同意議決之；法定出席人數 7 人，並應有理事主席或其代理理事出席。理事會議紀錄，應由會議主席及另一名出席理事簽署；於理事會通過有關貨幣政策之決議時，少數意見應依發言理事之要求，列入紀錄。

本行地區分行之負責人得應邀列席理事會會議。

第 17 條

理事會應至少每月召開一次會議。

理事會會議由理事主席或其代理理事召開；亦可由 3 名以上理事之要求召開。

理事會會議召開事宜，應於事前通知理事會成員。

第 18 條

理事會職權如下：

- (1) 與聯邦政府共同研訂單一國家貨幣政策之指導方針草案，及依第 45 條規定，提交國家銀行委員會、總統、聯邦政府及下議院審查，並確保其履行。
- (2) 核定本行年度財務報表，審查本行年度財務報表之稽核報告及聯邦審計局依《俄羅斯聯邦秘密法》規定，對本行帳戶與營運之稽查報告，並向國家銀行委員會與下議院提交上述文件，作為本行年度報告之一部分。
- (3) 核定本行各項措施之報告，及依第 25 條規定，對俄羅斯經濟情勢進行分析，並向國家銀行委員會與下議院提交上述文件，作為本行年度報告之一部分。
- (4) 於前一年度 12 月 1 日前，經估算及合理審查次年度之下列項目後，提交國家銀行委員會審核：

- ① the total amount of expenses for the maintenance of Bank of Russia employees;
 - ② the total amount of expenses for the provision of pensions, life insurance and medical insurance for Bank of Russia employees;
 - ③ the total amount of capital investments;
 - ④ the total amount of other administrative and business expenses of the Bank of Russia;
- 5) if necessary, it shall consider and submit to the National Banking Board for approval for the next year with calculations and rationales proposals on additional expenses for purposes indicated in paragraph 4 of this Article;
 - 6) it shall approve the Bank of Russia expense budget, taking into account the total amounts of Bank of Russia expenses indicated in paragraph 4 of this Article, no later than December 31 of the preceding year;
 - 7) if necessary, it shall approve an estimate of additional expenses of the Bank of Russia after the approval by the National Banking Board of the additional Bank of Russia expenses indicated in paragraph 3 of Article 13 of this Federal Law;
 - 8) it shall establish the form and amount of compensation to be paid to the Bank of Russia Chairman, members of the Board of Directors, Bank of Russia Deputy Chairmen and other Bank of Russia employees;
 - 9) it shall adopt decisions:
 - ① on the creation, reorganisation and liquidation of Bank of Russia organisations;
 - ② on compulsory standards for credit institutions and banking groups;
 - ③ on the amount of reserve requirements;
 - ④ on changes in Bank of Russia interest rates;
 - ⑤ on setting limits on operations on the open market;
 - ⑥ on participation in international organisations;
 - ⑦ on the participation (membership) of the Bank of Russia in the capital of the organisations (in the organisations) providing support for the activities of the Bank of Russia and its units, divisions and employees;
 - ⑧ on the purchase and sale of real estate necessary for the functioning of the Bank of Russia and its organisations (it shall give permission for the price and other terms and conditions of a transaction);
 - ⑨ on the use of direct quantitative restrictions;
 - ⑩ on the issue of new Bank of Russia banknotes and coins and on the withdrawal from circulation of old Bank of Russia banknotes and coins;

- ①本行職員薪資費用總額。
 - ②本行職員退休金、人壽保險與醫療保險費用總額。
 - ③資本投資總額。
 - ④本行其他行政與營業費用總額。
- (5)於必要時，估算及合理審查前款之次年度額外支出，並提報國家銀行委員會審核。
- (6)審酌第4款所定本行支出總額，並於前一年12月31日前核定本行下年度預算。
- (7)必要時，於國家銀行委員會依第13條第3款核定本行額外費用後，核定本行額外費用之預估金額。
- (8)確立理事主席、理事會成員、副理事主席及其他職員之薪資種類與數額。
- (9)就下列事項作成決議：
- ①本行組織之設立、重整與清算。
 - ②信用機構與銀行集團之強制標準。
 - ③法定準備之數額。
 - ④本行利率之變動。
 - ⑤公開市場操作之限額。
 - ⑥參加國際組織。
 - ⑦對本行及內部單位、分行與職員活動給予支持組織之投資（成為該組織之成員）。
 - ⑧本行及組織營運所需不動產之買賣（交易價格及其他期限與條件之許可）。
 - ⑨直接數量限制措施之使用。
 - ⑩本行新版鈔券與硬幣之發行，以及流通中舊版鈔券與硬幣之收回。

- ⑪ on the procedure for creating reserves by credit institutions;
- ⑫ on the effectuation of Bank of Russia payments on household deposits with bankrupt banks not covered by the mandatory deposit insurance system in the cases stipulated and according to the procedure established by the federal law;
(this paragraph was introduced by Federal Law No. 97-FZ, dated July 29, 2004)
- ⑬ on the placement of Bank of Russia bonds;
(this paragraph was introduced by Federal Law No.61-FZ, dated June 18, 2005)
- ⑭ on the content and the procedure for and time of disclosing information about transactions conducted by the Bank of Russia in trades organised by the stock exchanges and (or) other organisers of trade on the securities market;
(this paragraph is introduced by Federal Law No.176-FZ, dated October 27, 2008)
- 10) it shall submit to the State Duma proposals for changing the size of the authorised capital of the Bank of Russia;
- 11) it shall approve the Board of Directors' rules of procedure;
- 12) it shall present to the National Banking Board a candidate for the post of chief auditor of the Bank of Russia;
- 13) it shall approve the Bank of Russia structure, the provisions on Bank of Russia units and divisions, the charters of Bank of Russia organisations and the procedure for appointing heads of Bank of Russia units and divisions;
- 14) it shall establish in compliance with federal laws the conditions of access for foreign capital to the Russian banking system;
- 15) it shall approve a list of Bank of Russia posts;
- 16) it shall set the banking operation rules for the Russian banking system and accounting and reporting rules for the Russian banking system, excluding the Bank of Russia;
- 17) it shall draft and submit to the National Banking Board for approval:
 - ① proposals on accounting and reporting rules for the Bank of Russia;
 - ② proposals on the procedure for making Bank of Russia provisions and allocating Bank of Russia profits left at the disposal of the Bank of Russia;
 - ③ a report on Bank of Russia expenses for the maintenance of Bank of Russia employees and for the provision of pensions, life insurance and medical insurance for Bank of Russia employees, capital investments and other administrative and business expenses;
- 17.1) it shall approve the decision to issue (launch an additional issue of) Bank of Russia bonds;
(point 17.1 was introduced by Federal Law No. 61-FZ, dated June 18, 2005)

- ⑪信用機構創造準備之程序。
- ⑫依聯邦法律所定情事並依其程序，向未納入法定存款保險體系之破產銀行支付家計存款。（本目係2004年7月29日聯邦法第97-FZ號增定）
- ⑬本行債券之配置。（本目係2005年6月18日聯邦法第61-FZ號增定）
- ⑭本行於證券交易所及（或）其他證券市場進行交易相關資訊揭露之內容、程序與時點。（本目係2008年10月27日聯邦法第176-FZ號增定）
- (10)向下議院送交變更本行授權資本額之提案。
- (11)核定理事會議事規則。
- (12)向國家銀行委員會提名本行審計長候選人。
- (13)核定本行組織、內部單位與分行之規章、本行組織章程，以及本行內部單位、分行主管之任命程序。
- (14)依聯邦法律訂定外國資本進入本國銀行體系之條件。
- (15)核定本行職位表。
- (16)為本國銀行體系訂定銀行業務規則及會計暨財務報表規則，但本行不適用之。
- (17)草擬下列事項提報國家銀行委員會核定：
 - ①本行會計與財務報表規則草案。
 - ②關於本行規章訂定程序及分配本行利潤之提案。
 - ③關於本行職員薪資、提供職員退休金、人壽保險與醫療保險費用、資本投資及其他行政與營業所需費用之報告。
- (17.1)核定發行（開始額外發行）本行債券之決議。（本款係2005年6月18日聯邦法第61-FZ號增定）

18) it shall fulfil other functions assigned by this Federal Law to the competence of the Board of Directors.

The decisions of the Board of Directors concerning changes in interest rates, the level of reserve requirements and compulsory standards for credit institutions and banking groups, direct quantitative restrictions, the participation (membership) of the Bank of Russia in the capital of the organisations (in the organisations) providing support for the activities of the Bank of Russia and its divisions and employees, the issue of new Bank of Russia banknotes and coins and the withdrawal from circulation of old Bank of Russia banknotes and coins and the procedure for creating reserves by credit institutions shall be officially published in the Bank of Russia official publication, *The Bank of Russia Bulletin*, within 10 days of such decisions being adopted.

Article 19. Members of the Board of Directors cannot be deputies to the State Duma, members of the Federation Council, deputies to the legislative (representative) bodies of the constituent entities of the Russian Federation, deputies to the bodies of local self-government, civil servants or members of the Russian Federation Government.

A member of the Board of Directors shall relinquish his powers as a deputy, resign as a member of the Russian Federation Government or retire from government service within one month after his appointment as a member of the Board of Directors and thereafter the newly-appointed Board member shall take up his duties.

A member of the Board of Directors cannot be a member of any political party or hold any position in a public, political or religious organisation.

A member of the Board of Directors shall not be subject to the restrictions imposed by Article 90 of this Federal Law.

Article 20. The Bank of Russia Chairman:

- 1) shall act on behalf of the Bank of Russia and represent its interests without a power of attorney in relations with the bodies of state power, credit institutions, organisations of foreign states, international organisations and other institutions and organisations;
- 2) shall chair the meetings of the Board of Directors. Should the votes be divided equally, the Bank of Russia Chairman shall have the deciding vote;
- 3) shall sign Bank of Russia normative acts, decisions of the Board of Directors, minutes of the Board of Directors' meetings and agreements concluded by the Bank of Russia and shall be entitled to delegate the right to sign the Bank of Russia normative acts to a Board member deputising for him;

(18)執行本法賦予理事會之其他職責。

理事會關於調整利率、各項法定準備之水準及信用機構與銀行集團之強制規定、直接數量限制、參與提供本行、內部單位及職員活動之組織之資本（成為該組織之成員）、新版鈔券與硬幣之發行、流通中舊版鈔券與硬幣之收回，以及信用機構創造準備之程序等事項之決議，應於各該決議通過後 10 日內正式公布於本行官方刊物《俄羅斯銀行公報》。

第 19 條

理事會成員不得為下議院議員、上議院成員、聯邦憲政實體之立法（代表）機關代表、地方自治政府組織代表、公務員與聯邦政府官員。

理事會成員應於被任命之日起一個月內，依其原有身分停止代表職權、辭去政府機關職務或自公職退休後，依新任命理事會成員之身分，開始履行其職責。

理事會成員不得擔任政黨職務，或於公共、政治或宗教組織任職。

第 90 條規定之限制，不適用於理事會成員。

第 20 條

理事主席有下列權限：

- (1)代表本行，並在與國家機關、信用機構、外國組織、國際組織及其他機構與組織之關係上，僅得代表本行利益，不得兼為該機構或組織之代理權限。
- (2)擔任理事會會議主席。於表決可否同數時，理事主席有決定權。
- (3)簽署本行之規章、理事會決議、理事會會議紀錄與本行締結之協定，並有權授權代理理事簽署本行規章。

- 4) shall appoint and dismiss his deputies and allocate duties between them;
- 5) shall be entitled to delegate his powers to his deputies;
- 6) shall sign orders and give instructions binding for all Bank of Russia employees and organisations;
- 7) shall bear full responsibility for the activities of the Bank of Russia;
- 8) shall see to it that the Bank of Russia fulfils its functions in compliance with this Federal Law and take decisions on all issues assigned by federal laws to the competence of the Bank of Russia, except those on which decisions are taken under this Federal Law by the National Banking Board or the Board of Directors.
- 9) shall not be entitled to be a member of governing bodies, boards of trustees or supervisory boards, or other bodies of foreign non-governmental not-for-profit organisations and their structural divisions operating in the Russian Federation, except for the cases stipulated by international treaties of the Russian Federation, federal laws, or interbank agreements, or the cases when the Bank of Russia participates in the capital and activities of organisations in compliance with Articles 8 and 9 of this Federal Law;
(point 9 was introduced by Federal Law No. 24-FZ, dated March 2, 2007)
- 10) shall not be entitled to combine his main job with other paid activities, except for teaching, research or other creative work. Furthermore, teaching, research or other creative work shall not be financed exclusively by foreign states, international and foreign organisations, foreign citizens and stateless persons, unless otherwise stipulated by international treaties of the Russian Federation, federal laws, or interbank agreements.
(point 10 was introduced by Federal Law No. 24-FZ, dated March 2, 2007)

Chapter IV. Relations between the Bank of Russia and Bodies of State Power and Local Self-government

Article 21. To fulfil the functions assigned to it, the Bank of Russia shall participate in elaborating the economic policy of the Russian Federation Government. The Bank of Russia Chairman or one of his deputies at his instruction shall take part in meetings of the Russian Federation Government and may also participate in State Duma sessions discussing draft laws on issues relating to the economic, financial, credit and banking policies.

- (4)任免理事主席之代理理事，並分配其職務。
- (5)將其職權授予代理理事。
- (6)頒訂本行職員與組織應遵循之命令與指示。
- (7)對本行之營運負全部責任。
- (8)確保本行依本法履行職責，並就聯邦法律賦予本行之各項職權作成決定。但依本法由國家銀行委員會或理事會議決之事項除外。
- (9)除聯邦國際條約、聯邦法律或銀行間協議所規定情形，或本行依第 8 條、第 9 條所參與之組織活動及投資之外，不得為政府機關、受託機構或監督機構之委員會，或其他於聯邦內運作之外國非營利、非政府組織團體之成員。（本款係 2007 年 3 月 2 日聯邦法第 24-FZ 號增定）
- (10)除教學、研究或其他創造性工作外，不得將其主要工作與其他有償職務相結合。此外，除聯邦之國際條約、聯邦法律或銀行間協議另有規定外，教學、研究或創造性工作不得專由外國政府、國際或外國組織、外國公民與無國籍人士資助。（本款係 2007 年 3 月 2 日聯邦法第 24-FZ 號增定）

第 4 章 本行與其他機關及地方自治政府間之關係

第 21 條

為履行其職責，本行應參與釐訂聯邦政府之經濟政策。理事主席或其指定之代理理事應參加聯邦政府會議，並得參加下議院審議有關經濟、財政、信用與銀行政策法案之會議。

The Minister of Finance of the Russian Federation and the Minister of Economic Development of the Russian Federation or at their instruction one representative of the Ministry of Finance of the Russian Federation and one representative of the Ministry of Economic Development of the Russian Federation shall participate in the Board of Directors' meetings with the right of a consultative vote.

(this paragraph is in the wording of Federal Law No. 176-FZ, dated October 27, 2008)

The Bank of Russia and the Russian Federation Government shall inform each other about their plans of action of national importance, co-ordinate their policy and hold regular consultations.

The Bank of Russia shall advise the Ministry of Finance of the Russian Federation on the schedule for issuing government securities of the Russian Federation and the payment of government debt of the Russian Federation, taking into consideration their effect on the Russian banking system and priorities of the single state monetary policy.

Article 22. The Bank of Russia shall not be entitled to extend loans to the Russian Federation Government to finance the federal budget deficit and buy securities at their primary placement, except for those cases stipulated by the federal budget law.

The Bank of Russia shall not be entitled to extend loans to finance deficits in the budgets of the government extra-budgetary funds, budgets of the constituent entities of the Russian Federation and local budgets.

Article 23. Federal budget funds and assets of the government extra-budgetary funds shall be kept in the Bank of Russia unless federal laws stipulate otherwise.

The Bank of Russia shall not charge any commission for conducting operations with federal budget funds, assets of the government extra-budgetary funds, budget funds of the constituent entities of the Russian Federation and local budget funds and also operations to service government debt of the Russian Federation and operations with international reserves.

The powers of the Bank of Russia to service government debt of the Russian Federation shall be established by federal laws.

The Bank of Russia and the Ministry of Finance of the Russian Federation shall conclude agreements, if necessary, on the conduct of the aforementioned operations at the instruction of the Russian Federation Government.

財政部長與經濟發展部長，或由其各別指定之代理人應參加理事會會議，並有諮詢性投票權。（本項依 2008 年 10 月 27 日聯邦法第 176-FZ 號規定之用詞）

本行與聯邦政府就具有全國重要性之施政計畫，應相互通報，協調政策，並定期會商。

本行得提供財政部關於發行政府債券及清償債務之時程建議，並考量其對聯邦銀行體系之影響及單一國家貨幣政策之優先性。

第 22 條

除聯邦預算法有特別規定外，本行不得對聯邦預算赤字提供聯邦政府融通，或於發行市場購買政府證券。

本行不得對政府預算外資金、聯邦憲政實體預算及地方預算之財務短絀提供貸款。

第 23 條

除聯邦法律另有規定外，聯邦預算資金及政府預算外資金之資產應存於本行。

本行對執行聯邦預算資金、政府預算外資金、聯邦憲政實體預算資金與地方預算資金業務，以及對聯邦政府債務提供服務與國際準備業務，不得收取手續費。

本行對聯邦政府債務提供服務之職權，應以聯邦法律定之。本行於必要時，應依聯邦政府之指示就前 3 項業務，與財政部簽署協議。

Chapter V. Bank of Russia Reporting

Article 24. The reporting period (reporting year) of the Bank of Russia shall be from January 1 to December 31 inclusive.

Article 25. The Bank of Russia shall submit its Annual Report to the State Duma each year no later than May 15 of the year following the reporting year.

The Bank of Russia Annual Report shall comprise:

- 1) a report on Bank of Russia activities, including a list of the measures taken by the Bank of Russia to implement the single state monetary policy and an analysis of the implementation of the principal parameters of the single state monetary policy;
- 2) an analysis of the state of the Russian economy, including an analysis of currency circulation and credit, the Russian banking system and the foreign exchange position and balance of payments of the Russian Federation;
- 3) annual financial statements of the Bank of Russia;
- 4) the auditor's report on Bank of Russia annual financial statements;
- 5) a report by the Audit Chamber of the Russian Federation on the results of an audit of Bank of Russia accounts and operations covered by the Russian Federation State Secrets Law.

For the purposes of this Federal Law, Bank of Russia annual financial statements shall signify:

- 1) an annual balance sheet and profit and loss account, including a report on the profit made and its allocation;
- 2) a report on the creation and use of Bank of Russia reserves and funds;
- 3) a report on the management by the Bank of Russia of securities and stakes in the capital of organisations owned by the Bank of Russia;
- 4) a report on expenses for the maintenance of Bank of Russia employees;
- 5) a report on the execution of the capital budget;
- 6) a report on the volume of transactions conducted by the Bank of Russia in trades organised by the stock exchanges and (or) other organisers of trade on the securities market.

(this paragraph is introduced by Federal Law No. 176-FZ, dated October 27, 2008)

第 5 章 本行之報告

第 24 條

本行報告之年度期間自每年 1 月 1 日至 12 月 31 日。

第 25 條

本行應於每年 5 月 15 日前，向下議院提交前一年度之年度報告。

本行年度報告應包含：

- (1) 本行業務報告，包含本行為履行單一國家貨幣政策所採行措施之明細，以及履行單一國家貨幣政策主要參數之分析。
- (2) 國內經濟分析，包含通貨流通與信用、銀行體系、外匯交易部位與國際收支平衡表之分析。
- (3) 本行年度財務報表。
- (4) 本行年度報表之稽查報告。
- (5) 聯邦審計局依《聯邦國家秘密法》對本行帳戶與營運之查核結果報告。

為本法之目的，本行年度財務報表應表明：

- (1) 年度資產負債表及盈餘與虧損科目，包含盈餘原因及其分配之報告。
- (2) 創造及使用本行準備與資金之報告。
- (3) 本行對投資事業之有價證券及股份管理之報告。
- (4) 本行職員薪資支出之報告。
- (5) 資本預算執行之報告。
- (6) 本行於證券交易所及（或）其他證券市場所從事交易量之報告。（本款係 2008 年 10 月 27 日聯邦法第 176-FZ 號增定）

The State Duma shall submit the Bank of Russia Annual Report to the Russian Federation President and also to the Russian Federation Government for appraisal.

The State Duma shall consider the Bank of Russia Annual Report before July 1 of the year following the reporting year and adopt a decision on it.

The Bank of Russia Annual Report shall be published no later than July 15 of the year following the reporting year.

The Bank of Russia shall publish on a monthly basis its balance sheet, currency circulation data, including money supply dynamics and structure, and generalised data on Bank of Russia operations.

Article 26. After the approval of Bank of Russia annual financial statements by the Board of Directors, the Bank of Russia shall transfer to the federal budget 50 per cent of its full-year profit left after the payment of taxes and duties as is required by the Tax Code of the Russian Federation. The remaining profit of the Bank of Russia shall be transferred by the Board of Directors to reserves and various funds.

Taxes and duties shall be paid by the Bank of Russia and its organisations in line with the Tax Code of the Russian Federation.

Article 26.1. The Bank of Russia shall disclose information about the transactions it conducts in trades organised by the stock exchanges and (or) other organisers of trade on the securities market and the content of this information and the procedure and times for disclosing it shall be established by the Board of Directors.

(article is introduced by Federal Law No. 176-FZ, dated October 27, 2008)

Chapter VI. Cash Management

Article 27. The ruble shall be the official monetary unit (currency) of the Russian Federation. It shall be equal to 100 kopecks.

The issue of any other monetary units or quasi-money shall be prohibited in the Russian Federation.

Article 28. No official ratio shall be set between the ruble and gold or other precious metals.

Article 29. The issue of cash (banknotes and coins), organisation of its circulation and its withdrawal from circulation in the Russian Federation shall be effected exclusively by the Bank of Russia.

下議院應將本行年度報告提交總統，並送予聯邦政府評定。
下議院應於每年7月1日前審查本行前一年之年度報告，並就年度報告內容作成決定。

本行應於每年7月15日前公布前一年之年度報告。

本行應每月定期公布資產負債表、通貨發行餘額，包含貨幣供給動態與結構及本行營運概況。

第 26 條

理事會核定本行年度財務報表後，本行應依聯邦稅法繳納稅款，並將全年盈餘之50%轉撥聯邦預算，其餘額由理事會核轉為本行準備及各種用途資金。

第 26.1 條

本行應揭露於證券交易所及（或）其他證券市場所從事交易之資訊；其揭露之資訊內容、程序與時點，由理事會定之。

（本條係2008年10月27日聯邦法第176-FZ號增定）

第 6 章 現金管理

第 27 條

盧布為聯邦官方貨幣單位（通貨）。1 盧布等於 100 戈比（kopesks）。

聯邦境內禁止發行任何其他貨幣或準貨幣。

第 28 條

不得訂定盧布對黃金或其他貴金屬之官方兌換率。

第 29 條

聯邦境內現金（鈔券與硬幣）之發行、現金之流通與收兌，專由本行為之。

Bank of Russia banknotes (bank bills) and coins shall be the sole legal tender in the Russian Federation. Their forgery or illegal manufacture shall be prosecuted under the law.

Article 30. Bank of Russia banknotes and coins shall be unconditional obligations of the Bank of Russia, secured by all its assets.

Bank of Russia banknotes and coins shall be unconditionally accepted for their face value in effecting all kinds of payments, crediting accounts and making deposits and transfers on the entire territory of the Russian Federation.

Article 31. Bank of Russia banknotes and coins may not be declared invalid (no longer legal tender) without establishing a sufficiently long period of their exchange for new Bank of Russia banknotes and coins. No restrictions shall be imposed on the sum or subject of the exchange.

When old Bank of Russia banknotes and coins are exchanged for new Bank of Russia banknotes and coins, the period of the withdrawal of banknotes and coins from circulation may not be shorter than one year but no longer than five years.

Article 32. The Bank of Russia shall exchange worn or damaged banknotes without any restrictions in compliance with its rules.

Article 33. The Board of Directors shall take the decision to issue new Bank of Russia banknotes and coins and withdraw old Bank of Russia banknotes and coins from circulation and approve the denominations and specimens of new currency. The description of new banknotes and coins shall be published in the media.

The State Duma and the Russian Federation Government shall be notified of such a decision in advance.

Article 34. To organise the circulation of currency in the Russian Federation, the Bank of Russia shall fulfil the following functions:

- 1) it shall forecast and organise the production, transportation and storage of Bank of Russia banknotes and coins and create their reserves;
- 2) it shall set the cash storage, transportation and collection rules for credit institutions;
- 3) it shall establish the criteria of validity of Bank of Russia banknotes and coins and the procedure for destroying Bank of Russia banknotes and coins and replacing damaged Bank of Russia banknotes and coins;
- 4) it shall establish the procedure for conducting cash operations.

本行發行之鈔券（銀行券）與硬幣於聯邦境內獨具法償效力。偽造或非法製造券幣應依法追訴。

第 30 條

本行發行券幣為本行之無條件負債，並由本行以全部資產擔保之。

本行發行之鈔券及硬幣，於聯邦境內之各項支付、記帳、存款與轉帳，依其面額發生效力。

第 31 條

本行發行之券幣，未經訂定與新版券幣兌換之足夠期間者，不得宣告其失效（不再具法償效力）。本行不得對兌換之數量或種類予以限制。

新舊版券幣兌換時，收回流通券幣之期間不得少於 1 年，但亦不得多於 5 年。

第 32 條

本行應依其所訂規則，收兌污、破損鈔券，不受任何限制。

第 33 條

理事會應決定發行新版券幣及收回流通舊版券幣，並核定新通貨之面額與樣式。新版券幣之規格，應刊布於媒體。

前項決定應事先通知下議院與聯邦政府。

第 34 條

為使通貨於聯邦境內流通，本行應履行下列職責：

- (1) 預估及排定券幣之生產、運送與儲存，並提供其準備。
- (2) 頒訂信用機構儲存、運送與領取券幣之規則。
- (3) 頒訂有效券幣之標準，以及銷毀券幣與兌換毀損券幣之作業程序。
- (4) 建置管理券幣業務之程序。

Chapter VII. Monetary Policy

Article 35. The principal tools and methods of the Bank of Russia monetary policy shall be as follows:

- 1) interest rates on Bank of Russia operations;
- 2) ratios of required reserves deposited with the Bank of Russia (reserve requirements);
- 3) open-market operations;
- 4) refinancing credit institutions;
- 5) currency interventions;
- 6) setting targets for money supply growth;
- 7) direct quantitative restrictions;
- 8) the issue of bonds on its own behalf.

Article 36. The Bank of Russia shall regulate the total amount of the loans it extends in line with the approved targets for the single state monetary policy.

Article 37. The Bank of Russia may set one or several interest rates on different kinds of operations or pursue an interest rate policy without fixing an interest rate.

The Bank of Russia shall use the interest rate policy to influence market interest rates.

Article 38. The amount of the required reserves as a percentage of a credit institution's obligations (required reserve ratio) and the procedure for depositing the required reserves with the Bank of Russia shall be established by the Board of Directors.

The required reserve ratios may not exceed 20 per cent of a credit institution's obligations and may be different for various credit institutions.

The required reserve ratios may not be changed by more than five points at a time.

第 7 章 貨幣政策

第 35 條

本行貨幣政策之主要工具與方法如下：

- (1) 本行操作利率。
- (2) 存入本行之法定準備金比率（準備要求）。
- (3) 公開市場操作。
- (4) 對信用機構再融通。
- (5) 通貨調節。
- (6) 設定貨幣供給成長目標。
- (7) 直接數量限制。
- (8) 以本行名義發行債券。

第 36 條

本行應規範貸款總額，以達成單一國家貨幣政策所定之目標。

第 37 條

本行得對不同種類之業務設定一種或多種利率，或採行單一但不固定之利率政策。

本行得運用利率政策影響市場利率。

第 38 條

理事會應訂定信用機構債務之一定比率為其應提法定準備數額（法定準備率），並規範信用機構將法定準備金存入本行之作業程序。

法定準備率不得超過信用機構債務之 20%，且對不同信用機構得訂定不同比率。

法定準備率之調整，每次不得超過 5 個百分點。

Should a credit institution violate a required reserve ratio, the Bank of Russia shall be entitled to incontestably write down the amount underpaid from the credit institution's account in the Bank of Russia and charge the credit institution a penalty by legal procedure in the amount established by the Bank of Russia. This penalty may not exceed a sum calculated on the basis of the Bank of Russia refinancing rate effective on the day of the court ruling, multiplied by two.

No penalty shall be imposed on the required reserves deposited by a credit institution with the Bank of Russia.

After the revocation of a credit institution's banking licence, the required reserves deposited by the credit institution with the Bank of Russia shall be transferred to the account of the liquidation commission (liquidator) or receiver and used in accordance with the procedure established by federal laws and Bank of Russia normative acts issued in pursuance of these laws.

When a credit institution is reorganised, the procedure for the conversion of its required reserves that were previously deposited with the Bank of Russia shall be established pursuant to Bank of Russia normative acts.

Article 39. Operations conducted by the Bank of Russia on the open market shall signify:

- 1) the purchase and sale of treasury bills, government bonds and other government securities and Bank of Russia bonds;
- 2) the purchase and sale of other securities determined by the decision of the Board of Directors, provided that they are listed for trades organised by the stock exchanges and (or) other organisers of trade on the securities market.

When conducting operations on the open market, the Bank of Russia may only purchase and sell shares on the condition that it will conduct a reverse operation later and it may also sell them if the counterparty has refused to honour its obligations in such a reverse transaction.

(article is in the wording of Federal Law No. 176-FZ, dated October 27, 2008)

Article 40. Refinancing shall signify the extension of Bank of Russia loans to credit institutions.

The form, procedure and terms and conditions of refinancing shall be established by the Bank of Russia.

Article 41. Bank of Russia currency interventions shall signify the purchase and sale by the Bank of Russia of foreign exchange on the currency market with the aim of regulating the ruble rate and the overall demand for money and money supply.

信用機構繳存存款準備不足時，本行有權自該信用機構於本行之帳戶扣取該不足金額，並循法律程序，依本行所定數額對信用機構科以罰鍰。罰鍰不得超過法院判決當日以本行有效轉融通率為基礎計算之總額之 2 倍。

對於信用機構存入本行之法定準備金，不得科以罰鍰。

信用機構之營業執照經撤銷後，該信用機構存於本行之法定準備金應轉入清算委員會（清算人）或破產管理人之帳戶，並依聯邦法律及依該等法律發布之本行規章所定程序動用之。

信用機構重整時，其原存於本行之法定準備金轉換程序，應依本行規章訂定之。

第 39 條

本行於公開市場之操作係指：

- (1) 買賣國庫券、政府債券、其他政府有價證券與本行債券。
- (2) 買賣經理事會決議且得於證券交易所及（或）其他證券市場交易之其他有價證券。

本行從事公開市場操作，僅得買賣在爾後將進行反向操作之有價證券；且僅於交易對手拒絕履行反向交易義務時，始得賣出。（本條依 2008 年 10 月 27 日聯邦法第 176-FZ 號規定之用詞）

第 40 條

轉融通係指本行提供信用機構貸款。

轉融通之形式、程序、期限及條件，由本行定之。

第 41 條

通貨干預係指本行以調節盧布匯率與貨幣整體供需為目的，而於貨幣市場買賣外匯。

Article 42. The Bank of Russia may set growth targets for one or several money supply indicators, taking into account the guidelines for the single state monetary policy.

Article 43. Direct quantitative restrictions set by the Bank of Russia shall signify setting limits on the refinancing of credit institutions and the conduct of some banking operations by credit institutions.

The Bank of Russia shall be entitled to apply direct quantitative restrictions to all credit institutions equally in exceptional cases with the aim of implementing the single state monetary policy only after consultations with the Russian Federation Government.

Article 44. To implement the monetary policy, the Bank of Russia may issue bonds in its own name to be placed and traded among credit institutions.

The maximum total nominal value of Bank of Russia bonds of all issues, unredeemed by the date the Board of Directors takes the decision to issue (launch an additional issue of) Bank of Russia bonds, shall be established as the difference between the largest possible sum of the required reserves of credit institutions and the sum of the required reserves of credit institutions, established on the basis of the current required reserve ratio.

(in the wording of Federal Law No. 61-FZ, dated June 18, 2005)

Article 45. The Bank of Russia shall annually submit to the State Duma draft guidelines for the single state monetary policy for the coming year no later than August 26 and guidelines for the single state monetary policy for the coming year no later than December 1.

Before that, draft guidelines for the single state monetary policy shall be submitted to the Russian Federation President and Russian Federation Government.

Guidelines for the single state monetary policy for the coming year shall comprise:

- 1) the main principles of the monetary policy pursued by the Bank of Russia;
- 2) a brief description of the state of the Russian economy;
- 3) a forecast for the expected fulfilment of the main parameters of the monetary policy in the current year;
- 4) a quantitative analysis of why the monetary policy targets set by the Bank of Russia for the current year were missed, an evaluation of the prospects for these targets being attained and an explanation of how they can be corrected;

第 42 條

本行經審酌單一國家貨幣政策之指導方針，得對單一或多項貨幣供給標的設定成長目標。

第 43 條

本行設定之直接數量限制，係指對信用機構之轉融通及信用機構從事銀行業務予以限制。

本行僅得於為執行單一國家貨幣政策目的之例外情形下，經與聯邦政府會商後，始有權對全體信用機構實施直接數量限制。

第 44 條

為執行貨幣政策，本行得自行發行債券，供信用機構間投資及交易。

理事會決議發行本行債券之日尚未贖回之本行已發行債券票面價值總額上限，應介於信用機構最高可能之法定準備總和，與依現行法定準備率所定之信用機構法定準備總和之間。

（依 2005 年 6 月 18 日聯邦法第 61-FZ 號規定之用詞。）

第 45 條

本行至遲應於每年 8 月 26 日前，向下議院提交次年度單一國家貨幣政策之指導方針草案，並應於 12 月 1 日前提提交次年度單一國家貨幣政策之指導方針。

前項提交前，本行應向總統及聯邦政府提交單一國家貨幣政策之指導方針草案。

次年度單一國家貨幣政策之指導方針應包含：

- (1) 本行貨幣政策之主要原則。
- (2) 國內經濟概況。
- (3) 本年貨幣政策主要參數達成目標時之預期成果。
- (4) 對本行所設定之本年度貨幣政策目標未能達成之數量分析、目標達成之可能性評估及如何修正之說明。

- 5) a scenario forecast (in at least two versions) for the development of the Russian economy in the coming year with a projection of the price of oil and other Russian export commodities in each scenario;
- 6) a forecast for the main indicators of Russia's balance of payments for the coming year;
- 7) targets characterising the main objectives of the monetary policy, proclaimed by the Bank of Russia for the coming year, including interval indicators for inflation, the monetary base, money supply, interest rates and changes in international reserves;
- 8) main indicators for the monetary programme for the coming year;
- 9) alternative uses of the monetary policy tools and methods guaranteeing the attainment of the targets in various scenarios of economic development;
- 10) Bank of Russia plan of actions for the coming year, aimed at upgrading the Russian banking system, banking supervision, financial markets and the payment system.

The State Duma shall consider the guidelines for the single state monetary policy for the coming year and adopt a corresponding decision before it has passed the federal budget law for the coming year.

Chapter VIII. Bank of Russia Banking Operations and Transactions

Article 46. The Bank of Russia shall have the right to conduct the following banking operations and transactions with Russian and foreign credit institutions and the Russian Federation Government in order to attain the goals set in this Federal Law:

- 1) to extend loans for a term up to 1 year against securities and other assets unless the federal budget law stipulates otherwise;
- 1.1) to extend unsecured loans for terms no longer than twelve months to Russian credit institutions that are rated not below the eligible level. The list of the rating agencies whose ratings are used to determine the creditworthiness of the borrowers, the necessary minimum ratings, additional requirements for the borrowers and the procedure for extending the corresponding loans and their terms and conditions shall be drawn up by the Board of Directors;
(point 1.1 was introduced by Federal Law No. 171-FZ, dated October 13, 2008, in the wording of Federal Law No. 317-FZ, dated December 30, 2008)
- 2) to buy and sell securities on the open market and also sell securities accepted as collateral for Bank of Russia loans;
(point 2 is in the wording of Federal Law No. 176-FZ, dated October 27, 2008)

- (5)次年度經濟發展預測（至少 2 個版本），並均應包含石油及其他出口商品價格預測。
 - (6)次年度國際收支平衡表主要指標預測。
 - (7)敘明本行公布之次年度貨幣政策主要目的之目標，包含通貨膨脹、貨幣基礎、貨幣供給量、利率與國際準備變動之間隔指標。
 - (8)次年度貨幣計畫之主要指標。
 - (9)貨幣政策工具與方法及其替代方案，以確保達成各項經濟發展方案目標。
 - (10)本行為提升本國銀行體系、銀行監理、金融市場與支付系統之次年度行動計畫。
- 下議院應審查次年度單一國家貨幣政策之指導方針，並於通過次年度聯邦預算法案前，作成相關決議。

第 8 章 本行之業務與交易

第 46 條

為達本法所定之目標，本行有權與本國及外國信用機構、聯邦政府從事下列業務與交易：

- (1)除聯邦預算法另有規定外，以有價證券與其他資產作擔保提供 1 年期以內之融通。
 - (1.1)對評定合格之俄羅斯信用機構，給予不超過 12 個月期限之無擔保貸款。有關信用評等機構之名單、貸款之最低評等、其他對貸款人之附加條件及貸款程序與條件，由理事會議決。（本款係 2008 年 10 月 13 日聯邦法第 171-FZ 號增定，依 2008 年 12 月 30 日聯邦法第 317-FZ 號規定之用詞）
- (2)於公開市場買賣有價證券，及賣出作為本行貸款擔保之有價證券。（本款依 2008 年 10 月 27 日聯邦法第 176-FZ 號規定之用詞）

- 3) to buy and sell bonds issued by the Bank of Russia and certificates of deposits;
- 4) to buy and sell foreign exchange and payment documents and obligations denominated in foreign currency, offered by Russian and foreign credit organisations;
- 5) to buy, keep and sell precious metals and other currency values;
- 6) to conduct settlement, cash and deposit operations and accept securities and other assets for safe keeping and management;
- 7) to issue warranties and bank guarantees;
- 8) to conduct operations with financial instruments used in managing financial risks;
- 9) to open accounts in Russian and foreign credit institutions in the Russian Federation and in foreign states;
- 10) to draw cheques and bills in any currency;
- 11) to conduct other banking operations and transactions in its own name in compliance with international banking business practices.

The Bank of Russia shall be entitled to conduct banking operations and transactions for commission, except for the cases stipulated by federal laws.

Article 47. Security for Bank of Russia loans can be as follows:

- 1) gold and other precious metals in standard and measuring bullions;
- 2) foreign currency;
- 3) bills denominated in the Russian or foreign currency;
- 4) government securities.

Lists of bills and government securities eligible as security for Bank of Russia loans shall be drawn up in accordance with the decision of the Board of Directors.

In the cases established by the decision of the Board of Directors, other valuables and also warranties and bank guarantees may be used as security for Bank of Russia loans.

Article 48. The Bank of Russia can conduct banking operations to service the bodies of state power and local self-government, their organisations, government extra-budgetary funds, army units, servicemen, Bank of Russia employees and other persons in those cases stipulated by federal laws.

- (3)買賣本行發行之債券與存單。
- (4)買賣外匯及本國或外國信用組織發行之外幣支付憑證與債券。
- (5)購買、保存與出售貴金屬及其他具有貨幣價值之物品。
- (6)從事清算、出納與存款業務，受理有價證券與其他資產之保管與經理。
- (7)發行認股權證及銀行保證。
- (8)從事用於管理金融風險之金融工具操作。
- (9)於本國或外國之信用機構開立帳戶。
- (10)簽發各種幣別之支票與票據。
- (11)以自己之名義，依國際銀行實務從事其他銀行業務與交易。

除聯邦法律另有規定外，本行得就辦理之業務與交易收取費用。

第 47 條

申請本行融通之擔保品範圍如下：

- (1)標準規格之黃金及其他貴金屬。
- (2)外幣。
- (3)盧布或外幣票據。
- (4)政府有價證券。

充當本行融通擔保品之合格票據及政府債券，應依理事會之決議載明於清單。

其他有財產價值之物品、權利憑證或銀行保證，於經理事會之個案同意，亦得充當本行融通之擔保。

第 48 條

本行得向聯邦政府、地方自治政府與其組織、政府預算外資金、軍事單位、軍人、本行職員及聯邦法律規定之其他人提供銀行服務。

The Bank of Russia shall be entitled to provide services to clients other than credit institutions in regions where there are no credit institutions.

Article 49. The Bank of Russia shall have no right to:

- 1) conduct banking operations with legal entities that have no banking licence and private individuals, except for the cases stipulated by Article 48 of this Federal Law;
- 2) to acquire shares (stakes) of credit institutions and other organisations, except for the cases stipulated by Articles 8, 9 and 39 of this Federal Law;
(*point 2 is in the wording of Federal Law No. 176-FZ, dated October 27, 2008*)
- 3) conduct operations with real estate, except for the cases connected with the provision of support for the activities of the Bank of Russia and its organisations;
- 4) engage in trade and production, except for the cases stipulated by this Federal Law;
- 5) prolong the loans it extended. An exception may be made should the Board of Directors decide to do so.

Article 50. The Bank of Russia shall be liable in accordance with the procedure established by federal laws.

The interests of the Bank of Russia may be represented in a court of law or arbitration court by the heads of its regional branches and other Bank of Russia executives who have the corresponding power of attorney in accordance with the established procedure.

Chapter IX. International and Foreign Economic Activities of the Bank of Russia

Article 51. The Bank of Russia shall represent the interests of the Russian Federation in relations with the central banks of foreign states and in international banks and other international monetary and financial organisations.

The Bank of Russia shall be entitled to request the central bank or banking supervision authority of a foreign state to provide it with information or documents received from credit institutions while fulfilling supervisory functions and it shall be entitled to provide the banking supervision authority of a foreign state with such information or documents that do not contain data on operations conducted by credit institutions and their clients, provided that the banking supervision authority in question will guarantee the confidentiality of the information, thereby complying with the confidentiality of information requirements made to the Bank of Russia by Russian Federation legislation. As

本行得向無信用機構地區之非信用機構客戶提供服務。

第 49 條

本行不得從事下列業務：

- (1)除本法第 48 條所定情形外，與無銀行執照之法人或自然人從事銀行業務。
- (2)除本法第 8 條、第 9 條與第 39 條所定情形外，購買信用機構或其他組織之股份（股票）。（本款依 2008 年 10 月 27 日聯邦法第 176-FZ 號規定之用詞）
- (3)除與提供支持本行及本行組織之活動相關情形外，從事不動產業務。
- (4)除本法所定情形外，從事貿易與生產活動。
- (5)除理事會決議外，延長融通之期限。

第 50 條

本行應依聯邦法律所定程序負擔法律責任。

本行於各地區分行負責人及其他依法定程序授與權限之本行經理人，得於法院或仲裁庭代表本行。

第 9 章 國際與對外國經濟活動

第 51 條

在與外國中央銀行、國際銀行及其他國際貨幣金融組織間之關係上，本行應代表聯邦政府之利益。

本行得向外國中央銀行與銀行監理機關要求提供其於執行監理職權時取得之信用機構資料或文件，並於外國銀行監理機關保證遵行聯邦規章對本行資料之保密義務規定時，得向外國銀行監理機關提供未包含信用機構及其客戶交易資訊之資

regards the information and documents received from the central banks and banking supervision authorities of foreign states, the Bank of Russia must comply with the requirements for the disclosure of information and the provision of documents made by Russian Federation legislation, taking into consideration the requirements made by the legislation of the foreign states.

Article 52. The Bank of Russia shall issue permits for the establishment of credit institutions with foreign investments and branches of foreign banks and accredit representative offices of credit institutions of foreign states in the Russian Federation in accordance with the procedure established by federal laws.

An increase in the authorised capital of a credit institution at non-residents' expense shall be regulated by federal laws.

Article 53. The Bank of Russia shall set and publish the official rates of foreign currency against the ruble.

Article 54. The Bank of Russia shall be the body of foreign exchange regulation and foreign exchange control and it shall fulfil these functions in compliance with Federal Law No. 173-FZ, dated December 10, 2003, "On Foreign Exchange Regulation and Foreign Exchange Control," and other federal laws.

(in the wording of Federal Law No.90-FZ, dated July 18, 2005)

Article 55. To fulfil its functions, the Bank of Russia may open representative offices in foreign states.

Chapter X. Banking Regulation and Banking Supervision

Article 56. The Bank of Russia shall be the body of banking regulation and banking supervision. The Bank of Russia shall conduct constant supervision over the observance by credit institutions and banking groups of banking legislation, Bank of Russia normative acts and the compulsory standards set by the Bank of Russia.

The principal objectives of banking regulation and banking supervision shall be to maintain the stability of the Russian banking system and protect the interests of depositors and creditors. The Bank of Russia shall not interfere in the day-to-day activities of credit institutions, except for those cases stipulated by federal laws.

料或文件。本行自外國中央銀行或銀行監理機關取得之資料與文件，應配合該外國規章之規定，並遵循聯邦規章所定之資料揭露與文件提供之規定。

第 52 條

本行應依聯邦法律所定程序，核發外國投資設立之信用機構、外國銀行分行之營業執照，並核准外國信用機構設立代表辦事處。

以非居民資金增加信用機構之法定資本時，應受聯邦法律規範。

第 53 條

本行應訂定並公布盧布對外幣之官方匯率。

第 54 條

本行為外匯管理及外匯管制機關，並應依 2003 年 12 月 10 日之聯邦法第 173-FZ 號《外匯管理與外匯管制法》及其他聯邦法律履行其職責。（依 2005 年 7 月 18 日聯邦法第 90-FZ 號規定之用詞）

第 55 條

本行為履行職責，得於外國設立代表辦事處。

第 10 章 銀行管理與監督

第 56 條

本行為銀行管理及監督機關。本行應對信用機構與銀行集團遵循銀行規章、本行規章及強制規定之情形，辦理經常性之監理。

銀行管理與監督之主要目的，在於維持銀行體系之穩定，並保護存款人與債權人之利益。除聯邦法律明文規定之情形外，本行不得干預信用機構日常業務。

The regulating and supervising functions of the Bank of Russia, established by this Federal Law, shall be implemented through the Banking Supervision Committee, a permanent body uniting the Bank of Russia units responsible for supervision.

The Regulation on the Banking Supervision Committee and its structure shall be approved by the Board of Directors. (*part four in the wording of Federal Law No. 276-FZ, dated December 25, 2008*)

The head of the Banking Supervision Committee shall be appointed by the Bank of Russia Chairman from among the members of the Board of Directors.

Article 57. The Bank of Russia shall set the rules, binding for credit institutions and banking groups, for conducting banking operations, accounting and reporting, internal control management and compiling and presenting accounting, statistical and other data required by federal laws. The rules set by the Bank of Russia shall apply to the accounting and statistical reports compiled for the period starting no sooner than the date on which these rules are published.

To fulfil its functions, the Bank of Russia, acting in compliance with a list drawn up by the Board of Directors, shall have the right to request and receive from credit institutions the necessary information on their activities and demand elucidation of the information received.

The Bank of Russia shall be entitled to establish for the members of a banking group the procedure for providing information on their activities, necessary for compiling consolidated reports.

To compile banking and monetary statistics and the balance of payments of the Russian Federation and analyse the economic situation, the Bank of Russia shall have the right to request and receive free of charge the necessary information from the federal bodies of executive power and their regional branches and legal entities.

Information on specific operations, received from legal entities, shall not be disclosed without the consent of the corresponding legal entity, except for those cases stipulated by federal laws.

The Bank of Russia shall publish summary statistical and analytical data on the Russian banking system.

The provisions of this Article shall apply to information collected by the Bank of Russia and passed by it to international organisations at the instruction of the Russian Federation Government.

Article 58. The Bank of Russia shall not be entitled to require credit institutions to fulfil any functions incompatible with their status or require them to provide information on their clients or third persons that is not envisaged by federal laws and not connected with the provision of banking services to these persons.

本法所定本行之管理與監督職權，由本行負責監理業務之常設機關銀行監理委員會執行。

銀行監理委員會之規章及其組織架構，由理事會核定。（本項依 2008 年 12 月 25 日聯邦法第 276-FZ 號規定之用詞）
銀行監理委員會主任委員，由理事主席自理事會成員中指派。

第 57 條

本行應就銀行業務、會計與報表、內部控制管理，以及編製與提出帳冊、統計與聯邦法律要求之其他資料有關事項訂定之規定，規範信用機構與銀行集團。本行訂定之規定，適用於該規定發布日後編製之帳冊與統計報告。

為履行職責，本行應依理事會所定清冊，要求信用機構提供其營業之必要資料，並說明其內容。

本行得對銀行集團成員編製合併報表所需提供之營業資訊訂定程序。

為編製銀行與貨幣統計資料、本國國際收支平衡表及分析經濟形勢，本行得向聯邦行政機關、其地區分支機構及法人要求無償提供資訊。

前項自法人取得之資訊，除聯邦法律有明文規定外，非經相關法人之同意，不得任意揭露。

本行應公布銀行體系之綜合統計與分析資料。

本條規定適用於本行所收集並依聯邦政府指示轉交國際組織之資料。

第 58 條

本行不得要求信用機構履行不符其法律地位之職責，或要求其提供聯邦法律未規定之客戶或第三人資訊，以及與提供銀行服務無關之人之資料。

The Bank of Russia shall not be entitled to set directly or indirectly any restrictions on operations with clients of credit institutions that are not stipulated by federal laws or require credit institutions to demand from their clients any documents that are not stipulated by federal laws.

Article 59. The Bank of Russia shall make decisions on the state registration of credit institutions and, to fulfil its controlling and supervising functions, it shall keep the State Register of Credit Institutions, issue banking licences to credit institutions and suspend and revoke such licences.

Article 60. The Bank of Russia shall be entitled to establish in compliance with federal laws qualification requirements for candidates for the position of members of a board of directors (supervisory board), a one-man executive body and his deputies, members of a collegiate executive body and chief accountant and deputy chief accountants of a credit institution and also candidates for the position of the head, deputy heads, chief accountant and deputy chief accountants of a credit institution's branch.

Article 61. The acquisition and (or) receipt for trust management (hereinafter referred to as acquisition) as a result of one or several transactions by a legal entity or private individual or by a group of legal entities and (or) private individuals, connected with one another by an agreement, or a group of legal entities that are subsidiary to or dependent on one another, of more than 1 per cent of shares (stakes) of a credit institution shall require that the Bank of Russia be notified, and more than 20 per cent the latter's prior consent.

No later than 30 days after the receipt of an application for Bank of Russia consent for the acquisition of more than 20 per cent of shares (stakes) of a credit institution, the Bank of Russia shall notify the applicant in writing about its decision—consent or refusal. An explanation shall be given for a refusal. Should the Bank of Russia fail to make known its decision within the aforementioned period, the transaction (transactions) shall be considered permitted.

A notification about the acquisition of more than 1 per cent of shares (stakes) of a credit institution shall be sent to the Bank of Russia no later than 30 days after the acquisition date. The procedure for receiving the prior consent of the Bank of Russia for the acquisition of more than 20 per cent of shares (stakes) of a credit institution and the procedure for notifying the Bank of Russia about the acquisition of more than 1 per cent of shares (stakes) of a credit institution shall be established by federal laws and Bank of Russia normative acts issued in pursuance of these laws.

本行不得直接或間接對信用機構與其客戶間之交易，訂定聯邦法律未規定之限制，或要求信用機構向其客戶索取聯邦法律未規定之文件。

第 59 條

本行應就信用機構之申請登記予以准駁，並為履行控管及監理職責，應予保存信用機構登記資料、核發信用機構銀行執照及暫停與撤銷其執照。

第 60 條

本行有權依聯邦法律對信用機構之董事會（監事會）成員、單一首長與其代理人、合議制成員、會計長與副會計長，以及分行負責人與其副手、會計長與副會計長等人選訂定資格條件。

第 61 條

法人或自然人、締結合約之法人與（或）自然人集團，或具附屬或從屬關係之法人集團，因一次或數次交易取得及（或）因信託管理而取得（以下簡稱取得）超過信用機構 1% 之股份（股票）時，應通知本行。其超過 20% 時，應事先申請本行之同意。

本行應於收受前項申請之日起 30 日內，以書面回覆申請人准駁之決定，駁回申請並應載明理由。本行未於前述期間通知決定結果者，視為同意。

第一項所定取得信用機構超過 1% 股份（股票）之通知，應於取得之日起 30 日內送達本行。申請本行同意取得信用機構超過 20% 股份（股票）之程序，以及通知本行取得信用機構超過 1% 股份（股票）之程序，應依聯邦法律及依前開法律發布之本行規章規範之。

As part of fulfilling its supervisory functions, the Bank of Russia shall be entitled to request and receive information on the financial standing and business reputation of the members (shareholders) of a credit institution if they have acquired more than 20 per cent of shares (stakes) of a credit institution and impose requirements for the financial standing of the acquirer of more than 20 per cent of shares (stakes) of a credit institution.

The Bank of Russia shall have the right to withhold its consent for the acquisition of more than 20 per cent of shares (stakes) of a credit institution if the financial standing of their acquirer is found unsatisfactory and in other cases stipulated by federal laws.

The acquisition of shares (stakes) of a credit institution at non-residents' expense shall be regulated by federal laws.

Article 62. To ensure stability of credit institutions, the Bank of Russia can establish the following compulsory standards:

- 1) a minimum amount of authorised capital for new credit institutions, a certain amount of own funds (capital) for operating credit institutions as a condition for opening their subsidiaries in a foreign state and (or) opening their branches, obtaining by a non-bank credit institution of the status of a bank and obtaining by a credit institution of the status of a subsidiary of a foreign bank;
- 2) a limit on the value of property (non-monetary assets) contributed to the authorised capital of a credit institution;
- 3) maximum risk per borrower or a group of related borrowers;
- 4) maximum high credit risk;
- 5) liquidity ratios for a credit institution;
- 6) own capital adequacy ratios;
- 7) currency, interest and other financial risks;
- 8) a minimum amount of provisions for risks;
- 9) ratios for the use of own funds (capital) of a credit institution for the purchase of shares (stakes) of other legal entities;
- 10) a maximum amount of loans, bank guarantees and warranties granted by a credit institution (banking group) to its members (shareholders).

The compulsory standards indicated in paragraph 1 of this Article can be set by the Bank of Russia for banking groups.

為履行監理職責，本行得對信用機構股東持股超過 20% 者，要求提供其金融地位與商業評價資料，以及取得信用機構超過 20% 股份（股票）之人之金融地位。

取得信用機構超過 20% 股份（股票）之人之金融地位未盡理想或有聯邦法律所定之其他情事時，本行有保留同意之權力。

以非居民資金取得信用機構股份（股票）者，應受聯邦法律規範。

第 62 條

為確保信用機構之穩定，本行得訂定下列強制標準：

- (1) 新設信用機構之最低法定資本額，以及營運中信用機構於國外設立子公司與（或）分行、非銀行信用機構取得銀行地位與信用機構取得外國銀行子公司地位之自有資金（資本）一定金額。
- (2) 充作信用機構法定資本具有價值之財產（非貨幣資產）之限額。
- (3) 每一借款人或具同一關係借款人之風險上限。
- (4) 高信用風險上限。
- (5) 信用機構之流動性比率。
- (6) 自有資本適足率。
- (7) 通貨、利息與其他金融風險。
- (8) 各類風險條款之最低數額。
- (9) 信用機構以自有資金（資本）取得其他法人股份（股票）之比率。
- (10) 信用機構（銀行集團）對其成員（股東）提供貸款、銀行保證或擔保額度之上限。

本行得對銀行集團訂定前項強制標準。

Article 63. The amount of own funds (capital) necessary for an operating credit institution as a condition for opening a subsidiary and (or) a branch in a foreign state, obtaining by a non-bank credit institution of the status of a bank and obtaining by a credit institution of the status of a subsidiary of a foreign bank shall be determined in accordance with the procedure established by Bank of Russia normative acts.

The Bank of Russia shall officially announce its decision to increase the required amount of own funds (capital) for credit institutions indicated in paragraph 1 of this Article no later than one year before this decision comes into force.

Article 64. Maximum risk per borrower or a group of related borrowers dependent on one another or being parent and subsidiary shall be established as percentages of the own funds (capital) of a credit institution (banking group) and may not exceed 25 per cent of the own funds (capital) of a credit institution (banking group).

In establishing maximum risk, the entire amount of loans extended by a credit institution to a borrower or a group of related borrowers and the sums of guarantees and warranties granted by a credit institution to a borrower or a group of related borrowers shall be taken into account.

Article 65. Maximum high credit risk shall be established as a percentage ratio of the total amount of high credit risks to the amount of the own funds (capital) of a credit institution (banking group).

A high credit risk shall be the sum of loans, guarantees and warranties granted to one client exceeding 5 per cent of the own funds (capital) of a credit institution (banking group).

The maximum amount of high credit risks shall not exceed 800 per cent of the own funds (capital) of a credit institution (banking group).

The Bank of Russia shall be entitled to keep a register of high credit risks of credit institutions (banking groups).

Article 66. The liquidity ratios of a credit institution shall be determined as follows:

- 1) the ratio between its assets and liabilities, taking into account the terms, amounts and kinds of assets and liabilities and other factors;

第 63 條

信用機構於國外設立子公司與（或）分行、非銀行信用機構取得銀行地位及信用機構取得外國銀行子公司地位所需之自有資金（資本）額，應依本行規章所定之程序定之。

本行對前項所定信用機構自有資金（資本）額為提高之決定時，應於該決定生效前 1 年內公布之。

第 64 條

單一借款人或具附屬或從屬地位之同一關係借款人之風險上限，應受信用機構（銀行集團）自有資金（資本）一定比率之限制，且不得超過該信用機構（銀行集團）自有資金（資本）之 25%。

於訂定風險上限時，應考量信用機構對單一借款人或同一關係借款人之貸款總額，以及信用機構給予單一借款人或同一關係借款人之保證與擔保總額。

第 65 條

高信用風險上限，應依高信用風險總額占信用機構（銀行集團）自有資金（資本）額訂定一定比率。

高信用風險指信用機構（銀行集團）對單一客戶之貸款、保證與擔保總額超過該信用機構（銀行集團）自有資金（資本）之 5%。

信用機構（銀行集團）高信用風險之最高總額，不得超過其自有資金（資本）之 800%。

本行應保有信用機構（銀行集團）高信用風險之登記資料。

第 66 條

信用機構之流動性比率應依下列事項決定：

- (1) 資產與負債之比率，須考量資產與負債之期限、數額與種類及其他因素。

- 2) the ratio between its liquid assets (cash, termless banking claims, short-term securities and other saleable assets) and aggregate assets.

Article 67. The own funds (capital) adequacy ratios shall be determined as the ratio between the own funds (capital) of a credit institution (banking group) and its risk-weighted aggregate assets.

Article 68. The Bank of Russia shall regulate the size of and accounting procedure for the open position of credit institutions (banking groups) on currency, interest and other financial risks.

Article 69. The Bank of Russia shall establish the procedure for creating and the size of pre-tax reserves (funds) of credit institutions to cover possible loan losses and currency, interest rate and other financial risks in compliance with federal laws.

(in the wording of Federal Law No. 180-FZ, dated December 23, 2003)

Article 70. The ratios for the use of own funds (capital) of a credit institution for the purchase of shares (stakes) of other legal entities shall be determined as a percentage ratio of the sum invested to the sum of own funds (capital) of a credit institution (banking group).

The ratio for the use of own funds (capital) of a credit institution for the purchase of shares (stakes) of other legal entities may not exceed 25 per cent of the own funds (capital) of a credit institution (banking group).

Article 71. The maximum amount of loans, bank guarantees and warranties granted by a credit institution (banking group) to its members (shareholders) shall be determined as percentages of the own funds (capital) of a credit institution (banking group).

This ratio may not exceed 50 per cent.

Article 72. The Bank of Russia shall establish the methods for calculating own funds (capital) of a credit institution, assets, liabilities and risk for each ratio, taking into account international standards and consultations with credit institutions and banking associations and unions.

(2)流動資產（現金、無期限之債權、短期有價證券及其他可變賣資產）與總資產之比率。

第 67 條

自有資金（資本）適足率係指信用機構（銀行集團）之自有資金（資本）對其風險性資產總額之比率。

第 68 條

本行應依通貨、利息及其他金融風險情形，規定信用機構（銀行集團）公開部位之規模與會計程序。

第 69 條

本行應依聯邦法律訂定信用機構為彌補或有貸款損失及通貨、利息與其他金融風險稅前準備（資金）之程序與規模。（依 2003 年 12 月 23 日聯邦法第 180-FZ 號規定之用詞）

第 70 條

信用機構以自有資金（資本）收購其他法人之股份（股票）之比率，應以其投資總額與該信用機構（銀行集團）自有資金（資本）總額之比率定之。

前項信用機構以自有資金（資本）收購其他法人之股份（股票）之比率，不得超過信用機構（銀行集團）自有資金（資本）之 25%。

第 71 條

信用機構（銀行集團）對其成員（股東）提供貸款、銀行保證及擔保最高總額，應以信用機構（銀行集團）自有資金（資本）之比率定之。

前項比率不得超過 50%。

第 72 條

本行應參考國際會計標準並洽徵信用機構、銀行公會及會員意見，訂定信用機構自有資金（資本）、資產、負債與風險比率之計算方式。

The Bank of Russia shall be entitled to establish different ratios and methods for calculating them for various credit institutions.

The Bank of Russia shall officially announce any forthcoming change in ratios and methods for calculating them no later than one month before introducing them.

To calculate the own funds (capital) of a credit institution, the Bank of Russia shall evaluate its assets and liabilities, using the evaluation methods established by Bank of Russia normative acts. A credit institution must indicate the amount of its own funds (capital), established by the Bank of Russia, in its accounting and other records.

Should the amount of own funds (capital) of a credit institution prove smaller than its authorised capital, indicated in its founding documents, the Bank of Russia shall demand that this credit institution match its own funds (capital) with its authorised capital. The credit institution shall comply with the Bank of Russia prescription in accordance with the procedure, within the terms and on the conditions established by the Federal Law on Insolvency (Bankruptcy) of Credit Institutions.

The Bank of Russia shall establish the conditions for including subordinated credit (deposits, loans and bond issues) into the sources of own funds (capital) of a credit institution and the conditions for excluding subordinated credit (deposits, loans and bond issues) from the sources of own funds (capital) of a credit institution. The sum of subordinated credit (deposit, loan or bond issue) may be excluded from the calculation of own funds (capital) of a credit institution after prior agreement with the Bank of Russia reached according to the procedure established by the Bank of Russia regulation, if the subordinated credit (deposit or loan) agreement is terminated before the expiry of its term or if bonds are redeemed ahead of schedule on the initiative of the borrower credit institution.

Part 6 was introduced by Federal Law No. 247-FZ, dated December 29, 2006.

The Bank of Russia shall be entitled to suspend payment of the principal amount of the debt and (or) interest under a subordinated credit (deposit or loan) agreement or bonds according to the procedure set by the Bank of Russia regulations if the suspension of payments is provided for by the subordinated credit (deposit or loan) agreement or the registered terms of bond issue and the effectuation of scheduled payments to creditors creates the grounds for implementing bankruptcy-prevention measures stipulated by the Federal Law on Insolvency (Bankruptcy) of Credit Institutions. At the same time, the Bank of Russia shall prohibit credit institutions from taking decisions on the allocation of profit between their founders (members) and the payment (announcement) of dividends to them and from allocating profits between their founders (members), paying them dividends and meeting the demands by the

本行對不同信用機構得訂定不同比率及計算方法。

本行就本條所定比率及計算方法之調整，至遲應於實施前 1 個月公布。

為計算信用機構自有資金（資本），本行應依本行規章所定之評估方式評定其資產與負債。信用機構應依本行規定，於其會計與其他文件載明其自有資金（資本）額。

信用機構自有資金（資本）額少於其發起設立文件載明之法定資本，本行應要求該信用機構補足自有資金（資本）與法定資本之差額。信用機構應遵循本行指示，依《信用機構支付不能（破產）法》所定程序、期限與條件辦理。

本行應訂定信用機構次順位信用（存款、貸款及債券發行）計入或排除於該機構計算其自有資金（資本）之條件。信用機構依本行所定程序，與本行事先達成協議者，其次順位信用存款或貸款合約於期間屆滿前中止，或債券借款人信用機構提前贖回債券者，該信用機構之次順位信用（存款、貸款及債券發行）總額，於計算其自有資金（資本）時，得予排除。（本項係 2006 年 12 月 29 日聯邦法第 247-FZ 號增訂）次順位信用（存款或貸款）合約或債券發行之登記條件內載明暫停支付之規定，而對債權人預定付款之執行，符合《信用機構支付不能（破產）法》所規定之破產防制措施者，本行有權根據次順位信用（存款或貸款）合約，或依本行對債券發行所規定之程序，暫停債務本金或利息之支付。同時，本行應禁止信用機構決議將盈餘分配予其發起人（股東）、配發股利，或依信用機構發起人（股東）之要求配發股票

founders (members) of credit institutions for allocating a share (a part of a share) to them or paying its actual value or buying out shares in credit institutions. The suspension of payments under the subordinated credit (deposit or loan) agreement or on bonds and the prohibition for a credit institution to take decisions on the allocation of profit between its founders (members) and the payment (announcement) of dividends to them and from allocating profits between its founders (members), paying them dividends and meeting the demand by the founders (members) of the credit institution for allocating a share (a part of a share) to them or paying its actual value or buying out shares in the credit institution shall be cancelled at the request of the credit institution, made according to the procedure established by the Bank of Russia, if the real threat of the emergence of the grounds for implementing bankruptcy-prevention measures has been removed.

Part 7 was introduced by Federal Law No. 247-FZ, dated December 29, 2006.

Article 73. To fulfil its functions relating to banking regulation and banking supervision, the Bank of Russia shall conduct inspections of credit institutions (or their branches), instruct them to eliminate violations discovered in their work, which the credit institutions must obey, and use sanctions against violators, stipulated by this Federal Law.

Inspections may be conducted by the authorised representatives (employees) of the Bank of Russia in accordance with the procedure established by the Board of Directors or by audit firms at the instruction of the Board of Directors.

The authorised representatives (employees) of the Bank of Russia shall have the right to receive and examine accounting reports and other documents of credit institutions (or their branches) and, if necessary, make copies of the corresponding documents to attach them to inspection materials.

The procedure for conducting inspections of credit institutions (or their branches), including establishing the duties of credit institutions (or their branches) to assist inspections, shall be established by the Board of Directors.

In fulfilling its functions relating to banking regulation and banking supervision, the Bank of Russia shall not be entitled to conduct more than one inspection of a credit institution (or its branch) on the same subjects and the same accounting period of the activities of the credit institution (or its branch), except for those cases stipulated by this Article. An inspection shall cover only the five calendar years of the activities of a credit institution (or its branch) preceding the inspection year.

（或部分股票），或支付與股票實際價值相當之金額，或買下信用機構之股份。上述根據次順位信用（存款或貸款）合約或債券發行所為之暫停支付，以及禁止信用機構決議將盈餘分配予其發起人（股東），配發股利，或依信用機構發起人（股東）之要求配發股票（或部分股票），或支付與股票實際價值相當之金額，或買下信用機構之股份等各項處分，於因執行破產防制措施致緊急狀況之實際威脅解除時，該信用機構得依本行所規定之程序，請求撤銷各該處分。（本項係 2006 年 12 月 29 日聯邦法第 247-FZ 號增訂）

第 73 條

為履行銀行管理與監督之職責，本行應檢查信用機構（或其分行），要求其改正違規缺失，並依本法規定對違規者給予處分。

前項檢查得由本行依理事會所定程序指派之代表（職員），或由理事會指派會計公司辦理。

本行指派之代表（職員）有權要求提供及查核信用機構（或其分行）之會計報告與其他文件。必要時，得影印相關文件附於檢查報告。

對信用機構（或其分行）辦理檢查之程序，包括信用機構（或其分行）協助檢查之義務，由理事會制定之。

於履行銀行管理與監督之職責時，除本條所定情形外，本行不得對信用機構（或其分行）以同一事由於同一會計期間內，辦理超過 1 次之檢查。檢查範圍應及於信用機構（或其分行）該受檢年度之前 5 個曆年內之業務項目。

The Bank of Russia may conduct a repeat inspection of a credit institution (or its branch) on the same subjects and the same accounting period of the activities of the credit institution (or its branch) on the following grounds:

- 1) if such an inspection is conducted in connection with the reorganisation or liquidation of the credit institution;
- 2) by the reasoned decision of the Board of Directors. The Board of Directors may take such a decision to supervise a Bank of Russia regional branch that has conducted an inspection or at the request of the corresponding Bank of Russia structural unit for the purpose of assessing a credit institution's financial standing and the quality of assets and liabilities. For these purposes, the request by the Bank of Russia structural unit should indicate the signs of financial instability in a credit institution, if these signs have created a tangible threat to the interests of the credit institution's creditors (depositors). These signs should be detected and evaluated according to the methodologies established by Bank of Russia rules and regulations. A repeat inspection conducted by the reasoned decision of the Board of Directors shall be conducted with the participation of representatives of the Bank of Russia head office.

(in the wording of Federal Law No. 5-FZ, dated January 10, 2003)

Article 74. Should a credit institution violate federal laws or Bank of Russia normative acts or orders issued in pursuance of these laws or fail to provide information or provide incomplete or false information, the Bank of Russia shall have the right to require the credit institution to eliminate the violations discovered, charge a penalty of 0.1 per cent of the minimum amount of authorised capital or prohibit the credit institution from conducting some banking operations for up to six months.

Should a credit institution fail to fulfil the Bank of Russia order to eliminate the violations discovered in its work or should these violations or banking operations or transactions conducted by a credit institution pose a serious threat to the interests of its creditors (depositors), the Bank of Russia shall be entitled to:

- 1) charge the credit institution a fine of up to 1 per cent of its paid-up authorised capital but not more than 1 per cent of the minimum amount of authorised capital;
- 2) demand that the credit institution:
 - ① implement financial rehabilitation measures, including changing the structure of its assets;
 - ② replace the executives included in the list of positions given in Article 60 of this Federal Law;
 - ③ conduct reorganisation;

本行對信用機構（或其分行）以同一事由於同一會計期間內，辦理重複檢查之事由如下：

- (1) 涉及信用機構重整或清算之檢查。
- (2) 基於理事會附理由之決議。理事會得決議對執行檢查職務之本行地區性分行，或依本行相關單位為評估信用機構財務地位及資產、負債品質之請求而進行監查。基於前述目的，本行相關單位於請求時應表明信用機構金融不穩定狀況，已對信用機構之債權人（存款人）權益造成影響，並由理事會依本行規章所定方法查核與評定。基於理事會附理由之決議辦理之重複檢查，應有本行總行代表參與。
（依 2003 年 1 月 10 日聯邦法第 5-FZ 號規定之用詞）

第 74 條

信用機構違反聯邦法律、本行規章或依前開法律發布之命令，或拒絕提供、提供不完全或不實資料時，本行得要求其改正違規缺失、科以其法定資本最低額度 0.1% 之罰鍰，或禁止該信用機構於 6 個月內從事部分銀行業務。

信用機構未能依本行之要求改正違規缺失，或該違規行為或信用機構從事之業務或交易對其債權人（存款人）權益造成嚴重影響時，本行得採行下列措施：

- (1) 對信用機構處以其實收法定資本額 1% 以內之罰鍰。但不得超過法定資本最低額度之 1%。
- (2) 要求信用機構：
 - ① 採取財務重建措施，包含調整其資產結構。
 - ② 撤換包含第 60 條所列職務之經理人員。
 - ③ 進行重整。

- 3) change for a period of up to six months the compulsory standards set for the credit institution;
- 4) impose a ban on the implementation of some banking operations by the credit institution under its banking licence for a period of up to one year and prohibit it from opening branches for a period of up to one year;
- 5) appoint a provisional administration to manage the credit institution for a period of up to six months. The procedure for appointing a provisional administration and for its activities shall be established by federal laws and Bank of Russia normative acts issued pursuant to them;
- 6) ban the reorganisation of the credit institution if it may create grounds for taking anti-bankruptcy measures stipulated by the Federal Law on Insolvency (Bankruptcy) of Credit Institutions;
- 7) propose that the founders (members) of the credit institution who have the opportunity on their own or owing to an agreement between them or participation in the capital of one another or some other means of direct or indirect collaboration to influence decisions taken by management of the credit institution to take actions aimed at increasing the own funds (capital) of the credit institution to a level that would ensure its compliance with required ratios.

8) *Federal Law No. 174-FZ, dated October 13, 2008, is null and void.*

The Bank of Russia shall be entitled to revoke the banking licence of a credit institution on the grounds established by the Federal Law on Banks and Banking Activities. The procedure for revoking a banking licence shall be established by Bank of Russia normative acts.

The Bank of Russia may not prosecute a credit institution for violations listed in paragraphs 1 and 2 of this Article if five years have passed since these violations were committed.

The Bank of Russia may go to court to recover a fine from a credit institution or apply some other sanctions against it, stipulated by federal laws, no later than six months after any of the violations listed in paragraphs 1 and 2 of this Article was recorded.

Article 75. The Bank of Russia shall analyse the activities of credit institutions (banking groups) in order to detect situations endangering the legitimate interests of their depositors and creditors and stability of the Russian banking system.

Should such a situation arise, the Bank of Russia shall be entitled to take measures stipulated by Article 74 of this Federal Law and implement in compliance with the decision of the Board of Directors measures to financially rehabilitate credit institutions.

- (3)於 6 個月期限內調高該信用機構之強制標準。
- (4)暫停該信用機構於 1 年內從事其銀行執照所載之部分銀行業務，並禁止其於 1 年內增設分行。
- (5)選任暫行管理人員，於 6 個月期限內，管理信用機構。選任人員程序及其所得辦理事項之程序，由聯邦法律及本行依其授權訂定之規章定之。
- (6)於重整可能導致有《信用機構支付不能（破產）法》所定反破產行為之虞時，否准信用機構重整。
- (7)建議信用機構發起人（成員）自行或基於共同合意，或相互投資，或以其他直接或間接合作方式影響信用機構之決策，採取提高信用機構自有資金（資本）之措施，以確保其自有資本符合法定比率。
- (8)2008 年 10 月 13 日聯邦法第 174-FZ 號規定失其效力。
本行得依《銀行與銀行營業法》所定事由撤銷信用機構之銀行執照。撤銷銀行執照之程序，應以本行規章定之。
自違規行為發生之日起 5 年後，本行不得對信用機構違反第 1 項及第 2 項所定行為進行追訴。
本行得於第 1 項及第 2 項所定違規行為經記載後 6 個月內，向法院起訴追償對信用機構之罰款，或採行聯邦法律規定之其他處罰。

第 75 條

本行應分析信用機構（銀行集團）之業務，及早發現危及信用機構存款人與債權人合法利益及聯邦銀行體系穩定性之情事。

前項情事發生時，本行得採取第 74 條所定之措施，並依據理事會之決議，執行信用機構財務重建措施。

Article 76. The Bank of Russia shall be entitled to appoint its authorised representative to a credit institution in the cases when:

- 1) a credit institution has obtained a foreign currency credit (loan) from the state corporation, the Bank for Development and Foreign Economic Affairs (Vnesheconombank) (hereinafter Vnesheconombank), in accordance with Article 1 of Federal Law No. 173-FZ, dated October 13, 2008, "On Additional Measures to Support the Financial System of the Russian Federation" (hereinafter the Federal Law "On Additional Measures to Support the Financial System of the Russian Federation");
- 2) a credit institution has obtained a subordinated credit (loan) from the Bank of Russia in accordance with Article 5 of the Federal Law "On Additional Measures to Support the Financial System of the Russian Federation;"
- 3) a credit institution has obtained a subordinated credit (loan) from Vnesheconombank in accordance with Article 6 of the Federal Law "On Additional Measures to Support the Financial System of the Russian Federation;"
- 4) federal budget funds have been deposited with a credit institution in accordance with Article 236 of the Budget Code of the Russian Federation;
- 5) a credit institution has obtained a loan from the Bank of Russia in accordance with point 1.1, Article 46 of this Federal Law for a term longer than one month;
- 6) the Bank of Russia and the Deposit Insurance Agency state corporation have taken measures in relation to a credit institution to prevent the bankruptcy of banks that are members of the deposit insurance system of the Russian Federation, in accordance with Federal Law No. 175-FZ, dated October 27, 2008, "On Additional Measures to Strengthen the Stability of the Banking System until December 31, 2011."

Authorised representatives of the Bank of Russia may be appointed to a credit institution from the day the credit institution receives funds (part of funds) of a corresponding credit (loan) or deposit, and may carry out their activities until the day the credit institution fully honours its obligations arising out of the receipt of the corresponding credit (loan) or deposit.

An authorised representative of the Bank of Russia may receive information from a credit institution on the size of remuneration paid by the credit institution to the one-man and collegiate executive bodies.

To fulfil his/her functions, an authorised representative of the Bank of Russia shall be entitled to:

第 76 條

有下列情形者，本行得指派代表至信用機構：

- (1)信用機構依 2008 年 10 月 13 日聯邦法第 173-FZ 號《支持俄羅斯聯邦金融體系之其他措施》（以下簡稱《支持俄羅斯聯邦金融體系之其他措施》聯邦法）第 1 條自國營公司、發展及對外經貿事務銀行（以下簡稱外貿銀行）取得外匯授信（貸款）。
- (2)信用機構依《支持俄羅斯聯邦金融體系之其他措施》聯邦法第 5 條向本行取得次級授信（貸款）。
- (3)信用機構依《支持俄羅斯聯邦金融體系之其他措施》聯邦法第 6 條向外貿銀行取得次級授信（貸款）。
- (4)聯邦預算資金依《聯邦預算法》第 236 條存入信用機構。
- (5)信用機構依本法第 46 條第 1.1 款自本行借得超過 1 個月期限之貸款。
- (6)本行與國營存款保險公司依 2008 年 10 月 27 日聯邦法第 175-FZ 號《至 2011 年 12 月 31 日止強化銀行體系穩定性之其他措施》採行防止參加聯邦存款保險制度之信用機構破產之相關措施。

自信用機構接受授信（貸款）或存款資金（部分資金）之日起，本行得指派代表執行職務，至該信用機構全數償付信貸（貸款）或存款債務之日止。

本行指派之代表得要求信用機構提供其支付獨立經理人或董事會成員報酬之資訊。

本行指派之代表為履行其職責，得：

- 1) participate, without voting rights, in sessions of a credit institution's management bodies, and also in sessions of the credit institution's bodies responsible for making decisions on the issues of crediting and the management of the credit institution's assets and liabilities;
- 2) receive from a credit institution information and documents relating to the credit institution's lending operations and operations to provide guarantees, manage assets and liabilities (claims and obligations).

A credit institution shall be obliged to submit to an authorised representative of the Bank of Russia, on his/her request, information and documents relating to the credit institution's lending operations, including information and documents on the realised and planned volumes of loans and their terms, and also on the operations to provide guarantees, manage assets and liabilities (claims and obligations), and shall not obstruct the activities of the Bank of Russia authorised representative.

During the term of office of the Bank of Russia authorised representative, a credit institution shall be obliged to submit to the Bank of Russia authorised representative, prior to the performance of transactions or operations, information on its intention to carry out the following types of transactions or operations:

- 1) those related to the transfer of real estate by the credit institution for lease or mortgage, as contribution to the authorised capital of third parties, any other disposal of such property, the replacement of real estate held by the credit institution as a mortgage by another pledge item or another type of security;
- 2) those related to the disposal of the credit institution's other property with a book value of more than 1 percent of the book value of the credit institution's assets, including the receipt and extension of credits and loans, the provision of guarantees and sureties, re-assignment of claims, assumption and forgiveness of debt, novation, compensation for release from an obligation, and also the creation of trust;
- 3) those related to the fulfilment of its obligations on credits (loans), deposits received, under a purchase/sale agreement with the performance of a reverse transaction at a later date, and also under other deals, if the book value of an obligation or a group of related obligations under such deals equals more than 1 percent of the book value of the credit institution's liabilities;
- 4) those related to the transfer of funds to foreign banks, if the sum of transfer or a group of related transfers equals more than 1 percent of the book value of the credit institution's assets;
- 5) with interested or affiliated parties that are defined in accordance with federal law, or with persons in relation to whom the credit institution is an interested party in accordance with federal law, or with persons in relation to whom the credit institution can exert considerable influence directly or

(1)參與信用機構管理部門及負責授信與管理資產負債部門之會議，但無投票權。

(2)要求信用機構提供有關其放款、保證、管理資產與負債（債權與債務）業務之資訊與文件。

信用機構應依本行代表之要求，提交有關放款業務之資訊，包括已貸及申貸之數額及其期限，以及提供保證、管理資產與負債（債權與債務）業務之資訊與文件，且不得妨礙本行代表執行職務。

於本行代表駐在期間，信用機構執行下列交易或處置前，應先向本行代表提交下列資訊：

(1)與信用機構因出租或抵押而移轉不動產、對第三人之捐助、財產之處分及以其他抵押品或其他形式之擔保品取代其持有作為抵押之不動產相關者。

(2)與處理信用機構之其他財產相關，其帳面價值超過該信用機構資產帳面價值 1%之事項，包括接受或延長信用與貸款、提供保證與擔保、債權轉讓、承擔或免除債務、新債清償、債務免除之補償及成立信託等。

(3)依爾後將進行反向交易之買賣協議或其他協議，與履行其信用（貸款）或收受之存款相關，而其單筆或多筆相關聯債務之帳面價值，超過該信用機構資產帳面債務 1%者。

(4)與資金移轉至外國銀行相關，且單筆或多筆相關聯資金之移轉金額超過該信用機構資產帳面價值 1%者。

(5)為聯邦法律定義之利害關係人或附屬團體，或依聯邦法律該信用機構為其交易對手之利害關係人，或信用機構得直

indirectly (through a third party) on decisions made by their management bodies or with persons that can exert considerable influence directly or indirectly (through a third party) on decisions made by the credit institution's management bodies, in the cases when such transactions or operations involve the sum equalling more than 0.5 percent of the book value of the credit institution's assets (liabilities).

The procedure for a credit institution to submit information and documents to an authorised representative of the Bank of Russia shall be established by the Bank of Russia.

Should a credit institution fail to fulfil the requirements of this Article, the credit institution may be subject to measures stipulated in Article 74 of this Federal Law and the credit institution's counterparties under agreements concluded with the credit institution and stipulated in part 1 of this Article may demand the early fulfilment of obligations by the credit institution under such agreements.

The authorised representatives of the Bank of Russia shall be employees of the Bank of Russia. The procedure for the appointment of Bank of Russia authorised representatives, the performance of their functions and the termination of their activities shall be established by the Bank of Russia upon approval from the Government of the Russian Federation.

(Article 76 in the wording of Federal Law No. 317-FZ, dated December 30, 2008).

Chapter XI. Bank of Russia Relations with Credit Institutions

Article 77. The Bank of Russia shall co-operate with credit institutions and their associations and unions, hold consultations with them before taking the most important decisions relating to legislation, give the necessary explanations and consider proposals on issues relating to banking regulation. The Bank of Russia must respond in writing to a credit institution on issues within its competence no later than a month from the day on which it received a written request from the credit institution. The Bank of Russia may extend the term of considering a request, if necessary, but for not more than one month.

Article 78. For the purpose of maintaining co-operation with credit institutions, the Bank of Russia shall have the right to form with the participation of representatives of credit institutions volunteer committees and working groups to study specific issues relating to banking.

接或間接（透過第三人）對其交易對手管理部門之決策施加相當影響者，或得直接或間接（透過第三人）對信用機構管理部門之決策施加相當影響者之交易或操作，且交易或操作所涉金額超過該信用機構資產（負債）帳面價值 0.5% 者。

信用機構向本行代表提交資訊與文件之程序，由本行定之。信用機構未遵循本條規定時，應適用第 74 條所定之措施，信用機構簽訂協議之交易對手，於第 1 項所定情形，得要求信用機構提前履行所訂協議之債務。

本行代表應為本行職員。本行代表之任命程序、職責之履行及終止職務之事項，由本行洽經聯邦政府同意後定之。

（本條依 2008 年 12 月 30 日聯邦法第 317-FZ 號規定之用詞）

第 11 章 本行與信用機構之關係

第 77 條

本行應與信用機構及其協會、公會合作，於立法有關事項作成重要決議前諮商其意見，給予必要之說明，並參酌其關於銀行管理之提議。

本行應於收受信用機構書面申請之日起 1 個月內，就主管事項以書面回復。必要時，得延長回復之期間，但不得超過 1 個月。

第 78 條

為維持與信用機構間之合作，本行得成立由信用機構代表參加之志工委員會與工作小組，研究有關銀行之特定議題。

Article 79. The Bank of Russia shall not be liable for the obligations of credit institutions, except for the cases when the Bank of Russia assumes such obligations, while credit institutions shall not be liable for the obligations of the Bank of Russia, except for the cases when credit institutions assume such obligations.

Chapter XII. The Management of Non-Cash Settlements

Article 80. The Bank of Russia shall be a body co-ordinating, regulating and licensing settlement systems, including clearing systems, in the Russian Federation.

The Bank of Russia shall set non-cash settlement rules, forms, terms and standards.

The overall term of payments in non-cash settlements shall not exceed two operation days if the payment is effected within a constituent entity of the Russian Federation and five operation days if the payment is effected within the Russian Federation as a whole.

Article 81. The Bank of Russia shall effect interbank non-cash settlements through its institutions.

Article 82. Foreign currency may only be used as payment for goods (work and services) in non-cash settlements in the cases stipulated by federal laws.

Chapter XIII. Bank of Russia Organisational Principles

Article 83. The Bank of Russia shall be an integral centralised system with a vertical structure of management.

The Bank of Russia system shall comprise the central office, regional branches, cash settlement centres, computer centres, field institutions, training centres and other organisations, including security divisions and the Russian collection service, which are necessary for the Bank of Russia to conduct its activities.

The national banks of the constituent republics of the Russian Federation shall be the regional branches of the Bank of Russia.

第 79 條

本行除有承受信用機構債務之情形外，不負擔信用機構之債務；信用機構除有承受本行債務之情形外，亦不負擔本行之債務。

第 12 章 非現金清算之管理

第 80 條

本行為聯邦清算系統（包含結算系統）之協調、管理與發照機關。

本行應訂定非現金清算之規則、形式、期限與標準。

非現金清算之支付期間，於俄羅斯聯邦同一憲政實體內之支付，不得超過 2 個工作天；於俄羅斯聯邦全境內之支付時，不得超過 5 個工作天。

第 81 條

本行應透過其機構完成銀行間之非現金清算。

第 82 條

外國貨幣僅得用於支付聯邦法律所定非現金清算之商品（勞動與服務）。

第 13 章 本行之組織原則

第 83 條

本行為具垂直管理結構之中央集權組織。

本行組織體系由總行、地區分行、現金清算中心、電腦中心、野戰機構、訓練中心及其他部門，包含本行活動所需之安全部門及收發服務等所組成。

俄羅斯聯邦共和國之國家銀行，為本行之地區分行。

Article 84. The regional branches of the Bank of Russia shall not be legal entities and they shall have no right to issue normative acts or grant bank guarantees, warranties, bills and other obligations without the permission of the Board of Directors.

The tasks and functions of the Bank of Russia regional branches shall be established by the Provision on the Bank of Russia Regional Branches, approved by the Board of Directors.

Article 85. By the decision of the Board of Directors, regional branches of the Bank of Russia may be established in regions comprising several constituent entities of the Russian Federation.

Article 86. Field institutions of the Bank of Russia shall conduct banking operations in compliance with this Federal Law, other federal laws and Bank of Russia normative acts.

Field institutions of the Bank of Russia shall be military institutions, guided in their activities by army manuals and the Provision on the Bank of Russia Field Institutions, approved jointly by the Bank of Russia and the Ministry of Defence of the Russian Federation.

Bank of Russia field institutions are designed to provide banking services to military units, institutions and organisations of the Ministry of Defence of the Russian Federation and other government bodies and legal entities responsible for national security and also private individuals living in the territories serviced by Bank of Russia field institutions in the cases when it is impossible to establish and put into operation Bank of Russia regional branches.

Article 87. The Bank of Russia may only be liquidated by the adoption of a corresponding federal law amending the Constitution of the Russian Federation.

Chapter XIV. Bank of Russia Employees

Article 88. The conditions of the employment, dismissal and remuneration, official duties and rights and the system of disciplinary actions with regard to Bank of Russia employees shall be established by the Board of Directors in compliance with federal laws.

第 84 條

本行地區分行不具法人資格，不得發布規章。未經理事會同意，不得辦理銀行保證、擔保、簽發票據及其他放款。

本行地區分行之任務與職責，依理事會核定之《俄羅斯銀行地區分行規範》定之。

第 85 條

依理事會決議，本行地區分行得設於包含數個聯邦憲政實體之地區。

第 86 條

本行野戰機構依本法、其他聯邦法律與本行規章從事銀行業務。

本行野戰機構為軍事機構，依陸軍手冊及本行與國防部共同核定之《俄羅斯銀行地區野戰機構規範》指導其活動。

本行野戰機構應對國防部之軍事單位、機構與組織、其他負責國家安全之政府機關與法人，以及未設立本行分行之地區之居民提供金融服務。

第 87 條

本行僅於通過相關聯邦法律修正《俄羅斯聯邦憲法》時，始得被清算。

第 14 章 本行之職員

第 88 條

本行職員之聘僱、解僱與薪酬之條件，權利與職務，以及獎懲事項，由理事會依聯邦法律定之。

Article 89. The Board of Directors shall establish a pension fund for the provision of additional pension services to Bank of Russia employees and organise life and medical insurance for Bank of Russia employees.

Article 90. Bank of Russia employees holding positions included in a list approved by the Board of Directors shall not be allowed:

- 1) to hold more than one job or work under a contract agreement (except for teaching, research and creative work);
- 2) to hold jobs in credit and other institutions;
- 3) to acquire securities, shares (stakes in the authorised capital of organisations), which may yield income, in the cases when this may result in a conflict of interests, except for cases established by federal law;
- 4) be an attorney or a representative of third parties in the Bank of Russia, unless otherwise stipulated in this Federal Law and other federal laws;
- 5) receive, in connection with the performance of their functions, remunerations (loans, cash or other remuneration, services, payments for entertainment, leisure, transport expenses) not stipulated by the legislation of the Russian Federation, except for the cases stipulated by the legislation of the Russian Federation. Gifts received by Bank of Russia employees in connection with protocol events, business trips and other official events shall be recognised as federal property and transferred by Bank of Russia employees under a handover certificate to the Bank of Russia, except for the cases stipulated by the legislation of the Russian Federation. A Bank of Russia employee who has handed over a gift received in connection with a protocol event, a business trip or other official event, may buy it out in accordance with the procedure established by legal acts of the Russian Federation;
- 6) travel abroad, in connection with the performance of their functions, using the funds of private individuals and legal entities, except for business trips made in accordance with the legislation of the Russian Federation, international treaties of the Russian Federation, accords reached by the federal government bodies on a reciprocal basis with foreign government bodies and international and foreign organisations, and interbank agreements.

In the cases when the possession of income-yielding securities, shares (stakes in the authorised capital of organisations) may result in a conflict of interests, an employee of the Bank of Russia must transfer the said securities, shares (stakes in the authorised capital of organisations) held by him/her, for trust management in accordance with the legislation of the Russian Federation.

第 89 條

理事會應設立退休基金提供本行職員額外退休金服務，並投保職員壽險與醫療保險。

第 90 條

本行職員擔任理事會所核定名單內之職務者，不得：

- (1)擔任超過 1 個以上之職務或契約工作（教學、研究與創造性工作除外）。
- (2)於信用或其他機構任職。
- (3)除聯邦法律另有規定外，於可能產生利益衝突之情形，取得具收益性之有價證券、股份（機構法定資本之股票）。
- (4)除本法或其他聯邦法律另有規定外，兼任第三人之代理人或代表。
- (5)除聯邦法規另有規定外，收受聯邦法規未規定且與履行職責相關聯之報酬（貸款、現金、其他報酬、服務或有關娛樂、休閒及交通之補助）。除聯邦法規另有規定外，本行職員因公務關係、商務旅行或其他正式場合收受之禮物，視為聯邦財產，應由本行職員檢附移交證明送交本行。本行職員得依聯邦法規所定程序買下其因公務關係、商務旅行或其他正式場合所收受而移交之禮物。
- (6)除依聯邦法規、聯邦國際條約、聯邦政府與外國政府、國際與外國組織達成之互惠協議，以及銀行間協議所為之商務旅行外，以私人或法人提供資金支付與履行職責相關聯之海外旅行。

於可能產生利益衝突之情形，本行職員取得具收益性之有價證券、股份（機構法定資本額之股票），應依聯邦法規將持有之有價證券、股份（機構法定資本額之股票）交付信託。

Employees who had held positions included in a list approved by the Board of Directors shall not be allowed, after their dismissal from the Bank of Russia:

- 1) to hold, during two years in credit institutions, the positions of executives whose list is given in Article 60 of this Federal Law, if certain functions of supervision or control over these credit institutions were included in their direct official duties, without the consent of the Board of Directors, which shall be given in accordance with the procedure established by the Board of Directors;
- 2) to disclose or use in the interests of organisations or private individuals information referred in accordance with federal law to information of restricted access, or insider information that has become known to them in connection with the performance of their functions.

Responsibility for failure to comply with the bans stipulated by this Article shall be established by this Federal Law and other federal laws.

(Article 90 in the wording of Federal Law No. 274-FZ, dated December 25, 2008)

Article 91. Bank of Russia employees holding positions included in a list approved by the Board of Directors may take out loans for personal needs in the Bank of Russia only.

Article 92. Bank of Russia employees shall have no right to disclose internal information about the activities of the Bank of Russia without the permission of the Board of Directors.

Chapter XV. Bank of Russia Audit

Article 93. The National Banking Board shall make a decision before the end of the reporting year on an audit of the annual financial statements of the Bank of Russia and select an audit firm with a licence to conduct audits in the Russian Federation.

The National Banking Board shall be entitled to give recommendations to the auditor of the Bank of Russia on matters concerning the audit of the annual financial statements of the Bank of Russia, while the auditor of the Bank of Russia must ensure the fulfilment of these recommendations.

Article 94. The Bank of Russia shall be obliged in compliance with an agreement on the provision of audit services, concluded with the audit firm, to present to it the statements and information necessary for auditing the Bank of Russia.

本行職員擔任理事會所核定名單內之職務者，不得於離職後：

- (1) 未經理事會依其所定程序之同意，於 2 年內在其原所直接監督或管理之信用機構內，擔任第 60 條所列之主管職務。
 - (2) 為個別機構或私人利益，向其揭露或提供聯邦法律限制公開之資訊，或其在職時因職務關係而得知之內部資訊。
- 違反本條禁令之法律責任，由本法與其他聯邦法律定之。
(本條依 2008 年 12 月 25 日聯邦法第 274-FZ 號規定之用詞)

第 91 條

本行職員擔任理事會核定名單內之職務者，僅得以個人之需要向本行貸款。

第 92 條

本行職員未經理事會同意，不得揭露有關本行業務之內部資料。

第 15 章 財務審查

第 93 條

國家銀行委員會應於報表年度結束前，就本行年度財務報表之審查作成決議，並選定於境內具有查帳執照之會計公司。國家銀行委員會得就關於本行年度財務報表稽核有關事項，並對本行稽核人員提供建議；稽核人員則應確實履行該建議。

第 94 條

本行應依與會計公司簽訂之稽查合約，向該公司提出稽查本行財務所需之報表與資料。

The agreement on the provision of audit services shall contain a list of data that must be passed to the audit firm and provide for the responsibility of the audit firm for passing the information it has received to a third party.

The Bank of Russia shall pay the audit firm for the services it has provided under the agreement on the provision of audit services out of its own funds.

Article 95. The internal audit of the Bank of Russia shall be conducted by the Bank of Russia chief auditor's service, which shall be directly accountable to the Bank of Russia Chairman.

Chapter XVI. Final Provisions

Article 96. The Russian Federation President, the Russian Federation Government and the Bank of Russia shall bring their normative legislation into conformity with this Federal Law.

Article 97. This Federal Law shall come into force as of the day of its official publication, except Article 10, paragraph 2 of Article 58 and other provisions of this Article.

Article 10 of this Federal Law shall come into force as of January 1, 2003. Before that Article comes into force, the authorised capital of the Bank of Russia shall be 3 million rubles.

Paragraph 2 of Article 58 of this Federal Law shall come into force as of January 1, 2004.

Regulations pertaining to the issue, suspension and revocation by the Bank of Russia of permits granted to currency exchanges for conducting operations to buy and sell foreign exchange shall come into force as of the day of the coming into force of a federal law on making the corresponding amendments to the Federal Law on Licensing Some Kinds of Activities.

Article 98. *Part 1 has been invalidated.* Federal Law No. 63-FZ, dated April 26, 2007.

Article 19 of Federal Law No. 4-FZ, dated January 11, 1995, "On the Audit Chamber of the Russian Federation" (Collected Laws of the Russian Federation, 1995, No. 3, Article 167) shall be amended to include the following paragraph:

"The Audit Chamber of the Russian Federation shall conduct inspections of the financial and economic activities of the Central Bank of the Russian Federation and its units and divisions. Such inspections shall be conducted pursuant to the decisions of the State Duma, passed solely on the basis of proposals of the National Banking Board."

稽查合約內容應包含本行須遞交會計公司之資料清單，以及會計公司應將收受之資料轉交第三人之義務。
本行應以自有資金支付會計公司依稽查合約所提供之服務。

第 95 條

本行內部稽查由本行審計長為之，並直接對理事主席負責。

第 16 章 附 款

第 96 條

總統、聯邦政府與本行應使其規章符合本法之規範。

第 97 條

除第 10 條、第 58 條第 2 項與本條其他規定外，本法自公布日生效。

第 10 條自 2003 年 1 月 1 日生效；其生效前，本行法定資本為 300 萬盧布。

第 58 條第 2 項自 2004 年 1 月 1 日生效。

關於本行核發、暫停或撤銷從事買賣外匯業務許可之規定，自聯邦法律對《特許行業發照法》作相對應修正之生效日起，發生效力。

第 98 條

本項失其效力。2007 年 4 月 26 日聯邦法第 63-FZ 號。

1995 年 1 月 11 日聯邦法第 4-FZ 號第 19 條之「於審計局」，應修正如下：「審計局應檢查中央銀行、其內部單位與分行之財務與經濟活動。前述檢查應由國家銀行委員會單獨提案，並提交下議院依其決議辦理。」

Article 99. The following shall become invalid from the day of the coming into force of this Federal Law:

RSFSR Law No. 394-I, dated December 2, 1990, "On the Central Bank of the RSFSR (Bank of Russia)" (The Bulletin of the Congress of People's Deputies of the RSFSR, 1990, No. 27, Article 356);

Article 10 of Russian Federation Law No. 3119-I, dated June 24, 1992, "On Amending the RSFSR Civil Code, the RSFSR Code of Civil Procedure, the Rules of the RSFSR Supreme Soviet and RSFSR Laws "On the Jewish Autonomous Region," "On the Election of People's Deputies of the RSFSR," "On Additional Powers of the Local Soviets of People's Deputies during the Transition to Market Relations," "On Farming," "On Land Reform," "On Banks and Banking Activities in the RSFSR," "On the Central Bank of the RSFSR (Bank of Russia)," "On Ownership in the RSFSR," "On Enterprises and Entrepreneurial Activities," "On the State Tax Service of the RSFSR," "On Competition and the Restriction of Monopolist Activities on Commodity Markets," "On the Priority Supply of the Agribusiness Sector with Material and Technical Resources," "On Local Self-government in the RSFSR," "On the Privatisation of State and Municipal Enterprises in the RSFSR," "On the Fundamentals of the Budget System and Budget Process in the RSFSR," and "On Stamp Duty;" Russian Federation Laws "On the Territorial and Regional Soviet of People's Deputies and Territorial and Regional Government" and "On Commodity Exchanges and Exchange Trade" (The Bulletin of the Congress of People's Deputies of the Russian Federation and Supreme Soviet of the Russian Federation, 1992, No. 34, Article 1966);

Federal Law No. 65-FZ, dated April 26, 1995, "On Amending the RSFSR Law "On the Central Bank of the RSFSR (Bank of Russia)" (Collected Laws of the Russian Federation, 1995, No. 18, Article 1593);

Federal Law No. 120-FZ, dated July 31, 1995, "On Amending Article 5 of the Federal Law "On Amending the RSFSR Law "On the Central Bank of the RSFSR (Bank of Russia)" (Collected Laws of the Russian Federation, 1995, No. 31, Article 2991);

Federal Law No. 210-FZ, dated December 27, 1995, "On Amending the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)" (Collected Laws of the Russian Federation, 1996, No. 1, Article 3);

Federal Law No. 214-FZ, dated December 27, 1995, "On Amending Article 83 of the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)" (Collected Laws of the Russian Federation, 1996, No. 1, Article 7);

第 99 條

自本法生效之日起，下列規定失其效力：

1990 年 12 月 2 日之蘇聯法第 394-I 號《蘇聯中央銀行（本行）》。

1992 年 6 月 24 日之聯邦法第 3119-I 號《修正蘇聯民法、蘇聯民事程序法、蘇聯最高蘇維埃規則，以及「猶太自治區」、「蘇聯人民代表選舉」、「市場關係過渡期間地區蘇維埃人民代表之額外權力」、「農業」、「土地改革」、「蘇聯銀行與銀行活動」、「蘇聯中央銀行（本行）」、「蘇聯所有權」、「企業與企業活動」、「蘇聯國稅服務」、「商品市場競爭與限制壟斷者行為」、「優先供應農業綜合企業部門原料與技術資源」、「蘇聯地方自治政府」、「蘇聯國有與市有企業私有化」、「蘇聯預算制度與預算程序基本原則」與「印花稅」蘇聯法律。「領土與區域蘇維埃人民代表及領土與區域政府」與「商品交易與外匯交易」聯邦法律》第 10 條。

1995 年 4 月 26 日之聯邦法第 65-FZ 號《修正「蘇聯中央銀行（本行）」蘇聯法》。

1995 年 7 月 31 日之聯邦法第 65-FZ 號《「修正『蘇聯中央銀行（本行）』蘇聯法」聯邦法第 5 條》。

1995 年 12 月 27 日之聯邦法第 210-FZ 號《修正「聯邦中央銀行（本行）」聯邦法》。

1995 年 12 月 27 日之聯邦法第 214-FZ 號《修正「聯邦中央銀行（本行）」聯邦法第 83 條》。

Federal Law No. 1-FZ, dated January 4, 1996, "On Amending Article 5 of the Federal Law "On Amending the RSFSR Law "On the Central Bank of the RSFSR (Bank of Russia)" (Collected Laws of the Russian Federation, 1996, No. 2, Article 55);

Federal Law No. 80-FZ, dated June 20, 1996, "On Amending the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)" (Collected Laws of the Russian Federation, 1996, No. 26, Article 3032);

Federal Law No. 45-FZ, dated February 27, 1997, "On Amending the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)" (Collected Laws of the Russian Federation, 1997, No. 9, Article 1028);

Federal Law No. 70-FZ, dated April 28, 1997, "On Amending Article 34 of the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)" (Collected Laws of the Russian Federation, 1997, No. 18, Article 2099);

Federal Law No. 34-FZ, dated March 4, 1998, "On Amending the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)" and Federal Law "On Amending the RSFSR Law "On the Central Bank of the RSFSR (Bank of Russia)" (Collected Laws of the Russian Federation, 1998, No. 10, Article 1147);

Article 1 of Federal Law No. 151-FZ, dated July 31, 1998, "On Amending the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)" and Federal Law "On Banks and Banking Activities" (Collected Laws of the Russian Federation, 1998, No. 31, Article 3829);

Article 1 of Federal Law No. 139-FZ, dated July 8, 1999, "On Amending the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)" and Federal Law "On the Securities Market" (Collected Laws of the Russian Federation, 1999, No. 28, Article 3472);

Federal Law No. 81-FZ, dated June 19, 2001, "On Amending Article 73 of the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)" (Collected Laws of the Russian Federation, 2001, No. 26, Article 2585);

Article 4 of Federal Law No. 110-FZ, dated August 6, 2001, "On Amending Section Two of the Tax Code of the Russian Federation and Some Other Russian Federation Laws on Taxes and Duties and on Invalidating Some Russian Federation Laws (or Provisions Thereof) on Taxes and Duties" (Collected Laws of the Russian Federation, 2001, No. 33, Article 3413);

paragraph 10 of Article 2 of Federal Law No. 31-FZ, dated March 21, 2002, "On Bringing Legislation into Compliance with the Federal Law on the State Registration of Legal Entities" (Collected Laws of the Russian Federation, 2002, No. 12, Article 1093).

1996 年 1 月 4 日之聯邦法第 1-FZ 號《「修正『蘇聯中央銀行（本行）』蘇聯法」聯邦法第 5 條》。

1996 年 6 月 20 日之聯邦法第 80-FZ 號《修正「聯邦中央銀行（本行）」聯邦法》。

1997 年 2 月 27 日之聯邦法第 45-FZ 號《修正「聯邦中央銀行（本行）」聯邦法》。

1997 年 4 月 28 日之聯邦法第 70-FZ 號《修正「聯邦中央銀行（本行）」聯邦法第 34 條》。

1998 年 3 月 4 日之聯邦法第 34-FZ 號《修正「聯邦中央銀行（本行）」聯邦法與「蘇聯中央銀行（本行）」蘇聯法》。

1998 年 7 月 31 日之聯邦法第 151-FZ 號《修正「聯邦中央銀行（本行）」聯邦法與「銀行與銀行活動」聯邦法》第 1 條。

1999 年 7 月 8 日之聯邦法第 139-FZ 號《修正「聯邦中央銀行（本行）」聯邦法與「市場秘密」聯邦法》第 1 條。

2001 年 6 月 19 日之聯邦法第 81-FZ 號《修正「聯邦中央銀行（本行）」聯邦法第 73 條》。

2001 年 8 月 6 日之聯邦法第 110-FZ 號《修正俄羅斯稅法第 2 節以及其他租稅與廢止聯邦法之聯邦法》第 4 條。

2002 年 3 月 21 日之聯邦法第 31-FZ 號《依法人國家登記聯邦法立法》第 2 條第 10 項。

RUSSIAN FEDERATION FEDERAL LAW
On the Central Bank of the Russian Federation (Bank of Russia)

九、THE RESERVE BANK OF INDIA ACT, 1934

ACT NO. 2 OF 1934

印度準備銀行法

THE RESERVE BANK OF INDIA ACT, 1934

ACT NO. 2 OF 1934

CHAPTER I PRELIMINARY

*CHAPTER II INCORPORATION, CAPITAL, MANAGEMENT
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印度準備銀行法

法務室 李靜惠 譯

第 1 章 總 則

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THE RESERVE BANK OF INDIA ACT, 1934

ACT NO. 2 OF 1934

Enacted on 6th March, 1934.

As modified up to the 31st December, 2003

An Act to constitute a Reserve Bank of India

WHEREAS it is expedient to constitute a Reserve Bank for India to regulate the issue of Bank notes and the keeping of reserves with a view to securing monetary stability in India and generally to operate the currency and credit system of the country to its advantage;

AND WHEREAS in the present disorganisation of the monetary systems of the world it is not possible to determine what will be suitable as a permanent basis for the Indian monetary system;

BUT WHEREAS it is expedient to make temporary provision on the basis of the existing monetary system, and to leave the question of the monetary standard best suited to India to be considered when the international monetary position has become sufficiently clear and stable to make it possible to frame permanent measures;

It is hereby enacted as follows:-

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.

- (1) This Act may be called the Reserve Bank of India Act, 1934.
- (2) It extends to the whole of India .
- (3) This section shall come into force at once, and the remaining provisions of this Act shall come into force on such date or dates as the Central Government may, by notification in the Gazette of India, appoint.

印度準備銀行法

1934 年 3 月 6 日訂定

2003 年 12 月 31 日最新修正

印度準備銀行設立之法律

為設立印度之準備銀行，以規範鈔券之發行，確保幣值穩定而持有準備貨幣，並為全國之利益而建立通貨及信用系統之運作機制。

雖然目前世界各國貨幣制度莫衷一是，無法決定何者適於作為印度貨幣體系之長遠基礎，但政府有必要對於現有之貨幣體系訂定暫時性規範，並將最適合印度金融標準之問題，留待國際金融情況明朗及穩定後，再研議建置長遠性之規範架構。

本法規定如下：

第 1 章 總 則

第 1 條 簡稱、範圍及生效

- (1) 本法稱為「1934 年印度準備銀行法」。
- (2) 本法施行範圍及於全印度境內。
- (3) 本條規定即日起生效；本法其他條文之生效日期，由中央政府於政府公報公告訂定。

2. Definitions.

In this Act, unless there is anything repugnant in the subject or context, -

- (a) Omitted.
- (ai) Omitted.
- (aii) "the Bank" means the Reserve Bank of India constituted by this Act;
- (aiii) "Bank for International Settlements" means the body corporate established with the said name under the law of Switzerland in pursuance of an agreement dated the 20th January, 1930, signed at the Hague;
- (b) "the Central Board" means the Central Board of Directors of the Bank;
- (bi) Omitted.
- (bii) Omitted.
- (biii) Omitted.
- (biv) Omitted.
- (bv) Omitted.
- (bvi) "Deposit Insurance Corporation" means the Deposit Insurance Corporation established under section 3 of the Deposit Insurance Corporation Act, 1961;
- (bvii) "Development Bank" means the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964;
- (bviii) Omitted.
- (bviiiia) "Exim Bank" means the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981;
- (bix) "foreign currency" and "foreign exchange" have the meanings respectively assigned to them in the Foreign Exchange Regulation Act, 1973;
- (c) "Industrial Finance Corporation" means the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948;
- (ca) "International Development Association" means the "Association" referred to in the International Development Association (Status, Immunities and Privileges) Act, 1960;
- (cb) "International Finance Corporation" means the "Corporation" referred to in the International Finance Corporation (Status, Immunities and Privileges) Act, 1958;

第 2 條 名詞定義

除本法另有規定外，本法用語定義如下：

- (a) 刪除。
- (ai) 刪除。
- (aii) 「本行」：係指依本法規定設立之印度準備銀行。
- (aiii) 「國際清算銀行」：係指為履行 1930 年 1 月 20 日於海牙所簽署之協議，依瑞士法律設立，名稱為「國際清算銀行」之公司法人。
- (b) 「理事會」：係指本行理事會。
- (bi) 刪除。
- (bii) 刪除。
- (biii) 刪除。
- (biv) 刪除。
- (bv) 刪除。
- (bvi) 「存款保險公司」：係指依「1961 年存款保險公司法」第 3 條規定設立之存款保險公司。
- (bvii) 「開發銀行」：係指依「1964 年印度工業開發銀行法」規定設立之印度工業開發銀行。
- (bviii) 刪除。
- (bviiiia) 「輸出入銀行」：係指依「1981 年印度輸出入銀行法」規定設立之印度輸出入銀行。
- (bix) 「外國通貨」及「外匯」：其定義依「1973 年外匯管理法」之有關規定。
- (c) 「工業金融公司」：係指依「1948 年工業金融公司法」規定設立之印度工業金融公司。
- (ca) 「國際發展協會」：係指依「1960 年國際發展協會（法律地位、豁免權、特許權）法」所稱之協會。
- (cb) 「國際金融公司」：係指依「1958 年國際金融公司（法律地位、豁免權、特許權）法」所稱之公司。

- (cc) "International Monetary Fund" and "International Bank for Reconstruction and Development" mean respectively the "International Fund" and the "International Bank", referred to in the International Monetary Fund and Bank Act, 1945;
- (ccc) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;
- (cccc) "National Housing Bank" means the National Housing Bank established under section 3 of the National Housing Bank Act, 1987;
- (cv) "Reconstruction Bank" means the Industrial Reconstruction Bank of India established under section 3 of the Industrial Reconstruction Bank of India, Act, 1984;
- (d) "rupee coin" means rupees which are legal tender in India under the provisions of the Indian Coinage Act, 1906;
- (e) "scheduled bank" means a bank included in the Second Schedule;
- (ea) "Sponsor Bank" means a Sponsor Bank as defined in the Regional Rural Banks Act, 1976;
- (eb) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955;
- (el) "Small Industries Bank" means the Small Industries Development Bank of India established under Section 3 of the Small Industries Development Bank of India Act, 1989".
- (fi) "State Financial Corporation" means any State Financial Corporation established under the State Financial Corporations Act 1951;
- (g) "Unit Trust" means the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963;
- (h) "agricultural operations", "central co-operative bank", "co-operative society", "crops", "marketing of crops", "pisciculture", "regional rural bank" and "State co-operative bank" shall have the meanings respectively assigned to them in the National Bank for Agriculture and Rural Development Act, 1981;

- (cc) 「國際貨幣基金」及「國際復興開發銀行」：係指依「1945年國際貨幣基金及銀行法」所稱之「國際基金」及「國際銀行」。
- (ccc) 「國家銀行」：係指依「1981年農業及農村發展法」第3條規定設立之農業及農村發展國家銀行。
- (cccc) 「國家住宅銀行」：係指依「1987年國家住宅銀行法」第3條規定設立之國家住宅銀行。
- (cv) 「重建銀行」：係指依「1984年印度工業重建銀行法」第3條規定設立之印度工業重建銀行。
- (d) 「盧比硬幣」：係指依「1906年印度鑄幣法」規定，於印度境內具法償效力之盧比。
- (e) 「附表銀行」：係指本法附表二所列名單中之任一家銀行。
- (ea) 「贊助銀行」：係指於「1976年區域農村銀行法」所規定之贊助銀行。
- (eb) 「州立銀行」：係指依「1955年州立銀行法」規定設立之州立銀行。
- (el) 「小型工業銀行」：係指依「1989年小型工業開發銀行法」第3條規定設立之印度小型工業開發銀行。
- (fi) 「州立金融公司」：係指依「1951年州立金融公司法」規定設立之州立金融公司。
- (g) 「單位信託」：係指依「1963年印度單位信託法」第3條規定設立之印度單位信託。
- (h) 「農業營運」、「中央合作銀行」、「合作社」、「穀物」、「穀物行銷」、「養殖」、「區域農村銀行」及「州立合作銀行」：其定義依「1981年農業及農村發展國家銀行法」之相關規定。

- (i) "co-operative bank", "co-operative credit society", "director", "primary agricultural credit society", "primary co-operative bank" and "primary credit society" shall have the meanings respectively assigned to them in Part V of the Banking Regulation Act, 1949;

CHAPTER II

INCORPORATION, CAPITAL, MANAGEMENT AND BUSINESS

3. Establishment and incorporation of Reserve Bank.

- (1) A bank to be called the Reserve Bank of India shall be constituted for the purposes of taking over the management of the currency from the Central Government and of carrying on the business of banking in accordance with the provisions of this Act.
- (2) The Bank shall be a body corporate by the name of the Reserve Bank of India, having perpetual succession and a common seal, and shall by the said name sue and be sued.

4. Capital of the Bank.

The capital of the Bank shall be five crores of rupees.

5. Increase and reduction of share capital. Rep. by Act 62 of 1948, s.7 and Sch.

6. Offices, branches and agencies.

The Bank shall, as soon as may be, establish offices in Bombay, Calcutta, Delhi and Madras and may establish branches or agencies in any other place in India or, with the previous sanction of the Central Government, elsewhere.

7. Management.

- (1) The Central Government may from time to time give such directions to the Bank as it may, after consultation with the Governor of the Bank, consider necessary in the public interest.
- (2) Subject to any such directions, the general superintendence and direction of the affairs and business of the Bank shall be entrusted to a Central Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Bank.

- (i) 「合作銀行」、「信用合作社」、「理事」、「主要農業信用社」、「主要合作銀行」及「主要信用社」：其定義依「1949年銀行管理法」第五章之相關規定。

第2章 設立、資本、管理及業務

第3條 本行之設立

- (1) 設立本行目的，在於依據本法之規定，經管中央政府通貨發行及銀行業務之經營。
- (2) 本行係以印度準備銀行為名之公司法人，具永續經營能力，備有關防印信，並得以自己名義起訴或被訴。

第4條 本行資本

本行資本定為5千萬盧比。

第5條 股本之增減

刪除。

第6條 辦公處所、分行及代理機構

本行應儘速於孟買、加爾各答、德里及馬德拉斯等地設立辦公處所，並得經中央政府許可，於印度其他地區設立分行及代理機構。

第7條 管理

- (1) 中央政府為公共利益之目的，得於洽徵本行總裁意見後，隨時向本行下達指令。
- (2) 理事會依據前款中央政府之指令，對本行事務及業務有一般監督權及指揮權限，並得行使本行各項權力，及執行或施行各項措施或行為。

- (3) Save as otherwise provided in regulations made by the Central Board, the Governor and in his absence the Deputy Governor nominated by him in this behalf, shall also have powers of general superintendence and direction of the affairs and the business of the Bank, and may exercise all powers and do all acts and things which may be exercised or done by the Bank.

8. Composition of the Central Board, and term of office of Directors.

- (1) The Central Board shall consist of the following Directors, namely:-
- (a) a Governor and not more than four Deputy Governors to be appointed by the Central Government;
 - (b) four Directors to be nominated by the Central Government, one from each of the four Local Boards as constituted by section 9;
 - (c) ten Directors to be nominated by the Central Government; and
 - (d) one Government official to be nominated by the Central Government;
- (2) The Governor and Deputy Governors shall devote their whole time to the affairs of the Bank, and shall receive such salaries and allowances as may be determined by the Central Board, with the approval of the Central Government:

Provided that the Central Board may, if in its opinion it is necessary in the public interest so to do, permit the Governor or a Deputy Governor to undertake, at the request of the Central Government or any State Government, such part-time honorary work, whether related to the purposes of this Act or not, as is not likely to interfere with his duties as Governor or Deputy Governor, as the case may be:

Provided further that the Central Government may, in consultation with the Bank, appoint a Deputy Governor as the Chairman of the National Bank, on such terms and conditions as that Government may specify.

- (3) A Deputy Governor and the Director nominated under clause (d) of sub-section (1) may attend any meeting of the Central Board and take part in its deliberations but shall not be entitled to vote:

Provided that when the Governor is, for any reason, unable to attend any such meeting, a Deputy Governor authorised by him in this behalf in writing may vote for him at that meeting.

- (4) The Governor and a Deputy Governor shall hold office for such term not exceeding five years as the Central Government may fix when appointing them, and shall be eligible for re-appointment.

A Director nominated under clause (c) of sub-section (1) shall hold office for a period of four years and thereafter until his successor shall have been nominated.

- (3) 除理事會頒訂之法令另有規定外，總裁或總裁缺席時，由其指定之副總裁，對本行事務及業務有一般監督權及指揮權，並得行使本行之各項權力，及執行或施行各項措施或行為。

第 8 條 理事會之組成、理事之任期

- (1) 理事會由下列人員組成：

- (a) 總裁 1 人及中央政府所任命之副總裁不超過 4 人。
- (b) 中央政府所任命之理事 4 人，分別由依第 9 條規定組成之 4 個區域委員會成員出任。
- (c) 中央政府所任命之理事 10 人。
- (d) 中央政府所任命之中央官員 1 人。

- (2) 總裁及副總裁應為專任，其薪資及津貼標準，由理事會決定，並報請中央政府核准。

於中央政府或州政府請求本行總裁、副總裁兼任與本法有關或無關之榮譽職務時，理事會認為於公共利益有必要，且無妨礙總裁、副總裁應執行職務者，得同意其兼任之。中央政府於洽徵本行意見後，得任命副總裁 1 人，擔任國家銀行之主席，其任期及其他條件，由中央政府定之。

- (3) 副總裁 1 人及依第(1)項第(d)款規定任命之理事，得出席理事會之會議，並參與會議討論，惟無表決權。

總裁因故無法參加會議時，得以書面指派副總裁 1 人代為表決。

- (4) 總裁及副總裁 1 人，任期不得超過 5 年；其個別之任期由中央政府於任命時指定，並均得續任。

依第(1)項第(c)款規定任命之理事，其中 1 人任期 4 年，任期屆滿後續任至繼任者被任命為止。

A Director nominated under clause (d) of sub-section (1) shall hold office during the pleasure of the Central Government.

- (5) No act or proceeding of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.
- (6) Omitted.
- (7) A retiring Director shall be eligible for re-nomination.

9. Local Boards, their constitution and functions

- (1) A Local Board shall be constituted for each of the four areas specified in the First Schedule and shall consist of five members to be appointed by the Central Government to represent, as far as possible, territorial and economic interests and the interests of co-operative and indigenous banks.
- (2) The members of the Local Board shall elect from amongst themselves one person to be the chairman of the Board.
- (3) Every member of a Local Board shall hold office for a term of four years and thereafter until his successor shall have been appointed and shall be eligible for re-appointment.
- (4) A Local Board shall advise the Central Board on such matters as may be generally or specifically referred to it and shall perform such duties as the Central Board may delegate to it.

10. Disqualifications of Directors and members of Local Boards.

- (1) No person may be a Director or a member of a Local Board who -
 - (a) is a salaried Government official, or
 - (b) is, or at any time has been, adjudicated an insolvent, or has suspended payment or has compounded with his creditors, or
 - (c) is found lunatic or becomes of unsound mind, or
 - (d) is an officer or employee of any bank, or
 - (e) is a Director of a banking company within the meaning of clause (c) of section 5 of the Banking Regulation Act, 1949, or of a co-operative bank.

依第(1)項第(d)款規定任命之理事無固定任期，由中央政府為政治任命。

- (5) 理事會之決議或程序，不因理事之缺席或其組成瑕疵而受影響。
- (6) 刪除。
- (7) 任期屆滿之理事得續予任命。

第 9 條 區域委員會之組成及功能

- (1) 區域委員會由本法附表一所列 4 個區域代表組成，其成員包含中央政府所任命之代表 5 人。選任委員時，應考量地域及經濟利益，以及合作銀行與當地銀行業之權益。
- (2) 區域委員會委員應由成員互選 1 人，擔任委員會主任委員。
- (3) 區域委員會委員任期 4 年，續任至繼任者被任命為止，並得連選連任。
- (4) 區域委員會應就與其有關之一般或特定事項，向理事會提供建議，並應執行理事會交付之任務。

第 10 條 理事會及區域委員會成員之消極資格

- (1) 下列人員不得擔任理事或區域委員會成員：
 - (a) 政府部門有給職官員。
 - (b) 破產、曾經宣告破產、無力清償債務或與債權人達成和解清償者。
 - (c) 患精神病或心智異常者。
 - (d) 銀行之幹部或受雇人員。
 - (e) 擔任「1949 年銀行管理法」第 5 條第(c)款規定所稱金融公司或合作銀行之董事。

- (2) No two persons who are partners of the same mercantile firm, or are Directors of the same private company, or one of whom is the general agent of or holds a power of procuration from the other, or from a mercantile firm of which the other is a partner, may be Directors or members of the same Local Board at the same time.
- (3) Nothing in clause (a), clause (d) or clause (e) of sub-section (1) shall apply to the Governor, or to a Deputy Governor, or to the Director nominated under clause (d) of sub-section (1) of section 8.

11. Removal from and vacation of office.

- (1) The Central Government may remove from office the Governor, or a Deputy Governor or any other Director or any member of a Local Board.
- (2) A Director nominated under clause (b) or clause (c) of sub-section (1) of section 8 shall cease to hold office if without leave from the Central Board he absents himself from three consecutive meetings of the Board convened under sub-section (1) of section 13.
- (3) The Central Government shall remove from office any Director and the Central Board shall remove from office any member of a Local Board, if such Director or member becomes subject to any of the disqualifications specified in sub-section (1) or sub-section (2) of section 10.
- (4) A Director or member of a Local Board removed or ceasing to hold office, under the foregoing sub-sections shall not be eligible for re-appointment either as Director or as member of a Local Board until the expiry of the term for which his appointment was made.
- (5) The nomination as Director or member of a Local Board of any person who is a member of Parliament or the Legislature of any State shall be void, unless, within two months of the date of his nomination, he ceases to be such member, and, if any Director or member of a Local Board is elected or nominated as a member of Parliament or any such Legislature, he shall cease to be a Director or member of the Local Board as from the date of such election or nomination, as the case may be.
- (6) A Director may resign his office to the Central Government, and a member of a Local Board may resign his office to the Central Board, and on the acceptance of the resignation the office shall become vacant.

- (2) 二人同屬商業行號之合夥人，或同一私人公司之董事，或其中一人是另一人之一般代理人或訴訟代理人，該二人均不得同時擔任理事或同一區域委員會之委員。
- (3) 第(1)項第(a)款、第(d)款及第(e)款之規定，於總裁、副總裁或依第 8 條第(1)項第(d)款任命之理事，不適用之。

第 11 條 解任及辭職

- (1) 中央政府得將總裁、副總裁、理事及區域委員會之成員解任。
- (2) 依第 8 條第(1)項第(b)款及第(c)款規定任命之理事，連續 3 次無故未出席依第 13 條第(1)項規定召集之理事會會議時，應終止其職務。
- (3) 理事或區域委員會成員發生第 10 條第(1)項、第(2)項規定消極資格之情事時，中央政府應解任該理事；理事會應解任該區域委員會成員。
- (4) 依本條規定解任或終止職務之理事或區域委員會成員，於其該屆任期屆滿前，不具續任資格。
- (5) 經任命之理事或區域委員會成員具國會議員或州議員身分者，除被任命人於任命之日起 2 個月內，喪失其議員或州議員身分者外，該項任命為無效。理事或區域委員會成員因選舉或經任命，出任國會議員或州議員時，自其當選或被任命之日起，應停止行使其理事或區域委員會成員之職務。
- (6) 理事之辭職，應向中央政府提出辭呈；區域委員會委員之辭職，應向理事會提出辭呈。其職位於經批准之日起出缺。

12. Casual Vacancies and absences.

- (1) If the Governor or a Deputy Governor by infirmity or otherwise is rendered incapable of executing his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment, the Central Government may, after consideration of the recommendations made by the Central Board in this behalf, appoint another person to officiate for him, and such person may, notwithstanding anything contained in clause (d) of sub-section (1) of section 10, be an officer of the Bank.
- (2) Omitted.
- (3) Where any casual vacancy in the office of any member of a Local Board occurs, the Central Board may nominate thereto any person recommended by the other members of the Local Board.
- (4) Where any casual vacancy occurs in the office of a Director other than the vacancies provided for in sub-section (1), the vacancy shall be filled by the Central Government.
- (5) A person nominated under this section to fill a casual vacancy shall hold office for the unexpired portion of the term of his predecessor.

13. Meetings of the Central Board.

- (1) Meetings of the Central Board shall be convened by the Governor at least six times in each year and at least once in each quarter.
- (2) Any Four Directors may require the Governor to convene a meeting of the Central Board at any time and the Governor shall forthwith convene a meeting accordingly.
- (3) The Governor, or if for any reason, he is unable to attend, the Deputy Governor authorized by the Governor under the proviso to subsection (3) of section 8 to vote for him, shall preside at meetings of the Central Board, and, in the event of an equality of votes, shall have a second or casting vote.

14. to 16. General meetings. First constitution of the Central Board. First constitution of Local Board. Rep. by the Act 62 of 1948, s.7 and Sch. (w. e.f. 1-1-1949).

第 12 條 臨時出缺及缺席

- (1) 總裁、副總裁因身體不適、經認定無法執行其職務、因假缺席或其他不涉及職位出缺之事由時，中央政府於徵詢理事會之建議後，得任命其他人員，代行總裁或副總裁職務。該代理職務之人員不論是否具第 10 條第(1)項第(d)款身分，得視為本行之職員。
- (2) 刪除。
- (3) 區域委員會成員有臨時出缺之情形時，理事會得依區域委員會其他成員之建議，任命其他人員遞補。
- (4) 第(1)項人員以外之理事臨時出缺時，該缺額由中央政府任命人員遞補。
- (5) 依本條規定任命繼任人員之任期，至原任期屆滿為止。

第 13 條 理事會會議

- (1) 理事會會議由總裁召集。每年至少開會 6 次；每季不得少於 1 次。
- (2) 理事經 4 人以上之連署，得隨時請求總裁召集會議；總裁應依其請求召集理事會會議。
- (3) 理事會會議由總裁主持，總裁無法出席時，得依第 8 條第(3)項規定，授權副總裁代理表決並主持會議。於正反票數相同時，主席可進行第 2 次表決或逕由主席裁決。

第 14 條 股東大會

刪除。

第 15 條 理事會第一次會議

刪除。

第 16 條 區域委員會第一次會議

刪除。

17. Business which the Bank may transact.

The Bank shall be authorized to carry on and transact the several kinds of business hereinafter specified, namely:-

- (1) the accepting of money on deposit without interest from and the collection of money for, the Central Government, the State Governments local authorities, banks and any other persons;
- (2) (a) the purchase, sale and rediscount of bills of exchange and promissory notes, drawn on and payable in India and arising out of bona fide commercial or trade transactions bearing two or more good signatures, one of which shall be that of a scheduled bank or a State co-operative bank or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf and maturing,-
 - (i) in the case of bills of exchange and promissory notes arising out of any such transaction relating to the export of goods from India, within one hundred and eighty days, and
 - (ii) in any other case, within ninety days, from the date of such purchase or rediscount exclusive of days of grace;
- (b) the purchase, sale and rediscount of bills of exchange and promissory notes, drawn and payable in India and bearing two or more good signatures, one of which shall be that of a scheduled bank or a State co-operative bank or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf and drawn or issued for the purpose of financing agricultural operations or the marketing of crops, and maturing within fifteen months from the date of such purchase or rediscount, exclusive of days of grace;
- (bb) the purchase, sale and rediscount of bills of exchange and promissory notes drawn and payable in India and bearing two or more good signatures, one of which shall be that of a State Co-operative bank or a State financial corporation or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf, and drawn or issued for the purpose of financing the production or marketing activities of cottage and small scale industries approved by the Bank and maturing within twelve months from the

第 17 條 本行業務

本行依本法授權，辦理下列業務：

- (1) 無息收受中央政府、州政府、當地政府機關、銀行及任何其他人之現金或存款。
- (2) (a) 買賣在印度境內簽發及付款之匯票、本票及辦理其重貼現。該匯票或本票須因實際商業行為或貿易交易而簽發，並有 2 人以上之背書，其中之一背書人應為附表銀行、州立合作銀行，或經本行核准以承兌或貼現匯票或本票為主要業務之金融機構。匯票或本票之到期日，自買入或重貼現之日起：
 - (i) 因出口貨物有關之交易而簽發之匯票或本票者，不超過 180 天。
 - (ii) 其他原因簽發者，不超過 90 天。
- (b) 買賣在印度境內簽發及付款之匯票、本票及辦理其重貼現。該匯票或本票須因實際商業行為或貿易交易而簽發，並有 2 人以上之背書，其中之一背書人應為附表銀行、州立合作銀行，或經本行核准以承兌或貼現匯票、本票或辦理以重貼現為主要業務之金融機構。匯票或本票簽發或發行之目的，在於對農業營運或穀物行銷之融通，而其到期日於扣除寬限期間後，自買入或重貼現之日起算，不超過 15 個月。
- (bb) 買賣在印度境內簽發及付款之匯票、本票及辦理其重貼現。該匯票或本票應有 2 人以上之背書，其中之一背書人應為州立合作銀行、州立金融公司，或經本行核准以承兌或貼現匯票、本票或辦理以重貼現為主要業務之金融機構。匯票或本票簽發或發行之目的，在於對家庭工業、小型企業之生產或行銷行為之融通，

date of such purchase or rediscount, exclusive of days of grace, provided that the payment of the principal and interest of such bills of exchange or promissory notes is fully guaranteed by the State Government;

- (c) the purchase, sale and rediscount of bills of exchange and promissory notes drawn and payable in India and bearing the signature of a scheduled bank, and issued or drawn for the purpose of holding or trading in securities of the Central Government or a State Government, and maturing within ninety days from the date of such purchase or rediscount, exclusive of days of grace;
- (3) (a) the purchase from and sale to scheduled banks of foreign exchange.
- (b) the purchase, sale and rediscount of bills of exchange (including treasury bills) drawn in or on any place in any country outside India which is a member of the International Monetary Fund and maturing,-
 - (i) in the case of bills of exchange arising out of any bona fide transaction relating to the export of goods from India, within one hundred and eighty days, and
 - (ii) in any other case, within ninety days, from the date of such purchase or rediscount:

Provided that no such purchase, sale or rediscount shall be made in India except with a scheduled bank or a State co-operative bank;

- (3A) the making to any scheduled bank or State co-operative bank, of loans and advances, against promissory notes of such bank, repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days; Provided that the borrowing bank furnishes a declaration in writing, to the effect that -
 - (i) it holds bills of exchange arising out of any transaction relating to the export of goods from India, of a value not less than the amount of such loans or advances, -
 - (a) drawn in India and on any place in any country outside India which is a member of the International Monetary Fund or in any other country notified in this behalf by the Bank in the Gazette of India, and
 - (b) maturing not later than one hundred and eighty days from the date of the loan or advance, and it will, so long as any part of such loans and advances remains unpaid, continue to hold such bills of exchange of a value not less than the amount of such loans or advances outstanding for the time being; or

而其到期日於扣除寬限期間後，自買入或重貼現之日起算，應不超過 12 個月。但此類匯票及本票本息之支付，應由州政府全額保證。

- (c) 買賣在印度境內簽發及付款之匯票、本票及辦理其重貼現。該匯票或本票應有附表銀行之背書。匯票或本票簽發或發行之目的，在於持有或買賣中央政府或州政府發行之有價證券，而其到期日於扣除寬限期間後，自買入或重貼現之日起算，應不超過 90 天。
- (3) (a) 對附表銀行買賣外匯。
 - (b) 買賣國際貨幣基金會會員國於印度境外所簽發之匯票，包含國庫券在內，或辦理該匯票之重貼現。匯票到期日，自買入或重貼現之日起算：
 - (i) 匯票因出口貨物實際交易有關而簽發者，不超過 180 天。
 - (ii) 其他情形簽發者，不超過 90 天。
- 除附表銀行或州立合作銀行以外，本行不得與其他銀行於印度買賣此類匯票或以其辦理重貼現。
- (3A) 對附表銀行或州立合作銀行以其簽發之本票而為之貸款或融通，該本票應為見票即付或定期清償，後者之到期日不超過 180 天。
- 貸款行並應以書面提出下列聲明：
 - (i) 該行持有由印度出口貨物交易而簽發之匯票，其金額不低於貸款或融通之金額；且
 - (a) 該匯票在印度境內、國際貨幣基金會會員國或本行於政府公報公告之其他國家支付。
 - (b) 匯票到期日自貸款或融通之日起算，不超過 180 天；於該貸款或融通金額未全部清償前，該行將繼續持有該相關匯票，且持有金額將不低於貸款或融通當時之未償餘額；

- (ii) it has granted a pre-shipment loan or advance to an exporter or any other person in India in order to enable him to export goods from India, the amount of the loan or advance drawn and outstanding at any time being not less than the outstanding amount of the loan or advance obtained by the borrowing bank from the Bank;
- (3B) the making to any scheduled bank or State co-operative bank of loans and advances repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days against promissory notes of such bank;
Provided that the borrowing bank furnishes a declaration in writing to the effect that it has made loans and advances for bona fide commercial or trade transactions or for financing agricultural operations or the marketing of crops or for other agricultural purposes as set out in the declaration and the said declaration includes such other particulars as may be required by the Bank:
- (4) the making to local authorities, scheduled banks, State co-operative banks and State Financial Corporations of loans and advances, repayable on demand or on the expiry of fixed periods not exceeding ninety days, against the security of -
 - (a) stocks, funds and securities (other than immovable property) in which a trustee is authorized to invest trust money by any Act of Parliament of the United Kingdom or by any law for the time being in force in India;
 - (b) gold or silver or documents of title to the same;
 - (c) such bills of exchange and promissory notes as are eligible for purchase or rediscount by the Bank or as are fully guaranteed as to the repayment of the principal and payment of interest by a State Government;
 - (d) promissory notes of any scheduled bank or State Co-operative bank, supported by documents of title to goods such documents having been transferred, assigned, or pledged to any such bank as security for a loan or advance made for bona fide commercial or trade transactions, or for the purpose of financing agricultural operations or the marketing of crops:
Provided that loans and advances made against the security of bills of exchange and promissory notes arising out of any transaction relating to the export of goods from India shall be repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days;

- (ii) 該行已對印度境內之出口商或其他人核貸出貨前貸款或融通，俾其得自印度出口貨物。該出口商或其他人所提領之貸款或融通餘額，不低於該行自本行所貸得或墊借之餘額。
- (3B) 對附表銀行或州立合作銀行以其簽發之本票而為之貸款或融通，該本票應為見票即付或定期清償，後者之到期日不超過 180 天。貸款行並應以書面聲明該貸款或融通係因商業或貿易之實際交易所需，或為農業營運、穀物行銷或其他於聲明所述農業目的之融通者所需。該聲明並應包含本行要求之其他特定事項。
- (4) 對地方政府機關、附表銀行、州立合作銀行、州立金融公司以下列標的物所為貸款或融通，該本票應為見票即付或定期清償，後者之到期日不得超過 90 天：
- (a) 股票、基金及受託人依英國法律或印度現行法，有權投資信託資金之有價證券(不含不動產)。
 - (b) 黃金、白銀或此兩者之持有契據。
 - (c) 本行依法得買賣或辦理重貼現之匯票或本票，或本息支付經州政府全額保證付款之匯票或本票。
 - (d) 附表銀行或州立合作銀行之本票；該本票係因農業營運或穀物行銷所需之融資，或因實際商業或貿易交易所發生之貸款或融通，且以轉讓貨物權利契據交予貸款或融通銀行作為擔保。

前項以自印度出口貨物有關交易所簽立之匯票或本票為見票即付或定期付款，後者之到期日不超過 180 天。

(4A) the making to any State Financial Corporation , of loans and advances repayable on the expiry of fixed periods not exceeding eighteen months from the date of such loan or advance, against securities of the Central Government or of any State Government, of any maturity, or against bonds and debentures issued by that Corporation and guaranteed by the State Government concerned and maturing within a period not exceeding eighteen months from the date of such loan or advance:

Provided that the previous approval of the State Government shall be obtained for the borrowing by the State Financial Corporation and the amount of loans and advances granted to that Corporation under this clause shall not, at any time, exceed in the aggregate twice the paid up share capital thereof;

(4AA) the making of annual contributions to the National Rural Credit (Long Term Operations) Fund and the National Rural Credit (Stabilisation) Fund established under sections 42 and 43, respectively, of the National Bank for Agriculture and Rural Development Act, 1981;

(4B) the making to the Industrial Finance Corporation of India of loans and advances, -

(a) repayable on demand or on the expiry of fixed periods not exceeding ninety days from the date of such loan or advance, against securities of the Central Government or of any State Government; or

(b) repayable on the expiry of fixed periods not exceeding eighteen months from the date of such loan or advance, against securities of the Central Government of any maturity or against bonds and debentures issued by the said Corporation and guaranteed by the Central Government and maturing within a period not exceeding eighteen months from the date of such loan or advance :

(4BB) the making to any financial institution notified by the Central Government in this behalf, of loans and advances, -

(a) repayable on demand or on the expiry of fixed periods not exceeding ninety days from the date of such loan or advance, against the securities of the Central Government or of any State Government, or

(4A)對州立金融公司所提供之貸款或融通，以中央政府或州政府之有價證券為擔保者，相關有價證券之到期日無限制；以該州立金融公司所發行，經州政府保證之債券或金融債券為擔保者，相關債券或金融債券之到期日，自該貸款或融通之日起算，不超過 18 個月。

前項借款應由州立金融公司於事前向管轄州政府取得許可，本行依前項條件所貸與或融通之總餘額，不得超過該州立金融公司已繳足股款之 2 倍。

(4AA)對依「1981 年國家農業銀行及農村發展國家銀行法」第 42 條及第 43 條規定設立之國家農村信用(長期)基金及國家農村信用(穩定)基金為捐助。

(4B)對「工業金融公司」為貸款或融通：

(a) 以中央政府或州政府之有價證券為擔保者，該貸款或融通應於請求時即清償；如為定期清償，其到期日，自該貸款或融通之日起，不得超過 90 天。

(b) 以中央政府或州政府發行，到期日不限定之有價證券為擔保，或以工業金融公司所發行，經中央政府或該州政府保證，且到期日自該貸款或融通之日起不超過 18 個月之債券或金融債券為擔保者，該貸款或融通應於請求時即清償；如為定期清償，其到期日，自該貸款或融通之日起，不得超過 18 個月。

(4BB)依中央政府之通知，依下列規定對金融機構為貸款或融通：

(a) 以中央政府或州政府有價證券為擔保者，應於請求時即清償；如為定期清償，其到期日，自貸款或墊借之日起，不得超過 18 個月。

- (b) repayable on the expiry of fixed periods not exceeding eighteen months from the date of such loan or advance, against securities of the Central Government or of any State Government, of any maturity, or against bonds and debentures issued by that financial institution and guaranteed by the Central Government or any State Government, and maturing within a period not exceeding eighteen months from the date of such loan or advance:

Provided that the amount of loans and advances granted to a financial institution under sub-clause (b) shall not, at any time, exceed in the aggregate sixty per cent, of the paid-up share capital thereof;

- (4BBB) the making to the Unit Trust of loans and advances -

- (i) repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India;
- (ii) repayable on demand or within a period of eighteen months from the date of such loan or advance against the security of the bonds of the Unit Trust issued with the approval of and guaranteed by the Central Government;
- (iii) for the purpose of any scheme other than the first unit scheme under the Unit Trust of India Act, 1963 on such terms and conditions and against the security of such other property of the Unit Trust as may be specified in this behalf by the Bank;

- (4C) the making to a Warehousing Corporation established under the Agricultural Produce (Development and Warehousing) Corporations Act, 1956, of loans and advances, -

- (a) repayable on demand or on the expiry of fixed periods not exceeding ninety days, from the date of such loan or advance, against securities of the Central Government or of any State Government, or
- (b) repayable on the expiry of fixed periods not exceeding eighteen months from the date of such loan or advance, against securities of the Central Government or of any State Government, of any maturity, or against bonds and debentures issued by the Corporation to which the loan or advance is made, and guaranteed by the Central or a State Government, and maturing within a period not exceeding eighteen months from the date of such loan or advance :

- (b) 以中央政府或州政府發行，到期日不限定之有價證券為擔保，或以該金融機構所發行，經中央政府或該州政府保證，且到期日自該貸款或融通之日起不超過 18 個月之債券或金融債券為擔保者，該貸款或融通應於請求時即清償；如為定期清償，其到期日，自該貸款或融通之日起，不得超過 90 天。

依第(b)款之貸款或融通，其餘額不得超過該金融機構實收資本額之 60 %。

(4BBB)對單位信託為貸款或融通：

- (i) 以受託人依本國法律管理信託基金所投資之股票、基金或有價證券(不包括不動產)等標的為擔保者，該貸款或融通應於請求時即清償；如為定期清償，其到期日，自貸款或融通之日起，不得超過 90 天。
- (ii) 以中央政府同意發行並經其保證之單位信託債券為擔保者，該貸款或融通應於請求時即清償；如為定期清償，其到期日，自貸款或融通之日起，不得超過 18 個月。
- (iii) 「1963 年單位信託法」規定第一種單位信託計畫外之其他用途，其還款及擔保條件由本行另行指定。

(4C)對依「1956 年農業生產(發展及倉儲)公司法」規定設立之「倉儲公司」為貸款或融通：

- (a) 以中央政府或州政府之有價證券為擔保者，該貸款或融通應於請求時即清償；如為定期清償，其到期日，自貸款或融通之日起，不得超過 90 天。
- (b) 以中央政府或州政府發行，到期日不限定之證券為擔保，或以該倉儲公司發行經中央政府或州政府保證，到期日自該貸款或融通之日起 18 個月之債券或金融債券為擔保者，該貸款或融通應於請求時即清償；如為定期清償，其到期日，自貸款或融通之日起，不得超過 18 個月。

- Provided that the amount of loans and advances granted under clause (b) shall not at any time exceed, in the aggregate, three crores of rupees in the case of the Central Warehousing Corporation and fifty lakhs of rupees in the case of a State Warehousing Corporation;
- (4D) the making to the Deposit Insurance Corporation of loans and advances; and generally assisting the Corporation in such manner and on such terms as may be determined by the Central Board;
- (4DD) the making to the National Housing Bank of loans and advances and generally assisting the National Housing Bank in such manner and on such terms as may be determined by the Central Board;
- (4E) the making to the National Bank of loans and advances repayable on demand or on the expiry of fixed period not exceeding eighteen months from the date of making of the loan or advance, either-
- (i) against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India; or
 - (ii) on such other terms and conditions as the Bank may specify;
- (4F) contributing to the initial capital of the Unit Trust;
- (4G) the making of loans and advances to, and the purchasing of bonds and debentures of, the Development Bank or the Exim Bank or the Reconstruction Bank or the Small Industries Bank out of the National Industrial Credit (Long Term Operations) Fund established under section 46C;
- (4GG) the making of loans and advances to, and the purchasing of bonds and debentures of, the National Housing Bank out of the National Housing Credit (Long Term Operations) Fund established under section 46D,
- (4H) the making to the Development Bank or the Small Industries Bank of loans and advances -
- (a) repayable on demand or on the expiry of fixed periods not exceeding ninety days, from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India; or
 - (b) against the security of bills of exchange or promissory notes, arising out of bona fide commercial or trade transactions bearing two or more good signatures and maturing within five years from the date of such loan or advance;

- 第(b)款之貸款及融通餘額，於中央倉儲公司，不得過3千萬盧比；於州立倉儲公司，不得超過5百萬盧比。
- (4D)對「存款保險公司」為貸款或融通，並依理事會決議之條件及期限，對該公司為一般性協助。
- (4DD)對「國家住宅銀行」為貸款或融通，並依理事會決議之條件及期限，對該銀行為一般性協助。
- (4E)對「國家銀行」所為下列貸款或融通，該貸款或融通應於請求時即清償；如為定期清償，其到期日，自該貸款或融通之日起，不得超過18個月：
- (i) 依印度法律，以受託人有權投資信託資金之股票、基金或有價證券為擔保。
 - (ii) 本行所指定之期限及條件。
- (4F)對單位信託創始資本之出資。
- (4G)以依第46C條設立之國家工業信用(長期營運)基金，對「開發銀行」、「輸出入銀行」、「重建銀行」或「小型工業銀行」貸款或融通，或購買其發行之債券或金融債券。
- (4GG)以依第46D條設立之國家住宅信用(長期營運)基金，對「國家住宅銀行」貸款或融通，或購買其發行之債券或金融債券。
- (4H)對「開發銀行」或「小型工業銀行」貸款或融通--
- (a) 以依印度法律受託人有權投資信託資金之股票、基金及有價證券(不包含不動產)為擔保者，其貸款及融通應於請求時即償付；如為定期清償，其到期日，自該貸款或融通之日起，不得超過90天。
 - (b) 以匯票或本票為擔保，此類票據係因實際之商業或貿易交易所發生，經2人以上之背書，其到期日自貸款或融通之日起，不超過5年。

- (4I) the making to scheduled banks, the Development Bank the Exim Bank or the Reconstruction Bank or the Small Industries Bank, the Industrial Finance Corporation and any other financial institution as may, on the recommendation of the Bank, be approved in this behalf by the Central Government of loans and advances repayable on demand or otherwise and against such security and on such other terms and conditions as may be approved in this behalf by the Central Board for the purpose of enabling such banks, or financial institution, as the case may be, to purchase foreign exchange from the Bank for the purpose of financing the import of capital goods or for such other purposes as may be approved by the Central Government;
- (4J) the making to the Exim Bank of loans and advances -
- (a) repayable on demand or on the expiry of a fixed period not exceeding ninety days, from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India; or
 - (b) against the security of bills of exchange or promissory notes, arising out of bona fide commercial or trade transactions bearing two or more good signatures and maturing within five years from the date of such loan or advance;
- (4K) the making to the Reconstruction Bank of loans and advances -
- (a) repayable on demand or on the expiry of a fixed period not exceeding ninety days, from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India; or
 - (b) against the security of bills of exchange or promissory notes, arising out of bona fide commercial or trade transactions bearing two or more good signatures and maturing within five years from the date of such loan or advance;
- (5) the making to the Central Government and State Governments of advances repayable in each case not later than three months from the date of the making of the advance;

(4I)本行建請中央政府核准，對「附表銀行」、「開發銀行」、「輸出入銀行」、「重建銀行」、「小型工業銀行」、「工業金融公司」及其他金融機構之貸款或融通，應於請求時即償付，或依理事會核定之有關擔保品、融通期限或其他條件，向本行購買外匯，以利辦理資本財進口融資或為中央政府同意之其他用途。

(4J)對「輸出入銀行」為貸款或融通--

(a) 以依印度法律受託人有權投資信託資金之股票、基金及有價證券為擔保者，其貸款及融通應於請求時即償付；如為定期清償，其到期日，自該貸款或融通之日起，不得超過 90 天。

(b) 以匯票或本票為擔保，此等票據係因實際之商業或貿易交易所發生，經 2 人以上之背書，其貸款及融通應於請求時即償付；如為定期清償，其到期日，不超過 5 年。

(4K)對「重建銀行」為貸款或融通--

(a) 以依印度法律受託人有權投資信託資金之股票、基金及有價證券(不包含不動產)為擔保者，其貸款及融通應於請求時即償付；如為定期清償，其到期日，自貸款或融通之日起，不超過 90 天。

(b) 以匯票或本票為擔保，此等票據係因實際之商業或貿易交易所發生，經 2 人以上之背書，其貸款及融通應於請求時即償付；如為定期清償，其到期日，不超過 5 年。

(5)對中央政府及州政府融通，每一融通清償日，自融通之日起算，不得超過 3 個月。

- (6) the issue of demand drafts, telegraphic transfers and other kinds of remittances made payable at its own offices or agencies, the purchase of telegraphic transfers, and the making, issue and circulation of bank post bills;
- (7) Omitted.
- (8) the Purchase and sale of securities of the Central Government or a State Government of any maturity or of such securities of a local authority as may be specified in this behalf by the Central Government on the recommendation of the Central Board:
Provided that securities fully guaranteed as to principal and interest by any such Government or authority shall be deemed for the purposes of this clause to be securities of such government or authority;
- (8A) the purchase and sale of shares in, or the capital of the National Bank, the Deposit Insurance Corporation, the Development Bank, the State Bank or any other bank or financial institution notified by the Central Government in this behalf;
- (8AA) the promoting, establishing, supporting or aiding in the promotion, establishment and support of any financial institution, whether as its subsidiary or otherwise;
- (8B) the keeping of deposits with the State Bank for such specific purposes as may be approved by the Central Government in this behalf;
- (9) the custody of monies, securities and other articles of value, and the collection of the proceeds, whether principal, interest or dividends, of any such securities;
- (10) the sale and realisation of all property, whether movable or immovable, which may in any way come into the possession of the Bank in satisfaction, or part satisfaction, of any of its claims;
- (11) the acting as agent for the Central Government or any State Government or any local authority or the Industrial Finance Corporation of India or any other body corporate which is established or constituted by or under any other law or the Government of any such country outside India or any such person or authority as may be approved in this behalf by the Central Government in the transaction of any of the following kinds of business, namely; -
 - (a) the purchase and sale of gold or silver or foreign exchange;
 - (b) the purchase, sale, transfer and custody of bills of exchange, securities or shares in any company;

- (6) 發行即期匯票，於本行辦公處所或代理機構辦理電報匯款或其他匯款，取得電報匯款；簽發、發行及使用銀行郵政匯票；
- (7) 刪除。
- (8) 經理事會建議，並依中央政府之核准，買賣中央政府、州政府或地方政府(機關)發行，到期日未限定之有價證券。有價證券本息由各該政府或地方機關全額保證者，應視為本款規定之政府或主管機關之有價證券。
- (8A)依中央政府之通知，買賣「國家銀行」、「存款保險公司」、「開發銀行」、「州立銀行」或其他銀行、金融機構之股票。
- (8AA)協助推動新金融機構或其子公司(銀行)之設立。
- (8B)依中央政府許可之特定目的，收受「州立銀行」之存款。
- (9) 保管金錢、有價證券及其他有價值之物品，並收取所保管有價證券之孳息，包括本金、利息或股息等。
- (10)本行因請求權之行使而獲得全部或部分清償所持有之財物，無論其為動產或不動產，以之出售或變現。
- (11)依中央政府之許可，為中央政府、州政府或其他地方主管機關，或國內工業金融公司，或依其他法律設立或組成之公司法人、其他國家之政府、中央政府所許可之人或機關，辦理下列業務：
 - (a)黃金、白銀或外匯之買賣。
 - (b)公司匯票、有價證券或股份之買賣、移轉或保管。

- (c) the collection of the proceeds, whether principal, interest or dividends, of any securities or shares;
- (d) the remittance of such proceeds, at the risk of the principal, by bills of exchange payable either in India or elsewhere;
- (e) the management of public debt;
- (f) the issue and management of bonds and debentures;
- (11A) the acting as agent for the Central Government, -
 - (a) in guaranteeing the due performance by any small scale industrial concern, approved by the Central Government, of its obligations to any bank or other financial institution in respect of loans and advances made, or other credit facilities provided, to it by such bank or other financial institution and the making as such agent of payments in connection with such guarantee, and
 - (b) in administering any scheme for subsidising the rate of interest or other charges in relation to any loans or advances made, or other credit facilities provided, by banks or other financial institutions for the purpose of financing or facilitating any export from India and the making as such agent of payments on behalf of the Central Government;
- (12) the purchase and sale of gold or silver coins and gold and silver bullion and foreign exchange and the opening of a gold account with the principal currency authority of any foreign country or the Bank for International Settlements or any international or regional bank or financial institution formed by such principal currency authority or authorities or by the Government of any foreign country;
- (12A) the purchase and sale of securities issued by the Government of any country outside India or by any institution or body corporate established outside India and expressed to be payable in a foreign currency or any international or composite currency unit, being in the case of purchase by the Bank securities maturing within a period of ten years from the date of purchase:

Provided that in the case of securities of an institution or body corporate, the repayment of principal and payment of interest in respect of such securities shall be guaranteed by the Government of the country concerned;
- (12B) the making of loans and advances in foreign currencies to scheduled banks, the Development Bank the Exim Bank, the Reconstruction Bank or the Small Industries Bank, the Industrial Finance Corporation, any State Financial Corporation and any other financial institution as may, on the recommendation of the Bank, be approved by the Central Government and on such terms and conditions as may be specified by the Central Board in this behalf, against promissory notes of such bank or financial institution, as the case may be:

Provided that the borrowing bank or financial institution, as the case may be, furnishes a declaration in writing to the effect that -

- (c) 收取所保管有價證券之孳息，包括本金、利息或股息等。
 - (d) 前項收益之匯款，其本金之風險，以付款地在境內或其他地方之匯票。
 - (e) 公共債務之管理。
 - (f) 債券或金融債券之發行及管理。
- (11A)就下列事項，擔任中央政府之經理人：
- (a) 擔保由中央政府核定之小規模產業對銀行或金融機構到期應付款項，包含該銀行或其他金融機構對該小型工業之貸款、融通或其他授信所生債務。
 - (b) 對銀行或其他金融機構因融通或為增進印度出口之目的所為之貸款或融通，給予利率或其他費用之補貼；
- (12)買賣金幣、銀幣、金銀條塊、外匯，以及於外國主要貨幣主管機關、國際清算銀行、國際或區域性銀行，或由該國貨幣主管機關、主管機關或外國政府所有之金融機構，開立黃金帳戶。
- (12A)買賣印度以外之外國政府機構或公司法人所發行，載明以外幣、國際通用或混合貨幣支付之有價證券；購買銀行有價證券者，其到期日自購買之日起算，不得超過 10 年。但外國機構或公司法人所發行之有價證券，其本金及利息之支付，須經該國政府之保證。
- (12B)依本行之建議，經中央政府之許可，以及依理事會所規定期限及條件，對「附表銀行」、「開發銀行」、「輸出入銀行」、「建設銀行」或「小型工業銀行」、「工業金融公司」、「州立金融公司」及其他金融機構所為之外幣貸款或融通而以借款行或金融機構之本票為擔保者，該借款行或金融機構，應以書面聲明切結：

- (a) it has made loans and advances in foreign currencies for financing international trade or for the import of capital goods or for such other purposes as may be approved by the Central Government; and
 - (b) that the amount of loans or advances so made and outstanding at any time will not be less than the outstanding amount of the loans or advances obtained by it from the Bank;
- (13) the opening of an account with an office outside India of any bank, including a bank incorporated in India or the making of an agency agreement with, and the acting as an agent or correspondent of, any bank incorporated outside India, or the principal currency authority of any country under the law for the time being in force in that country or any international or regional bank or financial institution formed by such principal currency authorities or foreign governments, and the investing of the funds of the Bank in the shares and securities of any such international or regional bank or financial institution or of any other foreign institution as may be approved by the Central Board in this behalf;
- (13A) participation in any arrangement for the clearing and settlement of any amounts due from, or to, any person or authority on account of the external trade of India with any other country or group of countries or of any remittances to, or from, that country or group of countries, including the advancing, or receiving, of any amount in any currency in connection therewith, and, for that purpose, becoming, with the approval of the Central Government, a member of any international or regional clearing union of central banks, monetary or other authorities, or being associated with any such clearing arrangements, or becoming a member of any body or association formed by central banks, monetary or other similar authorities, or being associated with the same in any manner;
- (14) the borrowing of money for a period not exceeding one month for the purposes of the business of the Bank, and the giving of security for money so borrowed:
- Provided that no money shall be borrowed under this clause from any person in India other than a scheduled bank or from any person outside India other than a bank which is the principal currency authority of any country under the law for the time being in force in that country:
- Provided further that the total amount of such borrowing from persons in India shall not at any time exceed the amount of the capital of the Bank:
- (15) the making and issue of bank notes subject to the provisions of this Act.
- (15A) the exercise of powers and functions and the performance of duties entrusted to the Bank under this act or under any other law for the time being in force;

- (a) 該銀行或金融機構業因國際貿易之融通、資本財物之進口或其他中央政府許可之目的，已辦理外幣貸款或融通。
 - (b) 其已辦理貸款或融通之金額及餘額，均不低於其自本行所獲貸款或融通之餘額。
- (13)對銀行之境外辦事處，包括在印度境內註冊之銀行，開立帳戶或簽訂代理機構合約；或擔任於印度境外註冊銀行依法為當時外國主要貨幣主管機關或該外國貨幣國際或區域性銀行或金融機構之代理行或業務代表；經理事會核可，投資本行資金於國際或區域性銀行或金融機構之股份及有價證券。
- (13A)為結算及清算印度與其他國家因貿易或匯款所生之應收或應付款項，經中央政府許可，參與各種形式之跨國貨幣結算及清算機制，或成為國際性或區域性中央銀行組織之會員或成員。
- (14)為本行之業務借款，其期間不得超過 1 個月，並就借款提供擔保。
- 依本款規定之借款對象，除附表銀行以外，不得包括在印度境內之其他任何人，或外國之法定貨幣主管機關以外之銀行。
- 在印度境內借款總餘額，不得超過本行資本額。
- (15)依本法之規定印製及發行鈔券。
- (15A)本行依本法及其他有效之法律所授與行使之權限或履行之職責。

- (15B) the providing of facilities for training in banking and for the promotion of research, where, in the opinion of the Bank, such provision may facilitate the exercise by the Bank of its powers and functions, or the discharge of its duties;
- (16) generally, the doing of all such matters and things as may be incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Act.

18. Power of direct discount.

When, in the opinion of the Bank, a special occasion has arisen making it necessary or expedient that action should be taken under this section for the purpose of regulating credit in the interests of Indian trade, commerce, industry and agriculture, the Bank may, notwithstanding any limitation contained in section 17, -

- (1) purchase, sell or discount any bill of exchange or promissory note though such bill or promissory note is not eligible for purchase or discount by the Bank under that section; or
- (2) Omitted.
- (3) make loans or advances to -
- (a) a State co-operative bank, or
 - (b) on the recommendation of a State co-operative bank, to a co-operative society registered within the area in which the State co-operative bank operates, or
 - (c) any other person,
- repayable on demand or on the expiry of fixed periods, not exceeding ninety days, on such terms and conditions as the Bank may consider to be sufficient.

18 A. Validity of loan or advance not to be questioned.

Notwithstanding anything to the contrary contained in any other law for the time being in force, -

- (a) the validity of any loan or advance granted by the Bank in pursuance of the provisions of this Act shall not be called in question merely on the ground of non-compliance with the requirements of such other law as aforesaid or of any resolution, contract, memorandum, articles of association or other instrument:

(15B)提供相關設施，對銀行業進行訓練及增進研究發展，以便於本行職掌之行使或職責之履行。

(16)其他依本法或屬本行行使職權或履行職責之相關事宜或措施。

第 18 條 重貼現權利

本行為保護印度貿易、商業、工業或農業之利益，於特殊情況，依本條規定採行下列信用管制措施時，得不受第 17 條規定之限制：

- (1) 買賣不符合第 17 條規定之匯票、本票或辦理其重貼現。
- (2) 刪除。
- (3) 對下列機構之貸款或融通，應於請求時即清償；如為定期清償，其到期日不得超過 90 天，其期限及條件由本行視情形決定：
 - (a) 州立合作銀行。
 - (b) 依州立合作銀行之建議，於其營運區域內立案之合作社。
 - (c) 其他人。

第 18A 條 本行貸款或融通效力不容質疑

雖然其他現行法律另有規定，

- (a) 本行依本法之規定所為貸款或融通之效力，不得因未符合前述其他現行法律、決議、契約、備忘錄、公司章程等之要求而被質疑。

Provided, that nothing in this clause shall render valid any loan or advance obtained by any company or co-operative society where such company or co-operative society is not empowered by its memorandum to obtain loans or advances;

- (b) where a loan or advance has been granted under clause (3A) or under clause (3B) of section 17 or a loan or advance granted under clause (3) of section 18 by the Bank to any person has been applied by such person, wholly or in part, in making a loan or advance to any borrowers, any sum received -
 - (i) by the borrowing bank on account of bills of exchange in respect of which the declaration under clause (i) of the proviso to clause (3A) of section 17 has been furnished or in repayment or realisation of the outstanding loans and advances referred to in clause (ii) of the said proviso or in the proviso to clause (3B) of the said section, or
 - (ii) by the borrowing bank or any other person in repayment or realisation of loans and advances granted to a borrower out of funds obtained by it or by him from the Bank under section 18,shall be utilised only for the repayment by the borrowing bank or other person, as the case may be, of the amounts due to be repaid by it or by him to the Bank, and shall be held by it or by him in trust for the Bank, until such time as the amounts are so repaid.

19. Business which the Bank may not transact.

Save as otherwise provided in sections 17, 18, 42 and 45, the Bank may not -

- (1) engage in trade or otherwise have a direct interest in any commercial, industrial, or other undertaking except such interest as it may in any way acquire in the course of the satisfaction of any of its claims: provided that all such interests shall be disposed of at the earliest possible moment;
- (2) purchase the shares of any banking company or of any other company, or grant loans upon the security of any such shares;
- (3) advance money on mortgage of, or otherwise on the security of, immovable property or documents of title relating thereto, or become the owner of immovable property, except so far as is necessary for its own business premises and residences for its officers and servants;
- (4) make loans or advances;
- (5) draw or accept bills payable otherwise than on demand;
- (6) allow interest on deposits or current accounts.

但個別公司或信用合作社之章程未授權該公司或信用合作社辦理貸款或融通者，上述規定不得作為各該公司或信用合作社之貸款或融通行為有效之依據。

- (b) 本行依第 17 條第(3A)項或第(3B)項規定所核准之貸款或融通，或依第 18 條第(3)項規定所核准之貸款或融通，視下列個別情形，僅得於借款銀行或其他人於清償期屆至時向本行清償者，始得加以運用；於清償期屆至前，由借款行或該他人信託持有：
 - (i) 借款行依第 17 條第(3A)項(i)所為聲明有關之匯票業已提出、清償或兌付其依該項(ii)或同條第(3B)項所為之貸款或融通。
 - (ii) 借款行或其他人依第 18 條規定經本行核准之貸款或融通業經借款行或該他人清償或兌付。

第 19 條 本行不得從事之業務

除第 17 條、第 18 條及第 45 條另有規定外，本行不得：

- (1) 從事貿易或其他與商業、工業或其他行業有直接利害關係之業務。該利益係因行使法律上之請求權而取得者，應於最短時間內予以處分。
- (2) 購買金融公司或任何公司之股份，或以該股權為擔保而給予貸款。
- (3) 對不動產或與不動產權利有關之權狀作為抵押而給予融通；除作為辦公廳舍或宿舍使用之外，不得擁有不動產。
- (4) 辦理貸款或融通。
- (5) 簽發或收受未到期之票據。
- (6) 對存款或現金帳戶給予利息。

CHAPTER III

CENTRAL BANKING FUNCTIONS

20. Obligation of the Bank to transact Government business.

The Bank shall undertake to accept monies for account of the Central Government and to make payments up to the amount standing to the credit of its account, and to carry out its exchange, remittance and other banking operations, including the management of the public debt of the Union.

21. Bank to have the right to transact Government business in India.

- (1) The Central Government shall entrust the Bank, on such conditions as may be agreed upon, with all its money, remittance, exchange and banking transactions in India, and, in particular, shall deposit free of interest all its cash balances with the Bank:

Provided that nothing in this sub-section shall prevent the Central Government from carrying on money transactions at places where the Bank has no branches or agencies, and the Central Government may hold at such places such balances as it may require,

- (2) The Central Government shall entrust the Bank, on such conditions as may be agreed upon, with the management of the public debt and with the issue of any new loans.
- (3) In the event of any failure to reach agreement on the conditions referred to in this section the Central Government shall decide what the conditions shall be.
- (4) Any agreement made under this section shall be laid, as soon as may be after it is made, before Parliament.

21A. Bank to transact Government business of States on agreement.

- (1) The Bank may by agreement with the Government of any State undertake-
- (a) all its money, remittance, exchange and banking transactions in India, including in particular, the deposit, free of interest, of all its cash balances with the Bank; and
 - (b) the management of the public debt of, and the issue of any new loans by, that State.

第 3 章 中央銀行之功能

第 20 條 本行經理政府業務之義務

本行應收受中央政府帳戶存款，於該帳戶金額之範圍內支付款項，並執行政府外匯、匯款及其他銀行業務，包括聯邦政府公共債務之管理等。

第 21 條 本行於印度境內經理政府業務

- (1) 中央政府應以雙方合意之條件，將政府於國內之通貨、匯款、外匯及銀行業務，委託本行辦理；其現金並應以無息方式存放本行。

前項規定於本行未設分支機構或代理行之地點，中央政府得視情況需要，將資金餘額存放適當處所。

- (2) 中央政府應以雙方合意之條件，將公共債務之管理及新債發行之事務，委託本行辦理。
- (3) 本條所規定之雙方合意條件未能達成時，由中央政府決定。
- (4) 依本條規定所為之合意，於該合意作成後，應儘速送交國會。

第 21A 條 本行依合意經理州政府業務

- (1) 本行得與各州政府達成合意後，對該州政府辦理下列業務：
 - (a) 於印度境內之通貨、匯款、外匯及其他銀行業務，特別包括該州政府現金餘額存放本行之無息存款。
 - (b) 管理該州政府之公共債務及新債發行事務。

- (2) Any agreement made under this section shall be laid, as soon as may be after it is made, before Parliament.

21B. Effect of agreements made between the Bank and certain States before the 1st November, 1956.

- (1) Any agreement made under section 21 or section 21A between the Bank and the Government of a State specified in the Explanation below and in force immediately before the 1st day of November, 1956, shall, as from that day have effect as if it were an agreement made on that day under section 21A between the Bank and the Government of the corresponding State subject to such modifications, if any, being of a character not affecting the general operation of the agreement, as may be agreed upon between the Bank and the Government of the corresponding State, or in default of such agreement, as may be made therein by order of the Central Government.

Explanation.- In this sub-section "corresponding State" means,-

- (a) in relation to the agreement between the Bank and the State of Andhra, the State of Andhra Pradesh;
 - (b) in relation to the agreement between the Bank and any other Part- A State as it existed before the 1st day of November, 1956, the State with the same name, and
 - (c) in relation to the agreement between the Bank and the Part B State of Mysore or Travancore-Cochin as it existed before the 1st day of November, 1956, the State of Mysore or Kerala respectively.
- (2) Any agreement made under section 21A between the Bank and the Government of the Part B State of Hyderabad, Madhya Bharat or Saurashtra shall be deemed to have terminated on the 31st day of October, 1956.

22. Right to issue bank notes.

- (1) The Bank shall have the sole right to issue bank notes in India, and may, for a period which shall be fixed by the Central Government on the recommendation of the Central Board, issue currency notes of the Government of India supplied to it by the Central Government, and the provisions of this Act applicable to bank notes shall, unless a contrary intention appears, apply to all currency notes of the Government of India issued either by the Central Government or by the Bank in like manner as if such currency notes were bank notes, and references in this Act to bank notes shall be construed accordingly.
- (2) On and from the date on which this Chapter comes into force the Central Government shall not issue any currency notes.

- (2) 依本條規定所為之合意，於該合意作成後，應儘速送交國會。

第 21B 條 本行與特定各州於 1956 年 11 月 1 日前所為合意之效力

- (1) 依第 21 條及前條規定，於本行與各相關州政府所簽訂之協議，其所臚列之下列解釋，於 1956 年 11 月 1 日後仍生效力：

解釋-前項所稱“相關州”係指：

- (a) 於有關本行與 Andhra 州之協議者，指 Andhra Pradesh 州。
- (b) 於有關本行與其他第 A 節於 1956 年 11 月 1 日起已設立之州所簽訂之協議，各該州仍沿用同一名稱。
- (c) 於有關本行與第 B 節於 1956 年 11 月 1 日起已設立之州 Mysore Travancore-Cochin 所簽訂之協議，依其意係指 Mysore 州或 Kerala 州。
- (2) 本行與第 B 節之 Hyderabad, Madhya Bharat 或 Saurashtra 州依第 21A 條規定所簽訂之協議，應視為自 1956 年 10 月 31 日失效。

第 22 條 發行鈔券之權力

- (1) 本行於印度境內專有鈔券發行權，並得於中央政府經由理事會建議所訂期間內，發行印度通用貨幣。本法有關鈔券之規定，除另有相反之規定外，亦適用於印度政府經由中央政府或委由本行所發行之所有通用貨幣；依本法規定對鈔券所為之解釋，亦同。
- (2) 自本章規定生效之日起，中央政府不得發行通用貨幣。

23. Issue Department.

- (1) The issue of bank notes shall be conducted by the Bank in an Issue Department which shall be separated and kept wholly distinct from the Banking Department, and the assets of the Issue Department shall not be subject to any liability other than the liabilities of the Issue Department as hereinafter defined in section 34.
- (2) The Issue Department shall not issue bank notes to the Banking Department or to any other person except in exchange for other bank notes or for such coin, bullion or securities as are permitted by this Act to form part of the Reserve.

24. Denominations of notes.

- (1) Subject to the provisions of sub-section (2), bank notes shall be of the denominational values of two rupees, five rupees, ten rupees, twenty rupees, fifty rupees, one hundred rupees, five hundred rupees, one thousand rupees, five thousand rupees and ten thousand rupees or of such other denominational values, not exceeding ten thousand rupees, as the Central Government may, on the recommendation of the Central Board, specify in this behalf.
- (2) The Central Government may, on the recommendation of the Central Board, direct the non-issue or the discontinuance of issue of bank notes of such denominational values as it may specify in this behalf.

25. Form of bank notes.

The design, form and material of bank notes shall be such as may be approved by the Central Government after consideration of the recommendations made by Central Board.

26. Legal tender character of notes.

- (1) Subject to the provisions of sub-section (2), every bank note shall be legal tender at any place in India in payment or on account for the amount expressed therein, and shall be guaranteed by the Central Government.
- (2) On recommendation of the Central Board the Central Government may, by notification in the Gazette of India, declare that, with effect from such date as may be specified in the notification, any series of bank notes of any denomination shall cease to be legal tender save at such office or agency of the Bank and to such extent as may be specified in the notification.

第 23 條 發行部門

- (1) 通用貨幣之發行，應由本行發行部門辦理；發行部門之帳務應獨立，並與本行業務部門有所區隔。發行部門之資產，不得負擔與第 34 條所定發行部門債務無關之債務。
- (2) 發行部門除為鈔券或硬幣之收兌，以及依本法許可充當部分準備之金銀條塊或有價證券外，不得對業務部門或其他人發行鈔券。

第 24 條 鈔券面額

- (1) 依第 2 項規定，鈔券之面額可分為 2 盧比、5 盧比、10 盧比、20 盧比、50 盧比、100 盧比、500 盧比、1000 盧比、5000 盧比、10000 盧比，或中央政府依理事會建議，以其名義所規定之其他不高於 10000 盧比之面額。
- (2) 中央政府得依理事會建議，以其名義規定不發行或停止發行之鈔券面額。

第 25 條 鈔券形式

鈔券之設計、形式及成分，應由中央政府斟酌理事會建議後核定之。

第 26 條 鈔券之法償效力

- (1) 依第(2)項規定，本行所發行之鈔券，對於印度境內之支付，於該鈔券面額表彰之額度內，具有法償效力，並具有中央政府之保證。
- (2) 中央政府得依理事會建議，以政府公報公告，自公告所記載之日起，特定面額之鈔券失去法償效力，並僅得於本行公告指定之營業處所或代理機構兌換。

26A. Certain bank notes to cease to be legal tender.

Notwithstanding anything contained in section 26, no bank note of the denominational value of five hundred rupees, one thousand rupees or ten thousand rupees issued before the 13th day of January, 1946, shall be legal tender in payment or on account for the amount expressed therein.

27. Re-issue of notes.

The Bank shall not re-issue bank notes which are torn, defaced or excessively soiled.

28. Recovery of notes lost, stolen, mutilated or imperfect.

Notwithstanding anything contained in any enactment or rule of law to the contrary, no person shall of right be entitled to recover from the Central Government or the Bank, the value of any lost, stolen, mutilated or imperfect currency note of the Government of India or bank note:

Provided that the Bank may, with the previous sanction of the Central Government, prescribe the circumstances in and the conditions and limitations subject to which the value of such currency notes or bank notes may be refunded as of grace and the rules made under this proviso shall be laid on the table of Parliament.

28A. Issue of special bank notes and special one rupee notes in certain cases.

- (1) For the purpose of controlling the circulation of bank notes without India, the Bank may, notwithstanding anything contained in any other provision of this Act, issue bank notes of such design, form and material as may be approved under sub-section (3) (hereinafter in this section referred to as special bank notes) of the denominational values of five rupees, ten rupees and one hundred rupees.
- (2) For the purpose of controlling the circulation of Government of India one rupee notes without India, the Central Government may, notwithstanding anything contained in any other provision of this Act or in the Currency Ordinance, 1940, issue Government of India notes of the denominational value of one rupee of such design, form and material as may be adopted under sub-section (3) (hereinafter in this section referred to as special one rupees notes).
- (3) The design, form and material of the special bank notes shall be such as may be approved by the Central Government after consideration of the recommendations made by the Governor and of the special one rupee notes shall be such as the Central Government may think fit to adopt.

第 26 A 條 特定鈔券喪失法償效力

1946 年 1 月 13 日前所發行，面額為 500 盧比、1000 盧比或 10000 盧比之鈔券，不具支付或該鈔券面額表彰額度之法償效力。

第 27 條 鈔券再發行

本行對破損、毀損或過度污損之鈔券應予收兌。

第 28 條 滅失、被竊、毀損及有瑕疵鈔券之請求兌回

除其他法律另有規定外，任何人均不得要求中央政府或本行兌回其已滅失、被竊、毀損或瑕疵之政府通用貨幣或鈔券。但本行得經中央政府之事先許可，規範於特定情事、條件及限制範圍內，前項滅失、被竊、毀損或瑕疵之通用貨幣及鈔券，得依規定請求兌回。依本條但書訂定之規定，應送交國會。

第 28A 條 發行特殊鈔券或特殊 1 盧比券之個案

- (1) 為控管未標示印度字樣鈔券流通之目的，不論本法有無其他規定，本行得發行面額為 5 盧比、10 盧比及 100 盧比，其設計、形式及成分依第 3 項規定核定之鈔券(以下稱特殊鈔券)。
- (2) 為控管未標示印度字樣 1 盧比政府鈔券流通之目的，不論本法、其他規定或「1940 年通貨條例」之規定，中央政府得發行面額為 1 盧比，其設計、形式及成分依第 3 項規定核定之印度政府鈔券(以下稱特殊 1 盧比券)。
- (3) 第 1 項特殊鈔券之設計、形式及成分，中央政府應考量本行總裁建議後核定之；第 2 項特殊 1 盧比券之設計、形式及成分，應以中央政府認為適當者採用之。

- (4) Neither the special bank notes nor the special one rupee notes shall be legal tender in India.
- (5) The special one rupee note shall be deemed to be included in the expression "rupee coin" for all the purposes of this Act except section 39, but shall be deemed not to be a currency note for any of the purposes of this Act.
- (6) Where a special bank note is on its face expressed to be payable at a specified office or branch of the Bank, the obligation imposed by section 39 shall be only on the specified office or branch and, further, shall be subject to such regulations as may be made under this section.
- (7) The Bank may, with the previous sanction of the Central Government, make regulations to provide for all matters for which provision is necessary or convenient for the purpose of giving effect to the provisions of this section, and, in particular, the manner in which, and the conditions or limitations subject to which-
 - (i) bank notes and one rupee notes in circulation in any country outside India may be replaced by special notes issued under this section;
 - (ii) any such special notes may be exchanged for any other bank notes or one rupee notes.

29. Bank exempt from stamp duty on bank notes.

The Bank shall not be liable to the payment of any stamp duty under the Indian Stamp Act, 1899, in respect of bank notes issued by it.

30. Powers of Central Government to supersede Central Board.

- (1) If in the opinion of the Central Government the Bank fails to carry out any of the obligations imposed on it by or under this Act the Central Government may, by notification in the Gazette of India, declare the Central Board to be superseded, and thereafter the general superintendence and direction of the affairs of the Bank shall be entrusted to such agency as the Central Government may determine, and such agency may exercise the powers and do all acts and things which may be exercised or done by the Central Board under this Act.
- (2) When action is taken under this section the Central Government shall cause a full report of the circumstances leading to such action and of the action taken to be laid before Parliament at the earliest possible opportunity and in any case within three months from the issue of the notification superseding the Board.

- (4) 特殊鈔券及特殊 1 盧比券，於印度均不具法償效力。
- (5) 除本法第 39 條規定外，特殊 1 盧比券應被視為包含於“盧比硬幣”範圍內，但依本法規範目的，不得視為通用鈔券。
- (6) 明定為特殊鈔券者，僅得於本行特定營業場所或分支機構，以其面額作為支付之用，其依第 39 條規定所生之義務，亦僅限於該特定營業場所或分支機構有效，並應受依本條規定所訂定辦法之拘束。
- (7) 本行得經中央政府之事先同意，訂定下列規定：
 - (i) 於印度境外流通之鈔券及 1 盧比券，得由依本條規定發行之特殊鈔券取代。
 - (ii) 前款之鈔券得兌換任何其他鈔券及 1 盧比券。

第 29 條 本行發行鈔券豁免印花稅

本行不因鈔券之發行而負擔「1899 年印花稅法」規定之印花稅。

第 30 條 中央政府取代理事會之權限

- (1) 中央政府於認為本行未能執行中央政府或本法所明定之義務時，得以公報刊登公告，宣告取代理事會。公告之後，本行之一般監督及行政事務之管理，由中央政府委任其他代理人為之。代理人之權限，及於理事會依本法規定所得執行之權力及採取之行為。
- (2) 中央政府採取前項規定措施時，應就導致該措施之情形及其具體作法提出完整報告，並於發布公告取代理事會 3 個月期間內，儘速送交國會。

31. Issue of demand bills and notes.

- (1) No person in India other than the Bank or, as expressly authorized by this Act, the Central Government shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand of any such person:

Provided that cheques or drafts, including hundis, payable to bearer on demand or otherwise may be drawn on a person's account with a banker, shroff or agent.

- (2) Notwithstanding anything contained in the Negotiable Instruments Act, 1881, no person in India other than the Bank or, as expressly authorised by this Act, the Central Government shall make or issue any promissory note expressed to be payable to the bearer of the instrument.

32. Penalty. Rep. by the Reserve Bank of India Amendment Act, 1974 (51 of 1974), S. 9.

33. Assets of the Issue Department.

- (1) The assets of the Issue Department shall consist of gold coin, gold bullion, foreign securities, rupee coin and rupee securities to such aggregate amount as is not less than the total of the liabilities of the Issue Department as hereinafter defined.
- (2) The aggregate value of the gold coin, gold bullion and foreign securities held as assets and the aggregate value of the gold coin and gold bullion so held shall not at any time be less than two hundred crores of rupees and one hundred and fifteen crores of rupees, respectively.
- (3) The remainder of the assets shall be held in rupee coin, Government of India rupee securities of any maturity, promissory notes drawn by the National Bank for any loans or advances under clause (4E) of section 17 and such bills of exchange and promissory notes payable in India as are eligible for purchase by the Bank under sub-clause (a) or sub-clause (b) or sub-clause (bb) of clause (2) of section 17 or under clause (1) of section 18.
- (4) For the purposes of this section, gold coin and gold bullion shall be valued at a price not exceeding the international market price for the time being obtaining, rupee coin shall be valued at its face value, and securities shall be valued at rates not exceeding the market rates for the time being obtaining.

第 31 條 即期匯票及本票之發行

- (1) 除本行或本法明定授權中央政府之項目外，任何人在印度境內不得提領、承兌、開立或簽發即期匯票、本票，或以上述票據借款或提領任何數量之金錢交付執票人。但支票或匯票無論是否即期，可在銀行、兌銀商店或其代辦處之發票人帳戶提領。
- (2) 雖有「1881 年可轉讓證券法」之規定，除本行或本法明定授權中央政府之項目外，任何人在印度境內不得開立或發行無記名本票。

第 32 條 處罰

刪除。

第 33 條 發行部門資產

- (1) 發行部門資產包括金幣、金條、外幣證券、盧比硬幣及盧比證券，其總數不得低於發行部門依下列規定之債務數額。
- (2) 資產之金幣、金條、外幣證券價值之總額，以及其中持有之金幣、金條價值之總額，分別不得低於 20 億盧比及 11 億 5 千萬盧比。
- (3) 其餘資產，應以持有盧比硬幣、到期日不限之政府盧比證券，國家銀行依第 17 條第(4E)項規定之貸款或融通所開立之本票，本行依第 17 條第(a)款、第(b)款、第(bb)款及第 17 條第(2)項或第 18 條第(1)項規定所得購買之付款地在印度境內之匯票及本票為限。
- (4) 為本法之目的，資產中之金幣及金條之估價標準，應不得超過其取得當時之國際市場價格；盧比硬幣應以其面額為準；證券應不超過其取得當時之市場價格。

- (5) Of the gold coin and gold bullion held as assets, not less than seventeen-twentieths shall be held in India, and all gold coin and gold bullion held as assets shall be held in the custody of the Bank or its agencies;

Provided that gold belonging to the Bank which is in any other bank or in any mint or treasury or in transit may be reckoned as part of the assets.

- (6) For the purposes of this section, the foreign securities which may be held as part of the assets shall be -

(i) securities of the following kinds payable in the currency of any foreign country which is a member of the International Monetary Fund, namely:-

(a) balances with the bank which is the principal currency authority of that foreign country and any other balances or securities in foreign currency maintained with or issued by the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association or the International Finance Corporation or Asian Development Bank or the Bank for International Settlements or any banking or financial institution approved by the Central Government in this behalf, provided that they are repayable within a period of ten years;

(b) bills of exchange bearing two or more good signatures and drawn on and payable at any place in that foreign country and having a maturity not exceeding ninety days; and

(c) Government securities of that foreign country maturing within ten years;

(ii) any drawing rights representing a liability of the International Monetary Fund.

34. Liabilities of the Issue Department.

- (1) The liabilities of the Issue Department shall be an amount equal to the total of the amount of the currency notes of the Government of India and bank notes for the time being in circulation.

(2) Omitted.

(3) Omitted.

35. Initial assets and liabilities. Rep. by Act 62 of 1948. s. 7 and Sch. (w.e.f. 1-1-1949).

- (5) 作為準備資產中之金幣及金條，於印度境內持有之比例不得低於 $17/20$ 。所有金幣及金條之準備資產，均應由本行或代理行保管。

但本行所有之黃金存放於其他銀行、造幣廠、國庫或在運送途中者，均得視為資產之一部分。

- (6) 為本條規定之目的，外幣證券得作為準備資產之部分，包括：

(i) 下列各款證券之一種，得於國際貨幣基金之任一會員國內，以該國貨幣支付者：

(a) 在該國主要貨幣發行銀行內之存款餘額；或在國際貨幣基金、國際復興開發銀行、國際發展協會、國際金融公司、亞洲開發銀行、國際清算銀行或經中央政府核准之其他金融機構內之存款餘額；或上述機構所發行到期日在 10 年以內之證券。

(b) 票面上有 2 人以上之合格簽名，於該外國之任一地方簽發及付款，到期日不超過 90 天之匯票。

(c) 外國政府證券，其到期日在 10 年以內者。

(ii) 外幣提款權，其權利表彰國際貨幣基金之債務者。

第 34 條 發行部門之債務

- (1) 發行部門債務之總額，應與當時流通之政府通用貨幣及其他鈔券總數相當。

(2) 刪除。

(3) 刪除。

第 35 條 原始資產及負債

刪除。

36. Method of dealing with fluctuations in rupee coin assets. Rep. by Act 55 of 1963, s. 3 (w.e.f. 1-2-1964).

37. Suspension of assets requirements as to foreign securities.

Notwithstanding anything contained in the foregoing provisions, the Bank may, with the previous sanction of the Central Government, for periods not exceeding six months in the first instance, which may, with the like sanction, be extended from time to time by periods not exceeding three months at a time, hold as assets foreign securities of less amount in value than that required by sub-section (2) of section 33.

38. Obligations of Government and the Bank in respect of rupee coin.

The Central Government shall undertake not to put into circulation any rupees, except through the Bank; and the Bank shall undertake not to dispose of rupee coin otherwise than for the purposes of circulation.

39. Obligation to supply different forms of currency.

- (1) The Bank shall issue rupee coin on demand in exchange for bank notes and currency notes of the Government of India, and shall issue currency notes or bank notes on demand in exchange for coin which is legal tender under the Indian Coinage Act, 1906.
- (2) The Bank shall, in exchange for currency notes or bank notes of two rupees or upwards, supply currency notes or bank notes of lower value or other coins which are legal tender under the Indian Coinage Act, 1906, in such quantities as may, in the opinion of the Bank, be required for circulation; and the Central Government shall supply such coins to the Bank on demand. If the Central Government at any time fails to supply such coins, the Bank shall be released from its obligations to supply them to the public.

40. Transactions in foreign exchange.

The Bank shall sell to or buy from any authorised person who makes a demand in that behalf at its office in Bombay, Calcutta, Delhi or Madras or at such of its branches as the Central Government may, by order, determine, foreign exchange at such rates of exchange and on such conditions as the Central Government may from time to time by general or special order determine, having regard so far as rates of exchange are concerned to its obligations to the International Monetary Fund:

第 36 條 盧比硬幣資產價值波動之處理方式
刪除。

第 37 條 暫停外幣證券準備資產規定
不論前述規定內容為何，本行得經中央政府之事先許可，於最初 6 個月以內之期間，或於必要時，隨時以一次 3 個月以內之期間，持有低於第 33 條第(2)項規定所定數額之外幣證券資產。

第 38 條 政府及本行關於盧比硬幣之義務
中央政府應承諾，非經由本行不得發行盧比；本行應承諾，非為流通之目的不得處理盧比硬幣。

第 39 條 提供不同形式通貨之義務

- (1) 本行應隨時因需要而發行盧比硬幣，以兌換政府之銀行券或通貨鈔券；並應發行通貨鈔券或銀行券，以兌換依「1906 年硬幣法」規定有法償效力之硬幣。
- (2) 為兌換 2 盧比以上面額之通貨鈔券或銀行券，本行應提供本行認為足敷流通數量之面額較低之通貨鈔券、銀行券，或其他依「1906 年硬幣法」規定具法償效力之硬幣，中央政府應依本行要求提供該硬幣。於中央政府無法提供上述硬幣時，本行即免除對公眾供應硬幣之義務。

第 40 條 外匯交易

本行得向經許可之人，在本行位於孟買、加爾各達、德里、馬德拉斯或中央政府指定之其他分支機構，依中央政府就其對國際貨幣基金之義務，以一般或特別命令所定之兌換比率，買入或出售外匯。

Provided that no person shall be entitled to demand to buy or sell foreign exchange of a value less than two lakhs of rupees.

Explanation.- In this section "authorised person" means a person who is entitled by or under the Foreign Exchange Regulation Act, 1973, to buy, or as the case may be, sell, the foreign exchange to which his demand relates.

41. Obligation to buy sterling Rep. By Act 23 of 1947, s. 4 (w.e.f. 18-4-1947).

41A. Obligation to provide remittance between India and Burma. Rep. By Act 11 of 1947, s. 22 (w.e.f. 1-4-1947).

42. Cash reserves of scheduled banks to be kept with the Bank.

(1) Every bank included in the Second Schedule shall maintain with the Bank an average daily balance the amount of which shall not be less than three per cent of the total of the demand and time liabilities in India of such bank as shown in the return referred to in sub-section (2):

Provided that the Bank may, by notification in the Gazette of India, increase the said rate to such higher rate as may be specified in the notification so however that the rate shall not be more than twenty per cent of the total of the demand and time liabilities.

Explanation.- For the purposes of this section,-

- (a) "average daily balance" shall mean the average of the balances held at the close of business on each day of a fortnight;
- (b) "fortnight" shall mean the period from Saturday to the second following Friday, both days inclusive;
- (c) "liabilities" shall not include -
 - (i) the paid-up capital or the reserves or any credit balance in the profit and loss account of the bank;
 - (ii) the amount of any loan taken from the Bank or from the Development Bank or from the Exim Bank or from the Reconstruction Bank or from the National Housing Bank or from the National Bank or from the Small Industries Bank.
 - (iii) in the case of a State co-operative bank, also any loan taken by such bank from a State Government or from the National Co-operative Development Corporation established under the National Co-operative Development Corporation Act, 1962 and any deposit of money with such bank representing the reserve fund or any part thereof maintained with it by any co-operative society within its area of operation;

但任何人均不得要求買入或賣出價值低於 20 萬盧比之外匯。
解釋--本條所稱“經許可之人”係指依「1973 年外匯管理法」規定，有權買入或出售與其需求有關之外匯之人。

第 41 條 買入英鎊之義務
刪除。

第 41A 條 提供印度與緬甸間匯款服務之義務
刪除。

第 42 條 附表銀行存放於本行之現金準備

(1) 附表二所列銀行應將現金存放於本行，其每日平均餘額，不得低於依本條第 2 項所申報該行在境內所收受活期及定期存款負債之 3%。

本行得於政府公報公告提高前項應提準備之比率，但最高不得超過各銀行收受活期及定期存款負債之 20%。

解釋--為本條規定目的-

- (a) “平均每日餘額”，係指於每兩週中之每日營業終了時在本行存款餘額之平均數。
- (b) “兩週”，係指自週六起至第二個週五之期間，頭尾兩日包含在內。
- (c) “債務”不包含：
 - (i) 實收資本額、準備金或該銀行損益表內之貸方餘額。
 - (ii) 向本行、「開發銀行」、「輸出入銀行」、「建設銀行」、「國家住宅銀行」、「國家銀行」或「小型工業銀行」所取得之貸款。
 - (iii) 屬州立合作銀行者，尚不包含該銀行自州政府依「1962 年國家合作發展公司法」規定設立之國家發展合作公司所取得之貸款，以及當地合作社存於該行之準備資金部位。

- (iv) in the case of a State co-operative bank, which has granted an advance against any balance maintained with it, such balance to the extent of the amount outstanding in respect of such advance;
 - (v) in the case of a Regional Rural Bank, also any loan taken by such bank from its Sponsor Bank;
- (d) the aggregate of the "liabilities" of a scheduled bank which is not a State co-operative bank, to,-
- (i) the State Bank;
 - (ii) a subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;
 - (iii) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;
 - (iiia) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;
 - (iv) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949;
 - (v) a co-operative bank; or
 - (vi) any other financial institution notified by the Central Government in this behalf, shall be reduced by the aggregate of the liabilities of all such banks and institutions to the scheduled bank;
- (e) the aggregate of the "liabilities" of a scheduled bank which is a State co-operative bank, to, -
- (i) the State Bank;
 - (ii) a subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;
 - (iii) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;
 - (iiia) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;
 - (iv) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949; or

- (iv) 屬州立合作銀行者，以存款為擔保所核准之融通，其已動用之部分。
- (v) 屬區域農村銀行者，其自贊助銀行所取得之貸款。
- (d) 附表銀行非州立合作銀行者，其債務之總額，應扣除下列各銀行或金融機構對該銀行債務之總額：
 - (i) 州立銀行。
 - (ii) 「1959 年印度州立銀行(附屬銀行)法」第 2 條定義之附屬銀行。
 - (iii) 「1970 年金融公司(承受購併及轉讓)法」第 3 條設立之相對應新銀行。
 - (iiia) 「1980 年金融公司(承受購併及轉讓)法」第 3 條設立之相對應新銀行。
 - (iv) 「1949 年銀行業管理法」第 5 條第(c)款規定之金融公司。
 - (v) 合作銀行。
 - (vi) 中央政府以其名義所公告之其他金融機構。
- (e) 附表銀行為州立銀行者，其債務總額應扣除下列銀行對該州立合作銀行債務之總額。
 - (i) 州立銀行。
 - (ii) 「1959 年州立銀行(附屬銀行)法」第 2 條定義之子銀行。
 - (iii) 「1970 年金融公司(企業購併及轉讓)法」第 3 條設立之相對應新銀行。
 - (iiia) 「1980 年金融公司(企業購併及轉讓)法」第 3 條設立之相對應新銀行。
 - (iv) 「1949 年銀行業管理法」第 5 條第(c)款規定之金融公司。

- (v) any other financial institution notified by the Central Government in this behalf, shall be reduced by the aggregate of the liabilities of all such banks and institutions to the State Co-operative bank.
- (1A) Notwithstanding anything contained in sub-section (1), the Bank may, by notification in the Gazette of India, direct that every scheduled bank shall, with effect from such date as may be specified in the notification, maintain with the Bank, in addition to the balance prescribed by or under sub-section (1), an additional average daily balance the amount of which shall not be less than the rate specified in the notification, such additional balance being calculated with reference to the excess of the total of the demand and time liabilities of the bank as shown in the return referred to in sub-section (2) over the total of its demand and time liabilities at the close of business on the date specified in the notification as shown by such return so however, that the additional balance shall, in no case, be more than such excess:
- Provided that the Bank may, by a separate notification in the Gazette of India, specify different dates in respect of a bank subsequently, included in the Second Schedule.
- (IAA) Notwithstanding anything contained in sub-section (1) or sub-section (1A), it shall not be necessary for any scheduled bank to maintain with the Bank any balance which shall be more than twenty per cent of the total of its demand and time liabilities as shown in the return referred to in sub-section (2).
- (1B) Where any scheduled bank maintains, in pursuance of a notification issued under the proviso to sub-section (1) or under sub-section (1A), any balance with the Bank the amount of which is not less than that required to be maintained by such notification, the Bank may pay to the scheduled bank interest at such rate or rates as may be determined by the Bank from time to time on the amount by which such balance actually maintained is in excess of the balance which the scheduled bank would have to maintain, if no such notification was issued:
- Provided that no interest shall be payable on any such amount actually maintained as is in excess of the balance required to be maintained by or under sub-section (1) or under sub-section (1A).
- Provided further that where the Bank does not, under sub-section (5), demand the payment of the penalty imposed by sub-section (3), it may pay interest at such rate or rates as may be determined by the Bank from time to time on the amount actually maintained with it by the scheduled bank, notwithstanding that such amount is less than the balance required to be maintained in pursuance of a notification issued under the proviso to sub-section (1) or under sub-section (1A).

(v)中央政府公告之其他金融機構。

(1A)雖有第(1)項之規定，本行得以政府公報公告，自公告所載之日起，各附表銀行除依第(1)項規定存放於本行之現金準備外，並應增提額外準備金；其計提總額，不得低於依該附表銀行收受之活期及定期存款債務總額依公告所載比率計算之數額。額外準備金計算基礎，為各附表銀行依本條第(2)項定期申報資料中，其活期及定期存款債務總額高出公告當日相關債務之部分。

本行得以政府公報刊登另一公告，載明其他日期，適用於公告日之後才列入附表二之銀行。

(1AA)雖有第(1)項或第(1A)項規定，附表銀行無須向本行提出超過其收受之活期或定期存款債務總額 20% 以上之準備金。

(1B)附表銀行依第(1)項但書或第(1A)項規定發布之公告，向本行繳存之不低於該公告規定應存放之準備金，本行應向附表銀行支付利息，其利率由本行隨時視附表銀行存放於本行之準備金餘額是否超過應提之準備而定。超過依第(1)項或第(1A)項規定應存放於本行之準備金部分之額度，本行不支付利息。

本行依第(5)項之規定，不對附表銀行科以第(3)項規定之處罰時，得對於附表銀行實際繳存於本行之準備金數額，依本行所定利率支付利息，不論附表銀行所繳存之準備金數額，是否低於依第(1)項但書或第(1A)項規定所發布公告計算之數額。

(1C) The Bank may, for the purposes of this section, specify from time to time with reference to any transaction or class of transactions that such transaction or transactions shall be regarded as liability in India of a scheduled bank, and if any question arises as to whether any transaction or class of transactions shall be regarded, for the purposes of this section, as liability in India of a schedule bank, the decision of the Bank thereon shall be final.

(2) Every scheduled bank shall send to the Bank a return signed by two responsible officers of such bank showing-

- (a) the amount of its demand and time liabilities and the amount of its borrowings from banks in India classifying them into demand and time liabilities,
- (b) the total amount of legal tender notes and coins held by it in India,
- (c) the balance held by it at the Bank in India,
- (d) the balances held by it at other banks in current account and the money at call and short notice in India.,
- (e) the investments (at book value) in Central and State Government securities including treasury bills and treasury deposit receipts,
- (f) the amount of advances in India,
- (g) the inland bills purchased and discounted in India and foreign bills purchased and discounted,

at the close of business on each alternate Friday, and every such return shall be sent not later than seven days after the date to which it relates: Provided that the Bank may, by notification in the Gazette of India, delete or modify or add to any of the particulars specified in the foregoing clauses:

Provided further that where such alternate Friday is a public holiday under the Negotiable Instruments Act, 1881, for one or more offices of a scheduled bank, the return shall give the preceding working day's figures in respect of such office or offices, but shall nevertheless be deemed to relate to that Friday:

Provided also that where the Bank is satisfied that the furnishing of a fortnightly return under this sub-section is impracticable in the case of any scheduled bank by reason of the geographical position of the bank and its branches, the Bank may allow such bank -

- (i) to furnish a provisional return for the fortnight within the period aforesaid to be followed by a final return not later than twenty days after the date to which it relates, or

(1C)為本條規定目的，本行得隨時以函釋認定任一項交易或任一類交易視為附表銀行於印度境內之債務；遇有疑義無法認定時，本行有最後決定權。

(2) 附表銀行應定期向本行申報，申報日為隔週週五營業結束時，報表送達本行時間不得逾報告所載日期後 7 天，並由 2 位以上負責人員簽署，載明下列事項：

(a) 該行活期及定期債務餘額，以及在境內向其他銀行借款之金額(並分為活期及定期)。

(b) 該行於境內持有有法償效力之鈔券及硬幣總額。

(c) 該行在境內本行帳戶之餘額。

(d) 該行在其他銀行之現金帳戶餘額，以及在境內之即期、短期資金。

(e) 該行投資中央或州政府證券之帳面價值，包括國庫券及國庫存款收據。

(f) 境內融通金額。

(g) 境內票據及外幣票據之買入及貼現。

本行得於政府公報公告，刪除、修正或增補上述須載明之具體事項。

依「1881 年可轉讓商品法」規定，前項申報日之星期五如為某一附表銀行一個以上辦事處之例假日者，申報數據應以其前一工作日之數據為基準，但視為星期五之申報內容。本行於認為依本項規定每隔兩週所寄送之報告，因該寄送行或其分行地理位置之緣故而不符實際需要者，得允許此類銀行：

(i) 在上述送達期限內，先送報告草稿，再於申報日 20 天內寄發定案之報告。

- (ii) to furnish in lieu of a fortnightly return a monthly return to be sent not later than twenty days after the end of the month to which it relates giving the details specified in this sub-section in respect of such bank at the close of business for the month.
- (2A) Where the last Friday of a month is not an alternate Friday for the purpose of sub-section (2), every scheduled bank shall send to the Bank, a special return giving the details specified in sub-section (2) as at the close of business on such last Friday or where such last Friday is a public holiday under the Negotiable Instruments Act, 1881 as at the close of business on the preceding working day and such return shall be sent not later than seven days after the date to which it relates.
- (3) If the average daily balance held at the Bank by a scheduled bank during any fortnight is below the minimum prescribed by or under sub-section (1) or sub-section (1A), such Scheduled bank shall be liable to pay to the Bank in respect of that (fortnight) penal interest at a rate of three per cent, above the bank rate on the amount by which such balance with the Bank falls short of the prescribed minimum, and if during the next succeeding fortnight, such average daily balance is still below the prescribed minimum the rates of penal interest shall be increased to a rate of five per cent, above the bank rate in respect of that (fortnight) and each subsequent (fortnight) during which the default continues on the amount by which such balance at the Bank falls short of the prescribed minimum.
- (3A) When under the provisions of sub-section (3) penal interest at the increased rate of five per cent, above the bank rate has become payable by a scheduled bank, if thereafter the average daily balance held at the Bank during the next succeeding fortnight is still below the prescribed minimum.
 - (a) every director, manager or secretary of the scheduled bank, who is knowingly and wilfully a party to the default, shall be punishable with fine which may extend to five hundred rupees and with a further fine which may extend to five hundred rupees for each subsequent fortnight during which the default continues, and
 - (b) the Bank may prohibit the scheduled bank from receiving after the said fortnight any fresh deposit,

- (ii) 以每月報告代替每兩週之報告，申報日為每月最後一個營業日，依本項規定，載明該行於當月月底之營運情形，該報告應於申報日 20 日內送達。
- (2A) 當月最後一週週五非第(2)項規定之隔週週五時，每一附表銀行應依第(2)項規定事項，寄送該週五之特別報告。該週週五如為「1881 年可轉讓商品法」所規定之例假日者，報告之數據應為其前一工作日之數據，該報告應於申報日後 7 天內送達本行。
- (3) 附表銀行於本行帳戶內以兩週為單位計算之每日平均餘額低於第(1)項或第(1A)項所定最低標準者，該平均餘額不足之附表銀行，應就其不足額部分，向本行支付懲罰性利息，其利率為一般利率加 3%；連續兩週期每日平均餘額未達最低標準者，其罰息提高至 5% 計算，並得連續計罰至改善為止。
- (3A) 依前款規定所追收之罰息提高至 5% 時，附表銀行於本行帳戶內之每日平均餘額連續未達法定最低標準時，即應支付：
- (a) 每日平均餘額未達最低標準之附表銀行董事、經理人或秘書人員明知並有意違規者，應科以最高 5 百盧比之罰鍰，違規期間內並得按次處以最高 5 百盧比之罰鍰。
- (b) 本行得勒令違反本款規定之附表銀行，自違規時起禁止收受新存款。

and, if default is made by the scheduled bank in complying with the prohibition referred to in clause (b), every director and officer of the scheduled bank who is knowingly and wilfully a party to such default or who through negligence or otherwise contributes to such default shall in respect of each such default be punishable with fine which may extend to five hundred rupees and with a further fine which may extend to five hundred rupees for each day after the first on which a deposit received in contravention of such prohibition is retained by the scheduled bank.

Explanation.- In this sub-section "officer" includes a manager, secretary, branch manager, and branch secretary.

- (4) Any scheduled bank failing to comply with the provisions of subsection (2) shall be liable to pay to the Bank a penalty of one hundred rupees for each day during which the failure continues.
- (5) (a) The penalties imposed by sub-sections (3) and (4) shall be payable within a period of fourteen days from the date on which a notice issued by the Bank demanding the payment of the same is served on the scheduled bank, and in the event of a failure of the scheduled bank to pay the same within such period, may be levied by a direction of the principal civil court having jurisdiction in the area where an office of the defaulting bank is situated, such direction to be made only upon an application made in this behalf to the court by the Bank;
- (b) when the court makes a direction under clause (a), it shall issue a certificate specifying the sum payable by the scheduled bank and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a suit;
- (c) notwithstanding anything contained in this section, if the Bank is satisfied that the defaulting bank had sufficient cause for its failure to comply with the provisions of sub-sections (1), (1A) or (2), it may not demand the payment of the penal interest or the penalty, as the case may be.
- (6) The Bank shall, save as hereinafter provided, by notification in the Gazette of India,-
 - (a) direct the inclusion in the Second Schedule of any bank not already so included which carries on the business of banking in India and which-
 - (i) has a paid-up capital and reserves of an aggregate value of not less than five lakhs of rupees, and
 - (ii) satisfies the Bank that its affairs are not being conducted in a manner detrimental to the interests of its depositors, and

附表銀行同時違反每日平均餘額最低標準及禁止收受新存款之規定者，該附表銀行之董事或相關人員，無論係明知、故意或因疏忽導致違規者，應依其違規情節，科以最高 5 百盧比之罰鍰，並得自該附表銀行違反禁止收受新存款處分之日起，按日科以最高 5 百盧比之罰鍰。

解釋-本款所稱“相關人員”包括經理、秘書、分行經理及分行秘書等。

- (4) 附表銀行違反第(2)項規定者，於其違規情形持續期間，應向本行支付每日 1 百盧比之罰鍰。
- (5) (a) 依第(3)項及第(4)項規定所科之罰鍰，應自本行對違規之附表銀行通知繳交罰鍰之日起算 14 天內支付；附表銀行未於前述期間繳清罰鍰者，得由該違規之附表銀行所在地有管轄權之地方民事法院發給扣押命令，該扣押命令僅得由本行向管轄法院申請時發給之。
 - (b) 法院依前款規定核發命令時，應同時發給證明書，載明附表銀行應支付之金額；依此發給之證明書，具有與法院判決相同之執行效力。
 - (c) 不論本條之其他規定，本行如認為附表銀行未能遵守本條第(1)項、第(1A)項及第(2)項係有正當充分之理由者，得視其情形免除追收懲罰性利息或免處罰鍰。
- (6) 本行依下列各款規定，以政府公報公告--
 - (a) 指示將在境內執行銀行業務，合於下列要件而未涵括於附表二之銀行，納入該附表：
 - (i) 實收資本額及準備金之總價值不少於 5 百萬盧比。
 - (ii) 本行認定其經營業務不致損及存款人權益。

- (iii) is a State co-operative bank or a company as defined in section 3 of the Companies Act, 1956, or an institution notified by the Central Government in this behalf or a corporation or a company incorporated by or under any law in force in any place outside India;
- (b) direct the exclusion from that Schedule of any scheduled bank.-
 - (i) the aggregate value of whose paid-up capital and reserves becomes at any time less than five lakhs of rupees, or
 - (ii) which is, in the opinion of the Bank after making an inspection under section 35 of the Banking Regulation Act, 1949, conducting its affairs to the detriment of the interests of its depositors, or
 - (iii) which goes into liquidation or otherwise ceases to carry on banking business:
- (c) alter the description in that Schedule whenever any scheduled bank changes its name.

Explanation.- In this sub-section the expression "value" means the real or exchangeable value and not the nominal value which may be shown in the books of the bank concerned; and if any dispute arises in computing the aggregate value of the paid-up capital and reserves of a bank, a determination thereof by the Bank shall be final for the purposes of this sub-section.

- (6A) In considering whether a State co-operative bank or a regional rural bank should be included in or excluded from the Second Schedule, it shall be competent for the Bank to act on a certificate from the National Bank on the question whether or not a State co-operative bank or a regional rural bank, as the case may be, satisfies the requirements as to paid-up capital and reserves or whether its affairs are not being conducted in a manner detrimental to the interests of its depositors.
- (7) The Bank may, for such period and subject to such conditions as may be specified, grant to any scheduled bank such exemptions from the provisions of this section as it thinks fit with reference to all or any of its offices or with reference to the whole or any part of its assets and liabilities.

(iii) 州立信用合作銀行，或屬「1956 年公司法」第 3 條定義之公司，或中央政府公告之機構，或依境外有效法律設立之各類公司。

(b) 指示附表二應除名之銀行：

(i) 實收資本額及準備金之總價值已低於 5 百萬盧比。

(ii) 本行於依「1949 年銀行管理法」第 35 條規定為檢查後，認定其經營業務有損害存款人權益之虞。

(iii) 即將清算或停止辦理銀行業務。

但因相關附表銀行之申請，本行認為有正當理由給予附表銀行增加資本或準備金之機會，使其不低於 5 百萬盧比者，得暫不依第(b)款第(i)目或第(ii)目之規定發布命令。

(c) 於附表銀行更名時，配合修正附表二。

解釋-本款所稱“價值”，係指真實且具交換價值，非僅記載於相關銀行帳簿之帳面價值；於計算銀行實收資本或準備金總額發生爭議時，本行之決定具最終效力。

(6A) 於認定州立合作銀行或區域農村銀行是否列入附表銀行時，本行應依國家銀行出具之證明書，評定各該銀行實收資本額及準備金是否合於法定最低標準，以及其經營業務有無損害存款人利益之情形。

(7) 本行得視具體情形，於附表銀行之全部或部分營業處所，或其資產及負債之全部或部分合於規定時，許可附表銀行於一定期間及符合規定之情況下，豁免本條規定之適用。

43. Publication of consolidated statement by the Bank

The Bank shall cause to be published each fortnight a consolidated statement showing the aggregate liabilities and assets of all the scheduled banks together, based on the returns and information received under this Act or any other law for the time being in force.

43A. Protection of action taken in good faith.

- (1) No suit or other legal proceeding shall lie against the Bank or any of its officers for anything which is in good faith done or intended to be done in pursuance of section 42 or section 43 or in pursuance of the provisions of Chapter IIIA.
- (2) No suit or other legal proceeding shall lie against the Bank or any of its officers for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of section 42 or section 43 or in pursuance of the provisions of Chapter IIIA.

44. Power to require returns from co-operative banks. Rep. by the Banking Laws (Application to Co-operative Societies) Act, 1965 (23 of 1965), s. 7 (w.e. f. 1-3-1966).

45. Appointment of Agents .

- (1) Unless otherwise directed by the Central Government with reference to any place, the Bank may, having regard to public interest, convenience of banking, banking development and such other factors which in its opinion are relevant in this regard, appoint the National Bank, or the State Bank or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, as its agent at all places, or at any place in India for such purposes as the Bank may specify.
- (2) When any bank is appointed by the Bank as its agent under subsection (1) to receive on behalf of the Bank any payment required to be made into the Bank, or any bill, hundies or other securities required to be delivered into the Bank, under any law or rule, regulations or other instructions having the force of law, the same may be paid or delivered into the bank so appointed as the agent of the Bank.

第 43 條 銀行合併報表之發布

本行應就依本法或其他法律所獲得之資訊，每兩週將全體附表銀行負債及資產總額作成統計，並發布全體附表銀行之合併報表。

第 43A 條 善意行為之保護

- (1) 本行依第 42 條、第 43 條或第 3A 章各條之規定，善意之行為或意圖之作為，任何人均不得對本行或本行職員進行訴訟或採取其他法律行動。
- (2) 本行依第 42 條、第 43 條或第 3A 章各條之規定，善意之行為或意圖之作為，任何人均不得對本行或本行職員以訴訟或其他法律行動，請求賠償損害或可能之損害。

第 44 條 要求合作銀行報告之權力

刪除。

第 45 條 指定代理機構

- (1) 除中央政府指示之地區外，本行得因公共利益之考量，或因銀行業或銀行業發展及其他本行認為與此有關之因素，選任「國家銀行」，或「州立銀行」，或依「1970 年金融公司(企業購併及轉讓)法」第 3 條設立之新銀行，或依「1980 年金融公司(企業購併及轉讓)法」第 3 條設立之新銀行，或「1959 年州立銀行(附屬銀行)法」所定義之附屬銀行，作為本行於全國各地區，或本行為特定目的在境內部分地區之代理機構。
- (2) 本行依前項規定選任之銀行，得以本行名義，收受依法律或法律授權訂定之規章、辦法或指令規定向本行所為之支付，或交付本行之票據或有價證券。

CHAPTER IIIA

COLLECTION AND FURNISHING OF CREDIT INFORMATION

45A. Definitions.

In this Chapter, unless the context otherwise requires,-

- (a) "banking company" means a banking company as defined in section 5 of the Banking Regulation Act, 1949, and includes the State Bank of India, any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, any corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, and any other financial institution notified by the Central Government in this behalf;
- (b) "borrower" means any person to whom any credit limit has been sanctioned by any banking company, whether availed of or not, and includes-
 - (i) in the case of a company or corporation, its subsidiaries;
 - (ii) in the case of a Hindu Undivided Family, any member thereof or any firm in which such member is a partner;
 - (iii) in the case of a firm, any partner thereof of any other firm in which such partner is a partner; and
 - (iv) in the case of an individual, any firm in which such individual is a partner;
- (c) "credit information" means any information relating to-
 - (i) the amounts and the nature of loans or advances and other credit facilities granted by a banking company to any borrower or class of borrowers;
 - (ii) the nature of security taken from any borrower or class of borrowers for credit facilities granted to him or to such class;
 - (iii) the guarantee furnished by a banking company for any of its customers or any class of its customers;
 - (iv) the means, antecedents, history of financial transactions and the credit worthiness of any borrower or class of borrowers;
 - (v) any other information which the Bank may consider to be relevant for the more orderly regulation of credit or credit policy.

第 3A 章 信用資訊之蒐集與提供

第 45 A 條 名詞定義

除本法另有規定外，下列名詞於本章定義如下：

- (a) 「金融公司」：係指「1949 年銀行管理法」第 5 條所定義之金融公司，包括州立銀行，「1959 年印度州立銀行(附屬銀行)法」定義之附屬銀行，「1970 年金融公司(企業購併及轉讓)法」第 3 條所設立之新銀行，以及中央政府所指定之其他金融機構。
- (b) 「借款人」：係指經銀行許可，授予信用額度之人，不論該額度是否已動用，包括：
 - (i) 對象為各類公司者，包括其附屬機構。
 - (ii) 對象為印度大家族成員者，包括其成員及各成員擔任合夥人之公司。
 - (iii) 對象為公司者，為其合夥人，或該合夥人亦為合夥人之其他公司。
 - (iv) 對象為個人者，該個人為合夥人之公司。
- (c) 「信用資訊」：係指下列有關資訊：
 - (i) 金融公司對借款人或各類借款人為貸款、融通或其他授信之數額及性質。
 - (ii) 金融公司因授與借款人或各類借款人信用而收受之擔保品之性質。
 - (iii) 金融公司對其客戶或各類客戶提供之保證。
 - (iv) 各類金融交易方式、先決條件、交易紀錄，以及借款人或各類借款人之信用程度等。
 - (v) 其他本行認為與授信管理規則或信用政策有關之其他資訊。

45B. Power of Bank to collect credit information.

The Bank may-

- (a) collect, in such manner as it may think fit, credit information from banking companies; and
- (b) furnish such information to any banking company in accordance with the provisions of section 45D.

45C. Power to call for returns containing credit information.

- (1) For the purpose of enabling the Bank to discharge its functions under this Chapter, it may at any time direct any banking company to submit to it such statements relating to such credit information and in such form and within such time as may be specified by the Bank from time to time.
- (2) A banking company shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any instrument regulating the constitution thereof or in any agreement executed by it, relating to the secrecy of its dealings with its constituents, be bound to comply with any direction issued under sub-section (1).

45D. Procedure for furnishing credit information to banking companies.

- (1) A banking company may, in connection with any financial arrangement entered into or proposed to be entered into by it, with any person, make an application to the Bank in such form as the Bank may specify requesting it to furnish the applicant with such credit information as may be specified in the application.
- (2) On receipt of an application under sub-section (1), the Bank shall, as soon as may be, furnish the applicant with such credit information relating to the matters specified in the application, as may be in its possession:
Provided that the information so furnished shall not disclose the names of the banking companies which have submitted such information to the Bank.
- (3) The Bank may in respect of each application levy such fees, not exceeding twenty-five rupees, as it may deem fit for furnishing credit information.

45E. Disclosure of information prohibited.

- (1) Any credit information contained in any statement submitted by a banking company under section 45C or furnished by the Bank to any banking company under section 45D, shall be treated as confidential and shall not, except for the purposes of this Chapter, be published or otherwise disclosed.

第 45B 條 收集信用資訊之權力

本行得：

- (a) 以本行認為適當之方式，向金融公司收集信用資訊。
- (b) 依第 45D 條之規定，對金融公司提供資訊。

第 45C 條 要求提供信用資訊之權力

- (1) 為行使本章賦予之職權，本行得隨時要求金融公司依本行所定格式及期間，向本行提交信用資訊之報表。
- (2) 不論其他法律就金融公司設立之文件，或金融公司簽署之合約就其與客戶間交易之保密義務有無相反之規定，金融公司對本行依前項規定所為之指示有遵守之義務。

第 45D 條 對金融公司提供信用資訊之程序

- (1) 金融公司於簽訂金融協議之前後，得依本行所定格式，申請提供他方之信用資訊。
- (2) 本行於收受前項規定所為申請時，應依申請書記載內容，就本行持有之資訊，儘速提供予申請人。
但依本項提供之資訊，不得揭示向本行提供該資訊之金融公司之名稱。
- (3) 本行提供信用資訊時，對於申請者得收取最高不超過 25 盧比之費用。

第 45E 條 資訊揭露之禁止

- (1) 金融公司依第 45C 條提交本行之報表內容，以及本行依第 45D 條向金融公司提供之信用資訊，均應視為機密，除為本章規定之目的外，不得對外公布或揭露。

(2) Nothing in this section shall apply to -

- (a) the disclosure by any banking company, with the previous permission of the Bank, of any information furnished to the Bank under section 45C:
- (b) the publication by the Bank, if it considers necessary in the public interest so to do, of any information collected by it under section 45C, in such consolidated form as it may think fit without disclosing the name of any banking company or its borrowers:
- (c) the disclosure or publication by the banking company or by the Bank of any credit information to any other banking company or in accordance with the practice and usage customary among bankers or as permitted or required under any other law:

Provided that any credit information received by a banking company under this clause shall not be published except in accordance with the practice and usage customary among bankers or as permitted or required under any other law.

(3) Notwithstanding anything contained in any law for the time being in force, no court, tribunal or other authority shall compel the Bank or any banking company to produce or to give inspection of any statement submitted by that banking company under section 45C or to disclose any credit information furnished by the Bank to that banking company under section 45D.

45F. Certain claims for compensation barred.

No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions of this Chapter.

45G. Penalties. Rep. by the Reserve Bank of India (Amendment) Act, 1974 (51 of 1974), s. 15.

CHAPTER IIIB

PROVISIONS RELATING TO NON-BANKING INSTITUTIONS RECEIVING DEPOSITS AND FINANCIAL INSTITUTIONS

45H. Chapter IIIB not to apply in certain cases.

(2) 本條規定，於下列情形不適用之：

- (a) 金融公司經本行之事先許可，依第 45C 條規定向本行提供之資訊。
- (b) 為公共利益之必要，本行就依第 45C 條規定所蒐集之資訊，得以不揭露金融公司或其借款人姓名之適當方式，將有關資訊編製合併報表，並予公布。
- (c) 依其他法律之許可或規定，或依據銀行實務或使用慣例，由金融公司或本行對其他金融公司所公布或揭露之信用資訊。

但金融公司依本款規定獲得之信用資訊，除依其他法律之許可或規定，或依據銀行實務或使用慣例外，不得對外公布。

(3) 不論其他法律有無相反規定，法院、法庭或其他主管機關均不得強迫本行或金融公司編製或調查金融公司依第 45C 條所提交之報表，或本行依第 45D 條對該金融公司所揭露之信用資訊。

第 45F 條 特定損害賠償請求權之禁止

任何人均不得依契約或其他事由，就因本章規定之執行所生之損失請求賠償。

第 45G 條 處罰

刪除。

第 3B 章 非銀行機構收受存款及金融機構有關規定

第 45H 條 不適用第 3B 章之特定情形

The provisions of this Chapter shall not apply to the State Bank or a banking company as defined in section 5 of the Banking Regulation Act, 1949 or a corresponding new bank as defined in clause (da) of section 5 of that Act or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 or a Regional Rural Bank or a co-operative bank or a primary agricultural credit society or a primary credit society:

Provided that for the purposes of this Chapter, the Tamil Nadu Industrial Investment Corporation Limited shall not be deemed to be a banking company.

45I. Definitions.

In this Chapter, unless the context otherwise requires,-

- (a) "business of a non-banking financial institution" means carrying on of the business of a financial institution referred to in clause (c) and includes business of a non-banking financial company referred to in clause (f);
- (aa) "company" means a company as defined in section 3 of the Companies Act, 1956 and includes a foreign company within the meaning of section 591 of that Act;
- (b) "corporation" means a corporation incorporated by an Act of any legislature;
- (bb) "deposit" includes and shall be deemed always to have included any receipt of money by way of deposit or loan or in any other form, but does not include,-
 - (i) amounts raised by way of share capital;
 - (ii) amounts contributed as capital by partners of a firm;
 - (iii) amounts received from a scheduled bank or a co-operative bank or any other banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949;
 - (iv) any amount received from,-
 - (a) the Development Bank,
 - (b) a State Financial Corporation,
 - (c) any financial institution specified in or under section 6A of the Industrial Development Bank of India Act, 1964, or
 - (d) any other institution that may be specified by the Bank in this behalf:

本章規定不適用於州立銀行、「1949 年銀行管理法」第 5 條定義之金融公司、同法第 5 條第(da)款之新銀行、「1959 年州立銀行(附屬銀行)法」定義之附屬銀行、區域農村銀行、合作銀行、主要農業信用社或主要信用社。

如以本章規定之目的而言，Tamil Nadu 工業投資股份有限公司不視為金融公司。

第 45I 條 定義

除本法另有規定外，本章用語定義如下：

- (a) 非銀行金融機構業務：係指從事第(c)款之金融機構之業務，包括第(f)款所定之非銀行金融公司之業務。
- (aa) 公司：係指「1956 年公司法」第 3 條定義之公司，包括該法第 591 條規定之外國公司。
- (b) 股份有限公司：係指依任何法律規定設立之股份有限公司。
- (bb) 存款：包括以存入、借貸或其他方式收受之現金，但不包含下列款項：
 - (i) 充當股款之金額。
 - (ii) 公司合夥人繳交之資本。
 - (iii) 自附表銀行、合作銀行或「1949 年銀行管理法」第 5 條第(c)款所定義之其他金融公司收受之款項。
 - (iv) 自下列機構收受之款項：
 - (a) 開發銀行。
 - (b) 州立金融公司。
 - (c) 「1964 年工業開發銀行法」第 6A 條規定或指定之金融機構。
 - (d) 本行指定之其他金融機構。

- (v) amounts received in the ordinary course of business, by way of-
 - (a) security deposit,
 - (b) dealership deposit,
 - (c) earnest money,
 - (d) advance against orders for goods, properties or services,
- (vi) any amount received from an individual or a firm or an association of individuals not being a body corporate, registered under any enactment relating to money lending which is for the time being in force in any State; and
- (vii) any amount received by way of subscriptions in respect of a chit.
Explanation I.- "Chit" has the meaning assigned to it in clause (b) of section 2 of the Chit Funds Act, 1982.
Explanation II.- Any credit given by a seller to a buyer on the sale of any property (whether movable or immovable) shall not be deemed to be deposit for the purposes of this clause;
- (c) "financial institution" means any non-banking institution which carries on as its business or part of its business any of the following activities, namely:-
 - (i) the financing, whether by way of making loans or advances or otherwise, of any activity other than its own;
 - (ii) the acquisition of shares, stock, bonds, debentures or securities issued by a Government or local authority or other marketable securities of a like nature;
 - (iii) letting or delivering of any goods to a hirer under a hire-purchase agreement as defined in clause (c) of section 2 of the Hire-Purchase Act, 1972;
 - (iv) the carrying on of any class of insurance business;
 - (v) managing, conducting or supervising, as foreman, agent or in any other capacity, of chits or kuries as defined in any law which is for the time being in force in any State, or any business, which is similar thereto;
 - (vi) collecting, for any purpose or under any scheme or arrangement by whatever name called, monies in lumpsum or otherwise, by way of subscriptions or by sale of units, or other instruments or in any other manner and awarding prizes or gifts, whether in cash or kind, or disbursing monies in any other way, to persons from whom monies are collected or to any other person,
but does not include any institution, which carries on as its principal business,-

(v) 下列一般業務之經營所收受之款項：

(a) 客戶保證金。

(b) 代理商存款。

(c) 手續費。

(d) 訂購商品、財物或服務所生之定金。

(vi) 自個人、公司或非依各州有關金錢借貸規定而註冊之非公司組織所收受之款項。

(vii) 民間合會每期所收會款。

解釋 I-合會：其定義依「1982 年合會基金法」第 2 條第(b)款之規定。

解釋 II-賣方因銷售動產或不動產而授予買方之信用額度，不屬於本款規定之存款。

(c) 金融機構：係指非銀行金融機構，從事下列業務為其部分或全部之業務者：

(i) 融通業務，以貸款、融通或其他方式，將資金挹注於與本身無關之其他事業。

(ii) 買入股份、股票、金融債券或政府、地方主管機關發行或其他類似具有市場性之有價證券。

(iii) 依「1972 年分期付款買賣法」第 2 條第(c)款規定之分期付款買賣合約，出租或送交貨物予承租人。

(iv) 從事各種保險業務。

(v) 以會首、代理人或其他名義，召集、經營管理依法設立之合會。

(vi) 為任何商品訂購、銷售或因其他計畫或協議，向特定人收受或支付單筆或多筆現金，並對該人或他人給予獎金或贈品。

但不包括以下列為其主要業務之機構：

- (a) agricultural operations; or
- (aa) industrial activity; or
- (b) the purchase or sale of any goods (other than securities) or the providing of any services; or
- (c) the purchase, construction or sale of immovable property, so however, that no portion of the income of the institution is derived from the financing of purchases, constructions or sales of immovable property by other persons;

Explanation.- For the purposes of this clause, "industrial activity" means any activity specified in sub-clauses (i) to (xviii) of clause (c) of section 2 of the Industrial Development Bank of India Act, 1964;

- (d) "firm" means a firm as defined in the Indian Partnership Act, 1932
- (e) "non-banking institution" means a company, corporation or cooperative society.
- (f) "non-banking financial company" means-
 - (i) a financial institution which is a company;
 - (ii) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner;
 - (iii) such other non-banking institution or class of such institutions, as the Bank may, with the previous approval of the Central Government and by notification in the Official Gazette, specify;

45-IA. Requirement of registration and net owned fund.

- (1) Notwithstanding anything contained in this Chapter or in any other law for the time being in force, no non-banking financial company shall commence or carry on the business of a non-banking financial institution without-
 - (a) obtaining a certificate of registration issued under this Chapter; and
 - (b) having the net owned fund of twenty-five lakh rupees or such other amount, not exceeding two hundred lakh rupees, as the Bank may, by notification in the Official Gazette, specify.
- (2) Every non-banking financial company shall make an application for registration to the Bank in such form as the Bank may specify:

- (a) 農業營運。
- (aa) 工業活動。
- (b) 貨物(有價證券以外)之買賣或服務之提供。
- (c) 不動產買賣、興建，且該機構收入均非來自於他人資金所資助之不動產買賣、興建融資。
解釋- 為本款規定目的，所稱「工業活動」係指「1964 年工業開發銀行法」第 2 條第(c)款第(i)目至第(xviii)目所定之活動。
- (d) 合夥公司：係指「1932 年合夥事業法」定義之公司。
- (e) 非銀行機構：係指公司、股份有限公司或合作社。
- (f) 非銀行金融公司：係指
 - (i) 公司組織之金融機構。
 - (ii) 公司組織之非銀行金融機構，其主要業務在依不同存款條件或方式收受存款或為貸款。
 - (iii) 本行經中央政府之事先許可，於政府公報指定之其他非銀行機構或此類型之機構。

第 45 IA 條 登記及淨自有資金之規定

- (1) 不論本章或現行其他法律之規定，非銀行金融公司未符合下列條件，不得開始或從事非銀行金融機構之業務：
 - (a) 取得依本章規定核發之營業執照。
 - (b) 淨自有資金達 250 萬盧比或本行於政府公報訂定 2 千萬盧比以下之金額。
- (2) 非銀行金融公司應依本行所定格式，向本行申請登記。

Provided that a non-banking financial company in existence on the commencement of the Reserve Bank of India (Amendment) Act, 1997 shall make an application for registration to the Bank before the expiry of six months from such commencement and notwithstanding anything contained in sub-section (1) may continue to carry on the business of a non-banking financial institution until a certificate of registration is issued to it or rejection of application for registration is communicated to it.

- (3) Notwithstanding anything contained in sub-section (1), a non-banking financial company in existence on the commencement of the Reserve Bank of India (Amendment) Act, 1997 and having a net owned fund of less than twenty-five lakh rupees may, for the purpose of enabling such company to fulfil the requirement of the net owned fund, continue to carry on the business of a non-banking financial institution-
- (i) for a period of three years from such commencement; or
 - (ii) for such further period as the Bank may, after recording the reasons in writing for so doing, extend, subject to the condition that such company shall, within three months of fulfilling the requirement of the net owned fund, inform the Bank about such fulfilment:

Provided that the period allowed to continue business under this subsection shall in no case exceed six years in the aggregate.

- (4) The Bank may, for the purpose of considering the application for registration, require to be satisfied by an inspection of the books of the non-banking financial company or otherwise that the following conditions are fulfilled:-
- (a) that the non-banking financial company is or shall be in a position to pay its present or future depositors in full as and when their claims accrue;
 - (b) that the affairs of the non-banking financial company are not being or are not likely to be conducted in a manner detrimental to the interest of its present or future depositors;
 - (c) that the general character of the management or the proposed management of the non-banking financial company shall not be prejudicial to the public interest or the interest of its depositors;
 - (d) that the non-banking financial company has adequate capital structure and earning prospects;
 - (e) that the public interest shall be served by the grant of certificate of registration to the non-banking financial company to commence or to carry on the business in India;

非銀行金融機構於「1997年印度準備銀行(修正)法」生效前設立者，應自該法生效日起6個月內，向本行申請登記，並得繼續從事非銀行金融機構之業務，直到發給其營業執照或對其申請登記為否決之通知止，不受第(1)項規定之限制。

- (3) 非銀行金融公司於「1997年印度準備銀行(修正)法」生效前設立，其淨自有資金低於250萬盧比者，得令其補足法定最低淨自有資金後，於下列期間，繼續從事非銀行金融機構業務，不受第(1)項規定之限制：

(i) 自該法生效之日起3年。

(ii) 經本行以書面記載許可之理由後，得展延期間。

非銀行金融公司應於補足法定最低淨自有資金後3個月內通知本行。

依本項規定繼續從事業務之期間，在任何情況下均不得超過6年。

- (4) 本行因申請登記之准駁，得要求對非銀行金融公司帳務進行檢查或其他查核，以確認其符合下列情形：

(a) 該非銀行金融公司於存款人提出請求時，有資力向其現在或未來之存款人清償。

(b) 該非銀行金融公司不會或不致發生損及其現在或未來存款人利益之行為。

(c) 非銀行金融公司之管理階層或擬推舉之管理階層之品格及操守，不得有損於公共利益或存款人利益之情形。

(d) 非銀行金融公司資本結構適足並具獲利潛力。

(e) 非銀行金融公司在境內開始或持續營業符合公共利益。

- (f) that the grant of certificate of registration shall not be prejudicial to the operation and consolidation of the financial sector consistent with monetary stability, economic growth and considering such other relevant factors which the Bank may, by notification in the Official Gazette, specify; and
 - (g) any other condition, fulfilment of which in the opinion of the Bank, shall be necessary to ensure that the commencement of or carrying on of the business in India by a non-banking financial company shall not be prejudicial to the public interest or in the interest of the depositors.
- (5) The Bank may, after being satisfied that the conditions specified in sub-section (4) are fulfilled, grant a certificate of registration subject to such conditions which it may consider fit to impose.
- (6) The Bank may cancel a certificate of registration granted to a nonbanking financial company under this section if such company-
- (i) ceases to carry on the business of a non-banking financial institution in India; or
 - (ii) has failed to comply with any condition subject to which the certificate of registration had been issued to it; or
 - (iii) at any time fails to fulfil any of the conditions referred to in clauses (a) to (g) of sub-section (4); or
 - (iv) fails-
 - (a) to comply with any direction issued by the Bank under the provisions of this chapter; or
 - (b) to maintain accounts in accordance with the requirements of any law or any direction or order issued by the Bank under the provisions of this Chapter; or
 - (c) to submit or offer for inspection its books of account and other relevant documents when so demanded by an inspecting authority of the Bank; or
 - (v) has been prohibited from accepting deposit by an order made by the Bank under the provisions of this Chapter and such order has been in force for a period of not less than three months:
- Provided that before cancelling a certificate of registration on the ground that the non-banking financial company has failed to comply with the provisions of clause (ii) or has failed to fulfil any of the conditions referred to in clause (iii) the Bank, unless it is of the opinion that the delay in cancelling the certificate of registration shall be prejudicial to public interest or the interest of the depositors or the non-banking financial company, shall give an opportunity to such company on such terms as the Bank may specify for taking necessary steps to comply with such provision or fulfilment of such condition;

- (f)核發營業執照予該非銀行金融公司不致損及金融產業之運作及整體性，並有助於貨幣穩定、經濟成長及符合本行於政府公報公告之其他考慮因素。
 - (g)其他發照條件，依本行之認定，申請之非銀行金融公司須符合各該項條件，始足以確保其在境內營業時，不致損及公眾或存款人利益。
- (5) 本行於申請人符合第(4)項各款所定資格條件時，得核發營業執照。
- (6) 有下列情形之一者，本行得撤銷非銀行金融公司之登記執照：
- (i)中止在境內執行非銀行金融公司業務。
 - (ii)未遵守核發執照之條件。
 - (iii)未遵守第(4)項第(a)款至第(g)款之規定。
 - (iv)未能：
 - (a) 遵守本行依本章規定所頒定之指令。
 - (b) 依法律或本行依本章所定規定之要求，進行帳務管理。
 - (c) 於本行檢查部門要求時，送交或提供帳務資料或相關文件以供檢核。
 - (v) 本行依本章規定所發命令停止其收受存款，且該命令生效已逾3個月。
- 非銀行金融公司因未遵守第(ii)目規定或未能履行第(iii)目規定所定條件者，於本行撤銷其註冊登記前，除延遲撤銷其註冊登記有損於公共利益、存款人或該非銀行金融公司利益者外，本行得給予該公司改正機會，並限其於一定期間內採行必要措施，以合於本章規定或履行所定條件。

Provided further that before making any order of cancellation of certificate of registration, such company shall be given a reasonable opportunity of being heard.

- (7) A company aggrieved by the order of rejection of application for registration or cancellation of certificate of registration may prefer an appeal, within a period of thirty days from the date on which such order of rejection or cancellation is communicated to it, to the Central Government and the decision of the Central Government where an appeal has been preferred to it, or of the Bank where no appeal has been preferred, shall be final:

Provided that before making any order of rejection of appeal, such company shall be given a reasonable opportunity of being heard.

Explanation.- For the purposes of this section,-

(I) "net owned fund" means-

- (a) the aggregate of the paid-up equity capital and free reserves as disclosed in the latest balance-sheet of the company after deducting therefrom-

- (i) accumulated balance of loss;
- (ii) deferred revenue expenditure; and
- (iii) other intangible assets; and

- (b) further reduced by the amounts representing-

- (1) investments of such company in shares of-
 - (i) its subsidiaries;
 - (ii) companies in the same group;
 - (iii) all other non-banking financial companies; and
- (2) the book value of debentures, bonds, outstanding loans and advances (including hire-purchase and lease finance) made to, and deposits with,-
 - (i) subsidiaries of such company; and
 - (ii) companies in the same group,to the extent such amount exceeds ten per cent of (a) above.

(II) "subsidiaries" and "companies in the same group" shall have the same meanings assigned to them in the Companies Act, 1956.

本行於撤銷非銀行金融公司註冊登記前，應給予該公司陳述意見之機會。

- (7) 因本行駁回註冊之申請，或撤銷其註冊登記致受損害之非銀行金融公司，得於收受該駁回或撤銷通知送達之日起 30 天內，向中央政府提起訴願；中央政府對於訴願之決定，或本行之駁回或撤銷之決定未經提出訴願者，均具最終確定力。

對本款之訴願為駁回之決定前，應給予訴願人陳述意見之機會。

解釋-本條規定用語定義如下：

(I) 淨自有資金，係指：

(a) 該公司最新揭露之資產負債表內實收資本及資本公積總額扣除下列項目：

- (i) 累積虧損餘額。
- (ii) 遞延收入支出。
- (iii) 其他無形資產。

(b) 並扣除下列項目：

(1) 該公司對下列機構之投資：

- (i) 附屬機構。
- (ii) 同一集團內之其他公司。
- (iii) 其他非銀行金融公司。

(2) 金融債券、債券之帳面價值，與下列機構間之貸款及融通餘額(包含分期付款及租賃金融)，其數額超過第(a)款所定 10% 者：

- (i) 附屬機構。
- (ii) 同一集團內之其他公司。

(II) “附屬機構”及“同一集團內之其他公司”之定義，與「1956 年公司法」之定義同。

45-IB. Maintenance of percentage of assets.

- (1) Every non-banking financial company shall invest and continue to invest in India in unencumbered approved securities, valued at a price not exceeding the current market price of such securities, an amount which, at the close of business on any day, shall not be less than five per cent, or such higher percentage not exceeding twenty-five per cent, as the Bank may, from time to time and by notification in the Official Gazette, specify, of the deposits outstanding at the close of business on the last working day of the second preceding quarter:
Provided that the Bank may specify different percentages of investment in respect of different classes of non-banking financial companies.
- (2) For the purpose of ensuring compliance with the provisions of this section, the Bank may require every non-banking financial company to furnish a return to it in such form, in such manner and for such period as may be specified by the Bank.
- (3) If the amount invested by a non-banking financial company at the close of business on any day falls below the rate specified under subsection (1), such company shall be liable to pay to the Bank, in respect of such shortfall, a penal interest at a rate of three per cent per annum above the bank rate on such amount by which the amount actually invested falls short of the specified percentage, and where the shortfall continues in the subsequent quarters, the rate of penal interest shall be five per cent per annum above the bank rate on such shortfall for each subsequent quarter.
- (4) (a) The penal interest payable under sub-section (3) shall be payable within a period of fourteen days from the date on which a notice issued by the Bank demanding payment of the same is served on the non-banking financial company and, in the event of a failure of the non-banking financial company to pay the same within such period, penalty may be levied by a direction of the principal civil court having jurisdiction in the area where an office of the defaulting non-banking financial company is situated and such direction shall be made only upon an application made in this behalf to the court by the Bank; and
(b) When the court makes a direction under clause (a), it shall issue a certificate specifying the sum payable by the non-banking financial company and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a suit.
- (5) Notwithstanding anything contained in this section, if the Bank is satisfied that the defaulting non-banking financial company had sufficient cause for its failure to comply with the provisions of sub-section (1), it may not demand the payment of the penal interest.

Explanation,- For the purposes of this section,-

第 45IB 條 資產比率之維持

- (1) 非銀行金融公司應投資並繼續持有無質押且合格之有價證券，其投資價格不得超過該有價證券之市價；每營業日結束時之投資總額，不得低於前二季最後營業日存款餘額之 5%，或本行於政府公報公告之 25% 以下之比例計算之金額。但本行得對不同類型非銀行金融公司之投資，訂定不同比例。
- (2) 為確保本條規定之遵行，本行得要求非銀行金融公司依本行所定格式、方式及期間，申報執行情形。
- (3) 非銀行金融公司於每日營業結束時之投資金額，低於依第(1)項規定比例計算之金額者，應就其投資不足額部分，依一般銀行年利率加計 3%，支付本行懲罰性利息；其投資不足額情形於次季繼續存在時，每季應支付之懲罰性利息，改依一般銀行利率加計 5%。
- (4) (a) 第(3)項規定之懲罰性利息，應於本行對受處分之非銀行金融公司通知要求支付之日起 14 天內付清；未能如期支付者，由違規之非銀行金融公司營業所在地有管轄權之第一審民事法院，依本行之聲請，以命令科處罰鍰。
(b) 法院依第(a)款規定所發命令應作成書面，載明該非銀行金融公司應支付之罰鍰數額；各該書面命令之執行效力，與法院所為確定判決相同。
- (5) 本行認為違規之非銀行金融公司有正當理由無法遵行第(1)項規定者，得不令其支付懲罰性利息。

解釋-依本條規定之目的--

- (i) "approved securities" means securities of any State Government or of the Central Government and such bonds, both the principal whereof and the interest whereon shall have been fully and unconditionally guaranteed by any such Government;
- (ii) "unencumbered approved securities" includes the approved securities lodged by the non-banking financial company with another institution for an advance or any other arrangement to the extent to which such securities have not been drawn against or availed of or encumbered in any manner;
- (iii) "quarter" means the period of three months ending on the last day of March, June, September or December.

45-IC. Reserve fund.

- (1) Every non-banking financial company shall create a reserve fund and transfer therein a sum not less than twenty per cent of its net profit every year as disclosed in the profit and loss account and before any dividend is declared.
- (2) No appropriation of any sum from the reserve fund shall be made by the non-banking financial company except for the purpose as may be specified by the Bank from time to time and every such appropriation shall be reported to the Bank within twenty-one days from the date of such withdrawal:

Provided that the Bank may, in any particular case and for sufficient cause being shown, extend the period of twenty-one days by such further period as it thinks fit or condone any delay in making such report.

- (3) Notwithstanding anything contained in sub-section (1), the Central Government may, on the recommendation of the Bank and having regard to the adequacy of the paid-up capital and reserves of a non-banking financial company in relation to its deposit liabilities, declare by order in writing that the provisions of sub-section (1) shall not be applicable to the non-banking financial company for such period as may be specified in the order:

Provided that no such order shall be made unless the amount in the reserve fund under sub-section (1) together with the amount in the share premium account is not less than the paid-up capital of the non-banking financial company.

- (i) 經核定之有價證券：係指州政府或中央政府之有價證券或債券，其本金及利息均由各該政府全額並無條件保證。
- (ii) 無抵押且經核定之有價證券：包含由非銀行金融公司提供予其他機構以供融通或其他財務安排之經核定之有價證券，惟其並未經提取或運用，或以任何方式設定質押者。
- (iii) 每季：係指以每年 3 月、6 月、9 月及 12 月為末日之 3 個月期間。

第 45IC 條 準備資金

- (1) 非銀行金融公司應設立準備資金，並於宣布股利分配前，將揭示於損益表之淨利撥入，其比例不得低於年度淨利 20%。
- (2) 非銀行金融公司之準備資金，除本行所限定之特定事項外，不得任意動用；準備資金之支用，應自動用之日起 21 天內，向本行報告。

本行就個別情形認為有充分理由時，得延長 21 天之期間，另定本行認為合適之期間，或免除其遲延申報之責任。

- (3) 中央政府得依本行之建議，於認定非銀行金融公司之實收資本及準備資金與其存款債務相較已具適足性者，以書面命令宣布，第(1)項規定於該書面命令所定期間內，不適用於該指定之非銀行金融公司。

除第(1)項規定之準備資金數額與股票發行溢價帳戶合計不低於該非銀行金融公司實收資本額之情形外，不得發布前述命令。

45J. Bank to regulate or prohibit issue of prospectus or advertisement soliciting deposits of money.

The Bank may, if it considers necessary in the public interest so to do, by general or special order,-

- (a) regulate or prohibit the issue by any non-banking institution of any prospectus or advertisement soliciting deposits of money from the public; and
- (b) specify the conditions subject to which any such prospectus or advertisement, if not prohibited, may be issued.

45JA. Power of Bank to determine policy and issue directions.

- (1) If the Bank is satisfied that, in the public interest or to regulate the financial system of the country to its advantage or to prevent the affairs of any non-banking financial company being conducted in a manner detrimental to the interest of the depositors or in a manner prejudicial to the interest of the non-banking financial company, it is necessary or expedient so to do, it may determine the policy and give directions to all or any of the non-banking financial companies relating to income recognition, accounting standards, making of proper provision for bad and doubtful debts, capital adequacy based on risk weights for assets and credit conversion factors for off-balance-sheet items and also relating to deployment of funds by a non-banking financial company or a class of non-banking financial companies or non-banking financial companies generally, as the case may be, and such non-banking financial companies shall be bound to follow the policy so determined and the directions so issued.
- (2) Without prejudice to the generality of the powers vested under sub-section (1), the Bank may give directions to non-banking financial companies generally or to a class of non-banking financial companies or to any non-banking financial company in particular as to-
 - (a) the purpose for which advances or other fund based or non-fund based accommodation may not be made; and
 - (b) the maximum amount of advances or other financial accommodation or investment in shares and other securities which, having regard to the paid-up capital, reserves and deposits of the non-banking financial company and other relevant considerations, may be made by that non-banking financial company to any person or a company or to a group of companies.

第 45J 條 本行規範或禁止發布招募存款說明書或招攬廣告
本行因公共利益認為有必要時，得以一般或特別命令：

- (a) 規範或禁止非銀行金融機構向公眾發布招募存款說明書，
或刊登招攬廣告。
- (b) 明定未經禁止之招募存款說明書或招攬廣告之發布條件。

第 45JA 條 本行決定政策及發布指令之權力

- (1) 因公共利益，或為管理全國金融體系，或避免非銀行金融公司從事有危及存款人利益或損及非銀行金融公司利益之行為，本行認為有必要採行適當措施者，得就有關收入認列、會計準則、備抵呆帳以資產風險權衡為基礎之資本適足性、資產負債表外項目之信用轉換因素，以及個別非銀行金融公司、特定類型非銀行金融公司或一般非銀行金融公司資金之配置等，對全體或部分非銀行金融公司訂定政策及發布指令。各該非銀行金融公司有遵行本行政策及指令之義務。
- (2) 在無損於本行依第(1)項規定授與之權限範圍內，本行得對一般非銀行金融公司、特定類型非銀行金融公司或任何個別非銀行金融公司給予下列之指令：
 - (a) 不得對特定目的事項為融通、其他資金或非資金之融通。
 - (b) 對於任何人、個別公司或某類公司為融通、資金融通或投資其有價證券之最高限額；其最高限額之規定，應考量各該非銀行金融公司實收資本額、準備金、存款債務及其他相關因素。

45K. Power of Bank to collect information from non-banking institutions as to deposits and to give directions.

- (1) The Bank may at any time direct that every non-banking institution shall furnish to the Bank, in such form, at such intervals and within such time, such statements, information or particulars relating to or connected with deposits received by the non-banking institution, as may be specified by the Bank by general or special order.
- (2) Without prejudice to the generality of the power vested in the Bank under sub-section (1), the statements, information or particulars to be furnished under sub-section (1) may relate to all or any of the following matters, namely, the amount of the deposits, the purposes and periods for which, and the rates of interest and other terms and conditions on which, they are received.
- (3) The Bank may, if it considers necessary in the public interest so to do, give directions to non-banking institutions either generally or to any non-banking institution or group of non-banking institutions in particular, in respect of any matters relating to or connected with the receipt of deposits, including the rates of interest payable on such deposits, and the periods for which deposits may be received.
- (4) If any non-banking institution fails to comply with any direction given by the Bank under sub-section (3), the Bank may prohibit the acceptance of deposits by that non-banking institution.
- (5) Omitted.
- (6) Every non-banking institution receiving deposits shall, if so required by the Bank and within such time as the Bank may specify, cause to be sent at the cost of the non-banking institution a copy of its annual balance sheet and profit and loss account or other annual accounts to every person from whom the non-banking institution holds, as on the last day of the year to which the accounts relate, deposits higher than such sum as may be specified by the Bank.

45L. Power of Bank to call for information from financial institutions and to give directions.

- (1) If the Bank is satisfied that for the purpose of enabling it to regulate the credit system of the country to its advantage it is necessary so to do; it may—
 - (a) require financial institutions either generally or any group of financial institutions or financial institution in particular, to furnish to the Bank in such form, at such intervals and within such time, such statements, information or particulars relating to the business of such financial institutions or institution, as may be specified by the Bank by general or special order.

第 45K 條 本行向非銀行機構蒐集存款資訊及給予指示之權力

- (1) 本行得隨時指示非銀行機構遵照本行發布之一般或特別命令，依所定格式、週期、時間，向本行申報與該非銀行機構收受存款有關之報表、資訊及細節。
- (2) 在無損於本行依第(1)項規定授與之權限範圍內，依第(1)項規定提供之報表、資訊及細節，得包括收受之存款總額、存款目的、期間、利率及其他期限或條件等。
- (3) 本行認為基於公共利益之必要，得對全體、部分或特定非銀行機構或非銀行機構集團，就收受存款有關事項，包括對各該存款所支付之利率，以及各該存款之期間等事項，給予指示。
- (4) 非銀行機構未遵行本行依第(3)項規定所為指示者，本行得禁止其收受存款。
- (5) 刪除。
- (6) 本行於必要時，得要求所有收受存款之非銀行機構，於指定期限內，自費將該機構年度資產負債表、損益表或其他年度會計帳目，送交當年度年底之存款達本行指定數額之存款人。

第 45L 條 本行向金融機構要求提供資訊及給予指示之權力

- (1) 本行於認為基於本行之利益而有管理全國信用體系之必要時，得--
 - (a) 要求全體、某類或個別之金融機構，依本行以一般或個別命令所定格式、週期、時點，向本行提供各項聲明、報表、資訊及與其業務有關事項之明細。

- (b) give to such institutions either generally or to any such institution in particular, directions relating to the conduct of business by them or by it as financial institutions or institution.
- (2) Without prejudice to the generality of the power vested in the Bank under clause (a) of sub-section (1), the statements, information or particulars to be furnished by a financial institution may relate to all or any of the following matters, namely, the paid-up capital, reserves or other liabilities, the investments whether in Government securities or otherwise, the persons to whom, and the purposes and periods for which, finance is provided and the terms and conditions, including the rates of interest, on which it is provided.
- (3) In issuing directions to any financial institution under clause (b) of sub-section (1), the Bank shall have due regard to the conditions in which, and the objects for which, the institution has been established, its statutory responsibilities, if any, and the effect the business of such financial institution is likely to have on trends in the money and capital markets.

45M. Duty of non-banking institutions to furnish statements, etc., required by Bank.

It shall be the duty of every non-banking institution to furnish the statements, information or particulars called for, and to comply with any direction given to it, under the provisions of this Chapter.

45MA. Powers and duties of auditors.

- (1) It shall be the duty of an auditor of a non-banking institution to inquire whether or not the non-banking institution has furnished to the Bank such statements, information or particulars relating to or connected with deposits received by it, as are required to be furnished under this Chapter, and the auditor shall, except where he is satisfied on such inquiry that the non-banking institution has furnished such statements, information or particulars, make a report to the Bank giving the aggregate amount of such deposits held by the non-banking institution;
- (1A) The Bank may, on being satisfied that it is necessary so to do, in the public interest or in the interest of the depositors or for the purpose of proper assessment of the books of account, issue directions to any non-banking financial company or any class of non-banking financial companies or non-banking financial companies generally or to the auditors of such non-banking financial company or companies relating to balance-sheet, profit and loss account, disclosure of liabilities in the books of account or any matter relating thereto;

- (b) 對於全體或任何個別金融機構所從事業務之有關事項給予指示。
- (2) 在無損於第(1)項第(a)款賦予本行權限之範圍內，金融機構向本行提供之聲明、報表、資訊或相關細節資料，得涵蓋全部或部分下列項目：實收資本額、準備金數額、其他負債、對政府有價證券或其他之投資、對其他人提供融通之目的、期間、期限及條件，包括利率在內。
- (3) 本行於依第(1)項第(b)款規定發布命令時，應考量個別金融機構設立目的、設置條件、法定責任及其業務對貨幣與資本市場之影響。

第 45M 條 非銀行機構依本行要求提供報表資料之義務
非銀行機構有義務依本章規定，提供本行要求之報表、資訊及相關明細，並遵行本行所給予之指示。

第 45MA 條 稽核人員之權利與義務

- (1) 非銀行機構之稽核人員有責任查明該機構是否已依本章規定向本行提出其收受存款之報表、資訊及相關明細，且除其已確認該機構已辦理前述事項外，應向本行提出報告，並載明其所持有之存款總額。
- (1A) 本行因公共利益、存款人權益或為適當評定帳冊目的之必要，得對於任一非銀行金融公司、全體或某類型非銀行金融公司或該非銀行金融公司之稽核人員，要求申報有關資產負債、損益帳目或與前述事項有關帳冊之債務揭露等事項給予指示。

- (2) Where, in the case of a non-banking financial company the auditor has made, or intends to make, a report to the Bank under sub-section (1), he shall include in his report under sub-section (2) of section 227 of the Companies Act, 1956, the contents of the report which he has made, or intends to make to the Bank.
- (3) Where the Bank is of the opinion that it is necessary so to do in the public interest or in the interest of the non-banking financial company or in the interest of the depositors of such company, it may at any time by order direct that a special audit of the accounts of the non-banking financial company in relation to any such transaction or class of transactions or for such period or periods, as may be specified in the order, shall be conducted and the Bank may appoint an auditor or auditors to conduct such special audit and direct the auditor or the auditors to submit the report to it.
- (4) The remuneration of the auditors as may be fixed by the Bank, having regard to the nature and volume of work involved in the audit and the expenses of or incidental to the audit, shall be borne by the non-banking financial company so audited.

45MB. Power of Bank to prohibit acceptance of deposit and alienation of assets.

- (1) If any non-banking financial company violates the provisions of any section or fails to comply with any direction or order given by the Bank under any of the provisions of this Chapter, the Bank may prohibit the non-banking financial company from accepting any deposit.
- (2) Notwithstanding anything to the contrary contained in any agreement or instrument or any law for the time being in force, the Bank, on being satisfied that it is necessary so to do in the public interest or in the interest of the depositors, may direct, the non-banking financial company against which an order prohibiting from accepting deposit has been issued, not to sell, transfer, create charge or mortgage or deal in any manner with its property and assets without prior written permission of the Bank for such period not exceeding six months from the date of the order.

45MC. Power of Bank to file winding up petition.

- (1) The Bank, on being satisfied that a non-banking financial company,-

- (2) 非銀行金融公司之稽核人員依第(1)項規定製作或擬製作提供本行之報告時，該報告內容應依「1956 年公司法」第 227 條第 2 項規定，製作報告目錄。
- (3) 本行認為因公共利益、非銀行金融公司利益或該公司存款人利益之必要，得隨時以指令，就該非銀行金融公司於特定期間內之某些交易，或某幾類交易帳務，進行特別稽查；本行得指派稽核人員辦理此類特殊稽查，並要求相關稽核人員向本行提交報告。
- (4) 稽核人員之報酬，由本行依其稽查工作性質及範圍定之；與稽核人員有關之一般或偶發費用，應由受稽查之非銀行金融公司負擔。

第 45MB 條 本行禁止收受存款及凍結資產之權力

- (1) 非銀行金融公司違反本章規定，或未遵行本行依本章規定所頒布指示或命令者，本行得禁止該違規之非銀行金融公司收受存款。
- (2) 無論其他協議、文件或現行法律有無相反之規定，本行認為基於公共利益或存款人利益之必要，得指示該業經勒令禁止收受存款之非銀行金融公司，未經本行事先書面同意，不得於前項禁止命令發布之日起 6 個月內，就其財產或資產為出售、轉讓、設定、擔保或其他方式之交易。

第 45MC 條 本行提出公司解散之訴

- (1) 本行於認定非銀行金融公司有下列情形之一者，得依「1956 年公司法」規定，主動提出解散該非銀行金融公司之聲請：

- (a) is unable to pay its debt; or
 - (b) has by virtue of the provisions of section 45-IA become disqualified to carry on the business of a non-banking financial institution; or
 - (c) has been prohibited by the Bank from receiving deposit by an order and such order has been in force for a period of not less than three months; or
 - (d) the continuance of the non-banking financial company is detrimental to the public interest or to the interest of the depositors of the company,
may file an application for winding up of such non-banking financial company under the Companies Act, 1956.
- (2) A non-banking financial company shall be deemed to be unable to pay its debt if it has refused or has failed to meet within five working days any lawful demand made at any of its offices or branches and the Bank certifies in writing that such company is unable to pay its debt.
- (3) A copy of every application made by the Bank under sub-section (1) shall be sent to the Registrar of Companies.
- (4) All the provisions of the Companies Act, 1956 relating to winding up of a company shall apply to a winding up proceeding initiated on the application made by the Bank under this provision.

45N. Inspection.

- (1) The Bank may, at any time, cause an inspection to be made by one or more of its officers or employees or other persons (hereafter in this section referred to as the inspecting authority)-
- (i) of any non-banking institution, including a financial institution, for the purpose of verifying the correctness or completeness of any statement, information or particulars furnished to the Bank or for the purpose of obtaining any information or particulars which the non-banking institution has failed to furnish on being called upon to do so; or
 - (ii) of any non-banking institution being a financial institution, if the Bank considers it necessary or expedient to inspect that institution.
- (2) It shall be the duty of every director or member of any committee or other body for the time being vested with the management of the affairs of the non-banking institution or other officer or employee thereof to produce to the inspecting authority all such books, accounts and other documents in his custody or power and to furnish that authority with any statements and information relating to the business of the institution as that authority may require of him, within such time as may be specified by that authority.

- (a) 無法清償債務。
 - (b) 因第 45IA 條之規定致喪失從事非銀行金融機構業務之資格。
 - (c) 經本行勒令禁止收受存款，且該禁止命令生效期間已超過 3 個月。
 - (d) 該非銀行金融公司繼續營業有損於公共利益或其存款人權益。
- (2) 非銀行金融公司拒絕，或未於 5 個營業日內對向該行或其分行提出之請求如期清償，經本行以書面認定該公司已無法清償債務者，視為無力清償。
- (3) 本行依第(1)項規定提出之申請書應副知公司登記機關。
- (4) 「1956 年公司法」有關公司解散之規定，於本行依本條申請之解散程序，亦適用之。

第 45N 條 檢查

- (1) 本行得隨時指派官員、行員或其他人(以下統稱檢查人員)，對下列機構辦理檢查：
- (i) 本行為確認非銀行金融機構提交本行之聲明、報表、資訊及各項明細之正確性及完整性，或接獲本行指示未向本行提供資訊及各項明細之上述機構，得辦理檢查。
 - (ii) 本行認為有必要或適當時，得檢查非銀行金融機構。
- (2) 非銀行金融機構之董事、委員會成員，或當時被賦予經營管理權限之其他人員，或其職員、受雇人，有義務向檢查人員提供所持有或保管之簿冊、帳目及其他文件，並依檢查人員指定之時間，提供受檢機構業務有關之報表及資訊。

- (3) The inspecting authority may examine on oath any director or member of any committee or body for the time being vested with the management of the affairs of the non-banking institution or other officer or employee thereof, in relation to its business and may administer an oath accordingly.

45NA. Deposits not to be solicited by unauthorised persons.

No person shall solicit on behalf any non-banking institution either by publishing or causing to be published any prospectus or advertisement or in any other manner deposits of money from the public unless-

- (a) he has been authorised in writing by the said non-banking institution to do so and specifies the name of the institution which has so authorised him, and
- (b) the prospectus or advertisement complies with any order made by the Bank under section 45J and with any other provision of law for the time being in force, applicable to the publication of such prospectus or advertisement.

45NB. Disclosure of information.

- (1) Any information relating to a non-banking financial company,-
- (i) contained in any statement or return submitted by such company under the provisions of this Chapter; or
- (ii) obtained through audit or inspection or otherwise by the Bank, shall be treated as confidential and shall not, except otherwise provided in this section, be disclosed.
- (2) Nothing in this section shall apply to-
- (a) the disclosure by any non-banking financial company, with the previous permission of the Bank, of any information furnished to the Bank under sub-section (1);
- (b) the publication by the Bank, if it considers necessary in the public interest so to do, of any information collected by it under sub-section (1) in such consolidated form as it may think fit without disclosing the name of any non-banking financial company or its borrowers;
- (c) the disclosure or publication by the non-banking financial company or by the Bank of any such information to any other non-banking financial company or in accordance with the practice and usage customary amongst such companies or as permitted or required under any other law;
- Provided that any such information received by a non-banking financial company under this clause shall not be published except in accordance with the practice and usage customary amongst companies or as permitted or required under any other law.

- (3) 檢查人員得要求非銀行金融機構之董事、委員會成員，或當時被賦予經營管理權限之其他人員，或其職員、受雇人宣誓，並對宣誓人員進行業務相關之詢問。

第 45NA 條 未經授權人士不得招攬存款

除合於下列各款規定外，任何人均不得以任一非銀行機構名義招攬業務，包括印發或主導印發招募存款說明書、刊登廣告，向公眾吸收存款，除非-

- (a) 經該非銀行機構以書面授權，並載明授權者之名稱。
- (b) 所印製之招募存款說明書或廣告，符合本行依第 45J 條及其他對招募存款說明書或廣告有拘束力法律之規定。

第 45NB 條 資訊揭露

- (1) 與非銀行金融公司有關之下列資訊，應以機密文件處理，除本條另有規定外，不得揭露：
 - (i) 該公司依本章規定向本行提交之報表及報告。
 - (ii) 本行經由稽查、檢查或其他方式取得之資訊。
- (2) 本條規定於下列情形不適用之：
 - (a) 非銀行金融公司經本行事先許可，就其依第(1)項規定向本行提出之資訊為揭露。
 - (b) 本行認為基於公共利益之必要，得將依第(1)項規定取得之資訊作成合併報表，隱去個別非銀行金融公司或其借款人之名稱後公布之。
 - (c) 非銀行金融公司或本行對其他非銀行金融公司所提供或發布之資訊，或於此類公司間之實務運作或使用習慣所許可，或為其他法律規定所許可者。但非銀行金融公司依本款規定所獲得之資訊，除於此類公司間之實務運作或使用習慣所許可，或為其他法律規定所許可或要求者外，不得對外發布。

- (3) Notwithstanding anything contained in this Act or in any other law for the time being in force, the Bank, if it is satisfied that, in the public interest or in the interest of the depositors or the non-banking financial company or to prevent the affairs of any non-banking financial company being conducted in a manner detrimental to the interest of the depositors, it is expedient so to do, may, either on its own motion or on being requested, furnish or communicate any information relating to the conduct of business by any non-banking financial company to any authority constituted under any law.
- (4) Notwithstanding anything contained in any law for the time being in force, no court or tribunal or other authority shall compel the Bank to produce or to give inspection of any statement or other material obtained by the Bank under any provisions of this Chapter.

45NC. Power of Bank to exempt.

The Bank, on being satisfied that it is necessary so to do, may declare by notification in the Official Gazette that any or all of the provisions of this Chapter shall not apply to a non-banking institution or a class of non-banking institutions or a non-banking financial company or to any class or non-banking financial companies either generally or for such period as may be specified, subject to such conditions, limitations or restrictions as it may think fit to impose.

45O. Penalties. Rep. by the Reserve Bank of India Amendment Act, 1974 (51 of 1974), s.22.

45P. Cognizance of offence. Rep. by s.22, *ibid*.

45Q. Chapter III B to override other laws.

The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

45QA. Power of Company Law Board to order repayment of deposit.

- (1) Every deposit accepted by a non-banking financial company, unless renewed, shall be repaid in accordance with the terms and conditions of such deposit.

- (3) 無論本法或其他法律有無其他規定，基於公共利益、存款人或非銀行金融公司之利益，或為避免非銀行金融公司業務經營之方式損及存款人之利益，本行得主動或依申請，將各該非銀行金融公司業務經營有關資訊，提供或通知依法設立之機關。
- (4) 無論現行法律有無其他規定，法院、法庭或其他機關均不得強迫本行製作，或對本行依本章規定取得之報表或其他資料進行調查。

第 45 NC 條 豁免

本行於認為有必要時，得於政府公報公告，宣布本章之全部或部分規定，於任何情況下，或依本行所定之條件、限制或特定期間內，不適用於個別非銀行機構、某些類型之非銀行金融機構、個別非銀行金融公司或某些類型之非銀行金融公司。

第 45O 條 處罰

刪除。

第 45P 條 刑事案件管轄權

刪除。

第 45Q 條 第 3B 章之優先適用

本章規定對於其他法律或依其他法律生效之文件有不同規定者，有優先適用之效力。

第 45QA 條 公司法委員會對於存款償還命令之權力

- (1) 非銀行金融公司所收受之存款，除因合意更新存款契約外，應依原定之期限及條件，償付存款人。

- (2) Where a non-banking financial company has failed to repay any deposit or part thereof in accordance with the terms and conditions of such deposit, the Company Law Board constituted under section 10E of the Companies Act, 1956 may, if it is satisfied, either on its own motion or on an application of the depositor, that it is necessary so to do to safeguard the interests of the company, the depositors or in the public interest, direct, by order, the non-banking financial company to make repayment of such deposit or part thereof forthwith or within such time and subject to such conditions as may be specified in the order;
- Provided that the Company Law Board may, before making any order under this sub-section, give a reasonable opportunity of being heard to the non-banking financial company and the other persons interested in the matter.

45QB. Nomination by depositors.

- (1) Where a deposit is held by a non-banking institution to the credit of one or more persons, the depositor or, as the case may be, all the depositors together may nominate, in the manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949, one person to whom in the event of the death of the sole depositor or the death of all the depositors, the amount of deposit may be returned by the non banking institution.
- (2) Notwithstanding anything contained in any other law for the time being in force, or in any disposition, whether testamentary or otherwise, in respect of such deposit, where a nomination made purports to confer on any person the right to receive the amount of deposit from the non-banking institution, the nominee shall, on the death of the sole depositor or, as the case may be, on the death of all the depositors, become entitled to all the rights of the sole depositor or, as the case may be, of the depositors, in relation to such deposit to the exclusion of all other persons, unless the nomination is varied or cancelled in the manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949.
- (3) Where the nominee is a minor, it shall be lawful for the depositor making the nomination to appoint, in the manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949, any person to receive the amount of deposit in the event of his death during the minority of the nominee.

- (2) 非銀行金融公司未能依前項規定向存款人償付全部或部分債務者，依「1956 年公司法」第 10E 條規定設立之公司法委員會，為維護該公司之利益，或保護存款人或公共利益之目的，得主動或依存款人之申請，以命令指示非金融公司依命令所定條件，並於指定期間內，償付存款之全部或部分。

公司法委員會於頒布前項命令前，應給予非銀行金融公司及其他利害關係人陳述意見之機會。

第 45 條 QB 存款人指定之受款人

- (1) 非銀行機構存款人之一人或多人，依中央政府依「1949 年銀行管理法」第 45ZA 條頒布之規定，得共同指派一人，於該存款人全部死亡時，領取其相關帳戶內之存款。
- (2) 不論當時其他法律之規定，或任何文件及證詞內容，非銀行機構存款人所指定之受款人，得於該存款人全部死亡時，領取相關帳戶內之存款。但該存款人之一人或多人依中央政府依「1949 年銀行管理法」第 45ZA 條頒布之規定，經變更或撤銷相關之指派者除外。
- (3) 指定之受款人尚未成年，存款人得依中央政府依「1949 年銀行管理法」第 45ZA 條所頒布之規定，在該受款人尚未成年而存款人死亡之情形，由一人代理領取。

- (4) Payment by a non-banking institution in accordance with the provisions of this section shall constitute a full discharge to the non-banking institution of its liability in respect of the deposit:
Provided that nothing contained in this sub-section shall affect the right or claim which any person may have against the person to whom any payment is made under this section.
- (5) No notice of the claim of any person, other than the person or persons in whose name a deposit is held by a non-banking institution, shall be receivable by the non-banking institution, nor shall the non-banking institution be bound by any such notice even though expressly given to it; Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to such deposit is produced before a non-banking institution, the non-banking institution shall take due note of such decree, order, certificate or other authority.

CHAPTER IIIC

PROHIBITION OF ACCEPTANCE OF DEPOSITS BY UNINCORPORATED BODIES

45R. Interpretation.

The words and expressions used in this Chapter and defined in Chapter IIIB shall have the meanings respectively assigned to them therein.

45S. Deposits not to be accepted in certain cases.

- (1) No person, being an individual or a firm or an unincorporated association of individuals shall, accept any deposit-
- (i) If his or its business wholly or partly includes any of the activities specified in clause (c) of section 45-I; or
 - (ii) if his or its principal business is that of receiving of deposits under any scheme or arrangement or in any other manner, or lending in any manner;
- Provided that nothing contained in this sub-section shall apply to the receipt of money by an individual by way of loan from any of his relatives or to the receipt of money by a firm by way of loan from the relative or relatives of any of the partners.
- (2) Where any person referred to in sub-section (1) holds any deposit on the 1st day of April, 1997 which is not in accordance with sub-section (1), such deposit shall be repaid by that person immediately after such deposit becomes due for repayment or within three years from the date of such commencement, whichever is earlier;

- (4) 非銀行機構依本條規定交付存款，即免除對相關存款之法律責任。但本項規定不影響任何人對受款人之權利或請求權。
- (5) 除存款人之請求權通知外，非銀行機構無須接受或因應其他任何人之請求權通知。但法院或具有管轄權之司法機構所簽發之裁決書、命令、證書或其他有效文件，於送交非銀行機構時，該機構應予承認，並正式簽收。

第 3C 章 非公司型態之組織不得收受存款

第 45R 條 解釋

本章字彙及用語之涵義，依其上下文之文意而定。

第 45 S 條 不得收受存款之情形

- (1) 任何人均不得收受存款，包括個人、合夥公司或非公司組織之自然人團體：
 - (i) 該個人或公司之主要或部分業務，包括第 45 條 I 第(c)款所定之事項者。
 - (ii) 該個人或公司主要業務，在於依特定計畫、安排或其他原因收受存款或貸款者。
本項規定於自然人因向其親屬借款而收受金錢，或公司因向關係人或合夥人親屬借款而收受金錢之情形，不適用之。
- (2) 1997 年 4 月 1 日前非依第(1)項規定而有第(1)項規定之存款者，應於該存款到期時，或自該日起算 3 年內，以兩者中之較早日期為償付日期。

Provided that if the Bank is satisfied on an application made by any person to the Bank that such person is unable to repay a part of the deposits for reasons beyond his control or such repayment shall cause extreme hardship to him, it may, by an order in writing, extend such period by a period not exceeding one year subject to such conditions as may be specified in the order.

- (3) On and from the 1st day of April, 1997, no person referred to in sub-section (1) shall issue or cause to be issued any advertisement in any form for soliciting deposit.

Explanation.- For the purposes of this section, a person shall be deemed to be a relative of another if, and only if,-

- (i) they are members of a Hindu undivided family; or
- (ii) they are husband and wife; or
- (iii) the one is related to the other in the manner indicated in the List of

Relatives below:-

List of relatives-

1. Father, 2. Mother (including step-mother), 3. Son (including step-son), 4. Son's wife, 5. Daughter (including step-daughter), 6. Father's father, 7. Father's mother, 8. Mother's mother, 9. Mother's father, 10. Son's son, 11. Son's son's wife, 12. Son's daughter, 13. Son's daughter's husband, 14. Daughter's husband, 15. Daughter's son, 16. Daughter's son's wife, 17. Daughter's daughter, 18. Daughter's daughter's husband, 19. Brother (including step-brother), 20. Brother's wife, 21. Sister (including step-sister), 22. Sister's husband.

45T. Power to issue search warrants.

- (1) Any court having jurisdiction to issue a search warrant under the Code of Criminal Procedure, 1973 may, on an application by an officer of the Bank or of the State Government authorised in this behalf stating his belief that certain documents relating to acceptance of deposits in contravention of the provisions of section 45S are secreted in any place within the local limits of the jurisdiction of such court, issue a warrant to search for such documents.
- (2) A warrant issued under sub-section (1) shall be executed in the same manner and shall have the same effect as a search warrant issued under the Code of Criminal Procedure, 1973.

因前項規定持有存款之人，因非可歸責自己之原因，或償付存款將造成重大困難致無法償付部分存款債務時，本行得因其申請，於認為有正當理由時，得以書面命令展延償付日期；展延期間，最長不超過 1 年，並應視個別狀況載明於命令中。

- (3) 自 1997 年 4 月 1 日起，第(1)項規定之人，不得以任何方式刊登廣告招攬存款。

解釋-本條所稱之親屬，僅限於下列情形：

- (i) 印度大家族成員之間。
- (ii) 配偶之間。
- (iii) 其他親屬關係，依下列親屬清單定之：

親屬清單-

1.父親 2.母親(包括繼母)3.兒子(包括繼子)4.子媳 5.女兒(包括繼女)6.祖父 7.祖母 8.外婆 9.外公 10.孫子 11.孫媳 12.孫女 13.孫女婿 14.女婿 15.外孫 16.外孫女婿 17.外孫女 18.外孫女婿 19.兄弟(包括異父母之兄弟)20.妯娌 21.姊妹(包括異父母之姊妹)22.連襟。

第 45T 條 發搜索證之權力

- (1) 依「1973 年刑事訴訟法」規定有權發給搜索證之法院，得依本行或州政府官員之申請，發給搜索證，以便搜查轄區內足以證明違反第 45S 條不得收受存款之文件。
- (2) 依前項規定發給之搜索證，與依「1973 年刑事訴訟法」規定發給之搜索證有同樣效力。

CHAPTER IV

GENERAL PROVISIONS

46. Contribution by Central Government to the Reserve Fund.

The Central Government shall transfer to the Bank rupee securities of the value of five crores of rupees to be allocated by the Bank to the Reserve Fund.

46A. Contribution to National Rural Credit (Long Term Operations) Fund and National Rural Credit (Stabilisation) Fund.

The Bank shall contribute every year such sums of money as it may consider necessary and feasible to do so, to the National Rural Credit (Long Term Operations) Fund and the National Rural Credit (Stabilisation) Fund established and maintained by the National Bank under sections 42 and 43, respectively, of the National Bank for Agriculture and Rural Development Act, 1981.

46B. Rep. by National Bank for Agriculture and Rural Development Act, 1981 [61 of 1981].

46C. National Industrial Credit (Long Term Operations) Fund.

(1) The Bank shall establish and maintain a Fund to be known as the National Industrial Credit (Long Term Operations) Fund to which shall be credited -

(a) an initial sum of ten crores of rupees by the Bank;

(b) such further sums of money as the Bank may contribute every year:

Provided that the annual contribution during each of the five years commencing with the year ending on the 30th day of June, 1965 shall not be less than five crores of rupees:

Provided further that the Central Government may, if the circumstances so require, authorise the Bank to reduce the said sum of five crores of rupees in any year.

(2) The amount in the said Fund shall be applied by the Bank only to the following objects, namely:-

(a) the making to the Development Bank of loans and advances for the purpose of the purchase of, or subscription to, stocks, shares, bonds or debentures issued by the Industrial Finance Corporation of India, a State Financial Corporation, or any other financial institution which may be notified by the Central Government in this behalf, or for the purposes of any other business of the Development Bank;

第 4 章 一般規定

第 46 條 中央政府對本行準備金之撥款

中央政府應移轉價值 5 千萬盧比之盧比有價證券予本行，作為本行之準備資金。

第 46A 條 本行對國家農村信用(長期運作)基金及國家農村信用(穩定)基金之撥款

本行認為必要且可行時，應每年對國家銀行依「1981 年農業及農村發展法」第 42 條及第 43 條分別設立之國家農村信用(長期操作)基金及國家農村信用(穩定)基金辦理撥款。

第 46B 條

刪除。

第 46C 條 國家工業信用(長期運作)基金

(1) 本行應設立並維持國家工業信用(長期運作)基金，且：

(a) 由本行撥付創始基金 1 億盧比。

(b) 其餘資金由本行每年撥給。

自基金創始之日起至 1965 年 6 月 30 日止 5 年內之每一年度撥款，不得低於 5000 萬盧比。但中央政府得視情形，允許本行降低該年度 5000 萬盧比之撥款金額。

(2) 本條基金僅限作為下列目的之用：

(a) 對開發銀行因購買或認購由印度工業金融公司、州立金融公司或中央政府指定之其他金融機構所發行之股票、股份、債券或債務憑證，或為開發銀行其他業務所需之貸款或融通。

- (b) the purchasing of bonds and debentures issued by the Development Bank;
- (c) the making to the Exim Bank or the Reconstruction Bank or the Small Industries Bank as the case may be, of loans and advances for the purposes of any business of the Exim Bank or the Reconstruction Bank, or the Small Industries Bank as the case may be;
- (d) the purchasing of bonds and debentures issued by the Exim Bank or the Reconstruction Bank, or the Small Industries Bank as the case may be.

46D. National Housing Credit (Long Term Operations) Fund.

- (1) The Bank shall establish and maintain a Fund to be known as the National Housing Credit (Long Term Operations) Fund to which shall be credited every year such sums of money as it may consider necessary.
- (2) The amount in the said Fund shall be applied by the Bank only to the following objects, namely:
 - (a) the making to the National Housing Bank of loans and advances for the purpose of any business of the National Housing Bank;
 - (b) the purchasing of bonds and debentures issued by the National Housing Bank.

47. Allocation of surplus profits.

After making provision for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds and for all other matters for which provision is to be made by or under this Act or which are usually provided for by bankers, the balance of the profits shall be paid to the Central Government.

48. Exemption of Bank from income-tax and super-tax.

- (1) Notwithstanding anything contained in the Income-Tax Act, 1961, or any other enactment for the time being in force relating to income-tax or super-tax, the Bank shall not be liable to pay income-tax or super-tax on any of its income, profits or gains.

49. Publication of bank rate.

The Bank shall make public from time to time the standard rate at which it is prepared to buy or re-discount bills of exchange or other commercial paper eligible for purchase under this Act.

- (b) 購買開發銀行所發行之債券或債務憑證。
- (c) 因輸出入銀行、重建銀行或中小型工業銀行業務需要，給予貸款或融通。
- (d) 購買輸出入銀行、重建銀行或小型工業銀行所發行之債券或債務憑證。

第 46D 條 國家住宅信用(長期操作)基金

- (1) 本行應設立並維持國家住宅信用(長期運作)基金，並於本行認為必要時，每年撥給資金。
- (2) 本條基金僅限作為下列目的之用：
 - (a) 對國家住宅銀行業務所需給予貸款或融通。
 - (b) 購買國家住宅銀行所發行之債券或債務憑證。

第 47 條 盈餘分配

本行盈餘於提列備抵呆帳、資產折舊、員工獎金、退休基金及依本法規定應提供之其他款項，或其他銀行經常提供之給付後之餘額，應撥交中央政府。

第 48 條 所得稅及附加稅之豁免

無論「1961 年所得稅法」或其他與所得稅或附加稅有關之法律之規定，本行之所得、利潤及利得，均無須繳納所得稅及附加稅。

第 49 條 利率之公布

本行應隨時公布買入本法規定之匯票、合格商業本票或對其辦理重貼現之利率水準。

50. Auditors.

- (1) Not less than two auditors shall be appointed, and their remuneration fixed, by the Central Government.
- (2) The auditors shall hold office for such term not exceeding one year as the Central Government may fix while appointing them, and shall be eligible for re-appointment.

51. Appointment of special auditors by Government.

Without prejudice to anything contained in section 50, the Central Government may at any time appoint the Comptroller and Auditor-General to examine and report upon the accounts of the Bank.

52. Powers and duties of auditors.

- (1) Every auditor shall be supplied with a copy of the annual balance-sheet, and it shall be his duty to examine the same, together with the accounts and vouchers, relating thereto; and every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books, accounts and other documents of the Bank, and may, at the expense of the Bank, employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine any Director or officer of the Bank.
- (2) The auditors shall make a report to the Central Government upon the annual balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and, in case they have called for any explanation or information from the Central Board, whether it has been given and whether it is satisfactory.

53. Returns.

- (1) The Bank shall prepare and transmit to the Central Government a weekly account of the Issue Department and of the Banking Department in such form as the Central Government may, by notification in the Gazette of India, prescribe. The Central Government shall cause these accounts to be published in the Gazette of India at such intervals and in such modified form as it may deem fit.

第 50 條 稽核人員

- (1) 中央政府任命之本行稽核人員不得少於 2 人，其薪資由中央政府定之。
- (2) 稽核人員之任期，由中央政府於指派時定之，最長不得超過 1 年，但得連任。

第 51 條 政府對特別稽核人員之指派

在不違反第 50 條規定之情形，中央政府得隨時指派審計長及總稽核，檢查本行帳目。

第 52 條 稽核人員之權責

- (1) 本行年度資產負債表與相關帳目、單據及所有帳冊清單，應送交本行所有稽核人員，其有義務檢驗資產負債表內容及相關之帳戶與憑證。本行應准許其有合理期間以查核本行帳簿、帳戶及其他文件；必要時，並得以本行之經費，聘用會計師或其他人員協助調查本行帳戶，以及就帳目問題，詢問管理各該帳戶之主管或職員。
- (2) 稽核人員應就本行年度資產負債表及帳簿，向中央政府提出報告。報告內容應就本行資產負債表是否完整、真實，有無包括所有必要之明細，以及是否適當編製而足以顯示本行各項業務、財務之真實及正確情況等表示意見。

第 53 條 申報

- (1) 本行應依中央政府於政府公報公告之格式，每週向中央政府遞送發行部門及業務部門之各項報表。中央政府應將前述報表及調整後之報表，定期刊登於政府公報。

- (2) The Bank shall also, within two months from the date on which the annual accounts of the Bank are closed, transmit to the Central Government a copy of the annual accounts signed by the Governor, the Deputy Governors and the Chief Accounting Officer of the Bank, and certified by the auditors, together with a report by the Central Board on the working of the Bank throughout the year, and the Central Government shall cause such accounts and report to be published in the Gazette of India.

54. Rural Credit and Development.

The Bank may maintain expert staff to study various aspects of rural credit and development and in particular it may:-

- (a) tender expert guidance and assistance to the National Bank;
- (b) conduct special studies in such areas as it may consider necessary to do so for promoting integrated rural development.

54A. Delegation of powers.

- (1) The Governor may, by general or special order, delegate to a Deputy Governor, subject to such conditions and limitations, if any, as may be specified in the order, such of the powers and functions exercisable by him under this Act or under any other law for the time being in force as he may deem necessary for the efficient administration of the functions of the Bank.
- (2) The fact that a Deputy Governor exercises any power or does any act or thing in pursuance of this Act shall be conclusive proof of his authority to do so.

54AA. Power of Bank to depute its employees to other institutions.

- (1) The Bank may, notwithstanding anything contained in any law, or in any agreement, for the time being in force, depute any member of its staff for such period as it may think fit, -
 - (a) to any institution which is wholly or substantially owned by the Bank;
 - (b) to the Development Bank, so, however, that no such deputation shall continue after the expiration of thirty months from the commencement of section 5 of the Public Financial Institutions Laws (Amendment) Act, 1975;
 - (c) to the Unit Trust, so, however, that no such deputation shall continue after the expiration of thirty months from the date notified by the Central Government under sub-section (1) of section 4A of the Unit Trust of India Act, 1963,

- (2) 本行應於年度結束後兩個月內，將年度報表送交中央政府。年度報表應由總裁、副總裁及會計主管簽名，由稽核人員簽證，並附上理事會對於該年度之營運報告。中央政府應將年度報表及年度營運報告刊登於政府公報。

第 54 條 農村信用及發展

本行得聘用專業人員，從事農村信用及發展之研究，並得：

- (a) 對國家銀行提供專家指導及協助。
- (b) 從事對促進農村發展所需之專業研究。

第 54A 條 授權

- (1) 總裁得依本法或其他現行法律之授權，發布一般或特別命令，在特定條件及範圍內，賦予副總裁各項職務及權限，以便有效管理本行各項業務。
- (2) 副總裁依本法所為之各項行為，視為依法行使職權。

第 54AA 條 本行調派行員至其他機構

- (1) 無論當時其他有效法律或協議之內容，本行於必要時，得調派行員：
 - (a) 至本行百分之百投資或本行為主要投資者之附屬機構。
 - (b) 借調至開發銀行，惟借調期間自「1975 年公共金融機構(修正)法」第 5 條生效後，不得超過 30 個月。
 - (c) 借調至單位信託基金，惟借調期間自中央政府依「1963 年印度單位信託法」第 4A 條第一項通知後，不得超過 30 個月。

and thereupon the person so deputed shall, during the period of his deputation, render such service to the institution to which he is so deputed as that institution may require.

- (2) Where a person has been deputed to an institution under sub-section (1), he shall not be entitled to claim any salary, emoluments and other terms and conditions of service which he would not have been entitled to claim if he had not been so deputed.
- (3) Nothing contained in this section shall empower the Bank to depute any member of its staff to any institution on any salary, emoluments or other terms and conditions which is or are less favourable to him than that or those to which he is entitled immediately before such deputation.
- (4) For the purposes of this section, an institution shall be deemed to be substantially owned by the Bank if in the capital of the institution the Bank has not less than forty per cent, share.

Explanation. - The word "capital" means, in relation to the Unit Trust, the initial capital of that Trust.

55. and 56. Reports by the Bank. Power to require declaration as to ownership of registered shares. Rep. by Act 62 of 1948, s. 7 and Sch. (w.e.f. 1-1-1949).

57. Liquidation of the Bank.

- (1) Nothing in the Companies Act, 1956, shall apply to the Bank, and the Bank shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

58. Power of the Central Board to make regulations.

- (1) The Central Board may, with the previous sanction of the Central Government by notification in the official Gazette make regulations consistent with this Act to provide for all matters for which provision is necessary or convenient for the purpose of giving effect to the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing provision, such regulations may provide for all or any of the following matters, namely:-
 - (a) - (e) Omitted.
 - (f) the manner in which the business of the Central Board shall be transacted, and the procedure to be followed at meetings thereof;
 - (g) the conduct of business of Local Boards and the delegation to such Boards of powers and functions;

行員於依上述規定調派期間，應依其到職機構之要求提供服務。

- (2) 本行行員依第(1)項規定調派至其他機構後，不得領取本行支給之原職薪資、津貼及其他相關福利。
- (3) 本條並未授權本行得調派任何行員至其他機構任職致其薪資、津貼及其他福利均較該行員離職前為低。
- (4) 為本條規定之目的，所稱本行為主要投資者之附屬機構，係指本行持有該機構股份不低於 40 % 者。
解釋-上述股份就單位信託而言，係指其原始股本。

第 55 條 本行之報告

刪除。

第 56 條 要求申報登記股權之權力

刪除。

第 57 條 本行之清算

- (1) 「1956 年公司法」不適用於本行。本行除由中央政府命令並指定方式外，不得進行清算。

第 58 條 本行制定規章之權限

- (1) 理事會得經中央政府事前同意，在政府公報發布與本行有關或便於本行施行之規定。
- (2) 於不妨礙前項規定之範圍內，理事會得制定之規章包括：
 - (a) 至(e)刪除。
 - (f) 理事會執行業務之方式及議事程序。
 - (g) 區域委員會執行業務之方式，以及授予該等委員會之職權及功能。

- (h) the delegation of powers and functions of the Central Board to Deputy Governors, Directors or officers of the Bank;
 - (i) the formation of Committees of the Central Board, the delegation of powers and functions of the Central Board to such Committees, and the conduct of business in such Committees;
 - (j) the constitution and management of staff and superannuation funds for the officers and servants of the Bank;
 - (k) the manner and form in which contracts binding on the Bank may be executed;
 - (l) the provisions of an official seal of the Bank and the manner and effect of its use;
 - (m) the manner and form in which the balance-sheet of the Bank shall be drawn up, and in which the accounts shall be maintained;
 - (n) the remuneration of Directors of the Bank;
 - (o) the relations of the scheduled banks with the Bank and the returns to be submitted by the scheduled banks to the Bank;
 - (p) the regulation of clearing-houses for the banks (including post office savings banks).
 - (pp) the regulation of fund transfer through electronic means between the banks or between the banks and other financial institutions referred to in clause (c) of section 45-I, including the laying down of the conditions subject to which banks and other financial institutions shall participate in such fund transfers, the manner of such fund transfers and the rights and obligations of the participants in such fund transfers.
 - (q) the circumstances in which, and the conditions and limitations subject to which, the value of any lost, stolen, mutilated or imperfect currency note of the Government of India or bank note may be refunded; and
 - (r) generally, for the efficient conduct of the business of the Bank.
- (3) Any regulation made under this section shall have effect from such earlier or later date as may be specified in the regulation.
- (4) Every regulation shall, as soon as may be after it is made by the Central Board, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

- (h) 理事會授與副總裁、理事及本行官員之職權及功能。
 - (i) 理事會內之委員會，其組織、授權及執行業務之方式。
 - (j) 本行組織及人事管理規章，以及官員與行員之福利基金。
 - (k) 本行對外合約簽署及生效之要式及程序。
 - (l) 本行印信之準備及使用之效力。
 - (m) 本行資產負債表製作之程序及格式，以及所應備具之帳目。
 - (n) 本行理事之薪資。
 - (o) 本行與附表銀行之關係及附表銀行需申報之事項。
 - (p) 銀行間結算機構之規則(含郵政儲金銀行)。
 - (pp) 依第 45I 條第(c)款規定，就銀行與金融機構間資金調撥清算事宜訂定規則，包括銀行與金融機構參與清算作業所應具備之條件、作業方式及參與者之權利與義務。
 - (q) 政府通貨鈔券和銀行鈔券遺失、失竊、損壞或有瑕疵時，向本行申請兌換之條件及限制之規定。
 - (r) 其他有助於提升本行營運效率之規定。
- (3) 依本條發布之規定，自各該規定所定日期生效。
- (4) 理事會所發布之規章，應於理事會議決通過後，儘速送交中央政府；中央政府應作成副本，於國會開會期間，送國會各部門備查。備查期間為 30 天，其天數如超過該會期所餘天數，則延至下會期。在此期間，如國會之兩院均通過該備查規定中之某一部分修正案，則該修正案即為成立；如兩院均通過廢止案，該規章即告失效。國會之修正僅及於修正部分，未修正部分仍具效力。

- (5) Copies of all regulations made under this section shall be available to the public on payment.

58A. Protection of action taken in good faith.

- (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or the Bank or any other person in respect of anything which is in good faith done or intended to be done under this Act or in pursuance of any order, regulation or direction made or given thereunder.
- (2) No suit or other legal proceeding shall lie against the Central Government or the Bank for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or in pursuance of any order, regulation or direction made or given thereunder.

CHAPTER V

PENALTIES

58B. Penalties.

- (1) Whoever in any application, declaration, return, statement, information or particulars made, required or furnished by or under or for the purposes of any provisions of this Act, or any order, regulation or direction made or given thereunder or in any prospectus or advertisement issued for or in connection with the invitation by any person, of deposits of money from the public wilfully makes a statement which is false in any material particular knowing it to be false or wilfully omits to make a material statement shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.
- (2) If any person fails to produce any book, account or other document or to furnish any statement, information or particulars which, under this Act or any order, regulation or direction made or given thereunder, it is his duty to produce or furnish or to answer any question put to him in pursuance of the provisions of this Act or of any order, regulation or direction made or given thereunder, he shall be punishable with fine which may extend to two thousand rupees in respect of each offence and if he persists in such failure or refusal, with further fine which may extend to one hundred rupees for every day, after the first during which the offence continues.
- (3) If any person contravenes the provisions of section 31, he shall be punishable with fine, which may extend to the amount of the bill of exchange, hundi, promissory note or engagement for payment of money in respect whereof the offence is committed.

- (5) 所有依本條發布之規定，於民眾支付費用申請發給時，均應提供。

第 58A 條 善意執行業務之保障

- (1) 中央政府、本行或任何人依本法規定，或依命令、規章或指示，善意執行之行為，不得對之提出訴訟、告訴或其他訴訟程序。
- (2) 中央政府或本行依本法規定，或依命令、規章或指示，善意執行業務之行為，不得對其請求賠償因此所生或可能產生之民事損害。

第 5 章 罰 則

第 58B 條 罰則

- (1) 任何人依本法、本法規範目的或依本法所頒布之命令、規定、指示，要求提供、出具或陳送明知為不實，或隱匿重要事項之申請書、聲明書、申報書、說明書、訊息或明細，以及散佈明知為不實或隱匿重要事項之招募書或廣告而據以向社會大眾收受存款者，處 3 年以下有期徒刑，得併科罰金。
- (2) 違反本法或依本法規定頒布之命令、規定、指示，拒絕或未能提供帳冊、帳目、相關文件，或提交任何說明資訊、細目，或未能答復依本法規定所為詢問者，每一違規事項應處 2 千盧比以下罰金；持續違規者，得連續處每日 1 百盧比以下罰金。
- (3) 違反第 31 條規定者，應處罰鍰，其數額以違規匯票、本票或約定交付金額之額度為限。

- (4) If any person discloses any credit information, the disclosure of which is prohibited under section 45E, he shall be punishable with imprisonment for a term, which may extend to six months, or with fine, which may extend to one thousand rupees, or with both.
- (4A) If any person contravenes the provisions of sub-section (1) of section 45-IA, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.
- (4AA) If any auditor fails to comply with any direction given or order made by the Bank under section 45MA, he shall be punishable with fine, which may extend to five thousand rupees.
- (4AAA) Whoever fails to comply with any order made by the Company Law Board under sub-section (2) of section 45QA, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine of not less than rupees fifty for every day during which such non-compliance continues.
- (5) If any person, other than an auditor-
- (a) receives any deposit in contravention of any direction given or order made under Chapter IIIB; or
 - (aa) fails to comply with any direction given or order made by the Bank under any of the provisions of Chapter IIIB; or
 - (b) issues any prospectus or advertisement otherwise than in accordance with section 45NA or any order made under section 45J, as the case may be,
he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend, -
 - (i) in the case of a contravention falling under clause (a), to twice the amount of the deposit received; and
 - (ii) in the case of a contravention falling under clause (b), to twice the amount of the deposit called for by the prospectus or advertisement.
- (5A) If any person contravenes any provision of section 45S, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of deposit received by such person in contravention of that section, or two thousand rupees, whichever is more, or with both:
Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the court, the imprisonment shall not be less than one year and the fine shall not be less than one thousand rupees.

- (4) 違反第 45E 條有關禁止揭露信用訊息之規定者，應處 6 個月以下有期徒刑，或科或併科 1 千盧比罰金。
- (4A) 違反第 45IA 條第(1)項規定者，應處 1 年以上 5 年以下有期徒刑，得併科 10 萬至 50 萬盧比罰金。
- (4AA) 稽核違反本行依第 45MA 條所發布之規定或給予之指示者，應處 5 千盧比以下罰鍰。
- (4AAA) 違反公司法委員會依第 45QA 條第(2)項所頒布之命令者，應處 3 年以下有期徒刑，於違規存續期間每日併科 50 盧比以下罰金。
- (5) 除稽核人員外，任何人--
- (a) 違反第 3B 章所頒布之規定或命令，收受存款，或
 - (aa) 未能遵守依第 3B 章規定所頒布之規定或命令，或
 - (b) 違反第 45NA 條或依第 45J 條所頒布之命令，散佈存款招募書、說明書或廣告者，
應處 3 年以下有期徒刑，並視違規情節，併科以下列罰金：
 - (i) 違反上述第(a)款者，科以所收受存款金額兩倍以下罰金。
 - (ii) 涉及上述第(b)款者，科以因該招募書、說明書或廣告招攬所收受存款金額兩倍以下罰金。
- (5A) 違反第 45S 條規定，應處 2 年以下有期徒刑，或就違反該條規定所收存款金額兩倍或 2 千盧比兩者較高之金額，科以罰金，或徒刑與罰金併科。
- 前項所為處罰，在法院審理時未能提出特別及充分之減輕理由，所處徒刑不得低於 1 年，所科罰金不得低於 1 千盧比。

- (5B) Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to impose a sentence of fine in excess of the limit specified in that section on any person convicted under sub-section (5A).
- (6) If any other provision of this Act is contravened or if any default is made in complying with any other requirement of this Act or of any order, regulation or direction made or given or condition imposed thereunder, any person guilty of such contravention or default shall be punishable with fine which may extend to two thousand rupees and where a contravention or default is a continuing one, with further fine which may extend to one hundred rupees for every day after the first, during which the contravention or default continues.

58C. Offences by companies.

- (1) Where a person committing a contravention or default referred to in section 58B is a company, every person who, at the time the contravention or default was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention or default was committed without his knowledge or that he had exercised all due diligence to prevent the contravention or default.

- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the same was committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary, or other officer or employee of the company, such director, manager, secretary, other officer or employee shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation 1. - Any offence punishable under this Act shall be deemed to have been committed at the place where the registered office or the principal place of business, as the case may be, in India, of the company is situated.

Explanation 2. - For the purpose of this section, -

- (a) "a company" means any body corporate and includes a corporation, a non-banking institution, a firm, a co-operative society or other association of individuals;
- (b) "director", in relation to a firm, means a partner in the firm.

- (5B)無論「1973 年刑事訴訟法」第 29 條規定內容，都會法院法官或一級審理法官均得對違反第(5A)款之人處以較該條所定為高之罰金。
- (6) 違反或未能遵守本法其他各條規定或依本法其他各條所頒布之命令、規定或指示者，應科 2 千盧比以下罰鍰，於違反或未能遵守該項規定之持續期間，按日科以 1 百盧比以下罰鍰。

第 58C 條 公司之違規

- (1) 違反或未能遵守第 58B 條規定之主體為公司者，對該公司或該公司業務有執行或負責執行業務之人，均視同違反或未能遵守各該項規定之行為人，應併予追訴處罰。但前項行為人如能個別證明其對違規或未能遵守規定之情事並不知情，或已盡力防止該情形之發生者，得免除其責任。
- (2) 無論前項規定之內容，公司違反本法且已證明該違反行為係由於該公司董事、經理、秘書、其他負責人員或員工之同意、串謀或怠忽職守所致，該董事、經理、秘書、其他負責人員或員工，均視為違規當事人，應併予追訴處罰。

解釋 1- 依本法規定得處罰之違規行為，以違反本法之行為地為該公司在境內之註冊地點或主要營業地點。

解釋 2- 就本條規定而言--

- (a) 公司：係指公司法人，包括股份有限公司、非銀行機構、合夥公司、合作社或社團。
- (b) 董事：於合夥公司，係指其合夥人。

58D. Application of section 58B barred.

Nothing contained in section 58B shall apply to, or in respect of, any matter dealt with in section 42.

58E. Cognizance of offences.

- (1) No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by an officer of the Bank, generally or specially authorized in writing in this behalf by the Bank, and no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or a court superior thereto shall try any such offence:

Provided that in respect of any offence punishable under sub-section (5A) of section 58B, a complaint in writing may also be made by an officer of the State Government, generally or specially authorised in writing in this behalf by that Government.

- (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 a Magistrate may, if he sees reason so to do, dispense with the personal attendance of the officer of the Bank filing the complaint, but the Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant.

58F. Application of fine.

A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in, or towards payment of, the costs of the proceedings.

58G. Power of Bank to impose fine.

- (1) Notwithstanding anything contained in section 58B, if the contravention or default of the nature referred to in section 58B is committed by a non-banking financial company, the Bank may impose on such non-banking financial company -
 - (a) a penalty not exceeding five thousand rupees; or
 - (b) where the contravention or default is under sub-section (4A) or clause (a) or clause (aa) of sub-section (5) of section 58B, a penalty not exceeding five lakh rupees or twice the amount involved in such contravention or default, where the amount is quantifiable, whichever is more; and where such contravention or default is a continuing one, further penalty which may extend to twenty-five thousand rupees for every day, after the first, during which the contravention or default continues.

第 58D 條 第 58B 條不適用之情形

第 58B 條內容，不適用於第 42 條規定之事項。

第 58E 條 違規申訴之審理

- (1) 違反本法應予科罰之案件，僅得於本行以書面為一般或特別授權之官員，以本行名義提出書面申訴時，由都會法院法官、第一級司法行政官或其上級法院受理。

違反本法第 58B 條第(5A)項應予科罰之案件，經州政府以書面為一般或特別授權之官員，以該州政府名義提出書面申訴時，法院得予受理。

- (2) 「1973 年刑事訴訟法」另有規定外，法官得視情形豁免本行提出申訴之官員出庭，但法官認為有需要時，得要求該官員在審理過程中出庭。

第 58F 條 罰金之運用

法院於個案科處罰金後，得指示將該罰金之全部或部分金額充作法院審理費用。

第 58G 條 本行之處分權

- (1) 無論第 58B 條規定內容，本行得對違反或未遵守第 58B 條規定之非銀行金融公司科以下列罰鍰：

- (a) 5 千盧比以下罰鍰。

- (b) 違反或未遵守第(4A)項或第(5)項第(a)款、第(aa)款規定者，科以 50 萬盧比以下，或違規收受金額兩倍，以兩者之較高金額科以罰鍰；持續違反或未能遵守法規之要求，得於違規期間按日科以 2 萬 5 千盧比以下罰鍰。

- (2) For the purpose of imposing penalty under sub-section (1), the Bank shall serve a notice on the non-banking financial company requiring it to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall also be given to such non-banking financial company.
- (3) Any penalty imposed by the Bank under this section shall be payable within a period of thirty days from the date on which notice issued by the Bank demanding payment of the sum is served on the non-banking financial company and, in the event of failure of the non-banking financial company to pay the sum within such period, may be levied on a direction made by the principal civil court having jurisdiction in the area where the registered office or the head office of the non-banking financial company is situated;
Provided that no such direction shall be made, except on an application made by an officer of the Bank authorised in this behalf, to by the principal civil court.
- (4) The court, which makes a direction under sub-section (3), shall issue a certificate specifying the sum payable by the non-banking financial company and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.
- (5) No complaint shall be filed against any non-banking financial company in any court of law pertaining to any contravention or default in respect of which any penalty has been imposed by the Bank under this section.
- (6) Where any complaint has been filed against a non-banking financial company in a court in respect of contravention or default of the nature referred to in section 58B, no proceedings for imposition of penalty against that non-banking financial company shall be taken under this section.

59 to 61. Amendment of Act 3 of 1906. Repeals, Amendment of section 11, Act 7 of 1913. Rep. by Act 20 of 1937, s. 3 Sch. II.

- (2) 本行依第(1)項規定為處罰時，應對該非銀行金融公司送達書面通知，要求該公司對本行之處分表示意見，並應給予其適當之聽證機會。
- (3) 非銀行金融公司對於本行依本條規定所處罰鍰，應於本行送達罰鍰通知書之日起 30 天內繳納。其未如期繳納者，得由該違規機構所在地有管轄權之第一審民事法院簽發命令，徵收罰鍰。
前項第一審民事法院之命令，未經本行授權人員以本行名義提出申請者，不得發給。
- (4) 法院依第(3)項規定簽發之命令，應同時製作證明書載明違規機構應繳之罰鍰金額，該證明書之執行力與法院確定判決有相同效力。
- (5) 本行依本條規定對違反或未遵守規定之非銀行金融公司處以罰鍰後，不得再就同一事項向法院提起訴訟。
- (6) 本行依第 58B 條規定對違規之非銀行金融公司提出申訴後，不得再依本條規定就同一案件科以罰鍰。

第 59 條 1906 年第 3 號法律修正案
刪除。

第 60 條 廢止
刪除。

第 61 條 1913 年第 7 號法律第 11 條修正案
刪除。

十、REPUBLIC ACT NO. 7653
THE NEW CENTRAL
BANK ACT
菲律賓新中央銀行法

REPUBLIC ACT NO. 7653
THE NEW CENTRAL BANK ACT

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BANGKO SENTRAL NG PILIPINAS*

*CHAPTER II - THE BANGKO SENTRAL AND THE MEANS OF
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法務室 謝淑芬 譯

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REPUBLIC ACT NO. 7653
THE NEW CENTRAL BANK ACT

**CHAPTER I - ESTABLISHMENT AND ORGANIZATION OF
THE BANGKO SENTRAL NG PILIPINAS**

**ARTICLE I. CREATION, RESPONSIBILITIES AND CORPORATE
POWERS OF THE BANGKO SENTRAL**

SECTION 1. Declaration of Policy. - The State shall maintain a central monetary authority that shall function and operate as an independent and accountable body corporate in the discharge of its mandated responsibilities concerning money, banking and credit. In line with this policy, and considering its unique functions and responsibilities, the central monetary authority established under this Act, while being a government-owned corporation, shall enjoy fiscal and administrative autonomy.

SECTION 2. Creation of the Bangko Sentral. - There is hereby established an independent central monetary authority, which shall be a body corporate known as the Bangko Sentral ng Pilipinas, hereafter referred to as the Bangko Sentral.

The capital of the Bangko Sentral shall be Fifty billion pesos (₱50,000,000,000), to be fully subscribed by the Government of the Republic, hereafter referred to as the Government, Ten billion pesos (₱10,000,000,000) of which shall be fully paid for by the Government upon the effectivity of this Act and the balance to be paid for within a period of two (2) years from the effectivity of this Act in such manner and form as the Government, through the Secretary of Finance and the Secretary of Budget and Management, may thereafter determine.

SECTION 3. Responsibility and Primary Objective. - The Bangko Sentral shall provide policy directions in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as provided in this Act and other pertinent laws over the operations of finance companies and non-bank financial institutions performing quasi-banking functions, hereafter referred to as quasi-banks, and institutions performing similar functions.

菲律賓新中央銀行法

第 1 章 菲律賓中央銀行之設立及組織

第 1 節 本行之設立、責任與權限

第 1 條 政策聲明

國家應設中央貨幣主管機關，使其獨立行使職權及對其決策負責，並以公司法人組織型態，執行貨幣、銀行與信用之法定職責。基於政策及其獨特功能與職責之考量，依本法設立之中央貨幣主管機關雖為國營公司，仍享有財務與行政自主權。

第 2 條 中央銀行之設立

依本法規定設立獨立之中央貨幣主管機關，為公司法人，名稱為「菲律賓中央銀行」，以下簡稱本行。

本行資本額為 500 億披索，全部由中央政府（以下簡稱政府）撥充。於本法生效時撥給 100 億披索，其餘資本自本法生效日起 2 年內，依財政部長及預算管理部長會商決定之方式及形式撥交。

第 3 條 職責及主要目標

本行應提出貨幣、金融及信用之政策方向，監督銀行之營運，並行使本法及其他法律所賦與對金融公司、執行準銀行功能之非銀行金融機構（以下簡稱準銀行）及類似機構之管理權限。

The primary objective of the Bangko Sentral is to maintain price stability conducive to a balanced and sustainable growth of the economy. It shall also promote and maintain monetary stability and the convertibility of the peso.

SECTION 4. Place of Business. - The Bangko Sentral shall have its principal place of business in Metro Manila, but may maintain branches, agencies and correspondents in such other places as the proper conduct of its business may require.

SECTION 5. Corporate Powers. - The Bangko Sentral is hereby authorized to adopt, alter, and use a corporate seal which shall be judicially noticed; to enter into contracts; to lease or own real and personal property, and to sell or otherwise dispose of the same; to sue and be sued; and otherwise to do and perform any and all things that may be necessary or proper to carry out the purposes of this Act.

The Bangko Sentral may acquire and hold such assets and incur such liabilities in connection with its operations authorized by the provisions of this Act, or as are essential to the proper conduct of such operations.

The Bangko Sentral may compromise, condone or release, in whole or in part, any claim of or settled liability to the Bangko Sentral, regardless of the amount involved, under such terms and conditions as may be prescribed by the Monetary Board to protect the interests of the Bangko Sentral.

ARTICLE II. THE MONETARY BOARD

SECTION 6. Composition of the Monetary Board. - The powers and functions of the Bangko Sentral shall be exercised by the Bangko Sentral Monetary Board, hereafter referred to as the Monetary Board, composed of seven (7) members appointed by the President of the Philippines for a term of six (6) years.

The seven (7) members are:

- (a) the Governor of the Bangko Sentral, who shall be the Chairman of the Monetary Board. The Governor of the Bangko Sentral shall be head of a department and his appointment shall be subject to confirmation by the Commission on Appointments. Whenever the Governor is unable to attend a meeting of the Board, he shall designate a Deputy Governor to act as his alternate: Provided, That in such event, the Monetary Board shall designate one of its members as acting Chairman;

本行主要目標在於維護物價穩定，以協助經濟之平衡與持續成長，並促進及維持貨幣之穩定與流通。

第 4 條 營業地點

本行總行設於馬尼拉，為業務營運之需要，得於其他地區設立分行、辦事處及聯絡處。

第 5 條 法人權限

本行有權採用、變更及使用經司法通告之公司印章，訂定契約，租賃或擁有、出售或處分不動產及動產，提起訴訟及應訴，以及為實現本法之目的，從事任何必要或適當之行為。本行得購置及持有依本法授權而與營運項目相關或營運所需之資產，並承擔相關負債。

於貨幣委員會為保障本行利益所定之條件下，本行對於向本行所提之請求權或已清償負債之全部或部分得為和解、抵銷或免除。

第 2 節 貨幣委員會

第 6 條 貨幣委員會組成

本行貨幣委員會，以下簡稱貨幣委員會，執行本行之權限及功能，由總統任命委員 7 人組成，任期 6 年。

7 名委員包括：

- (a) 總裁為貨幣政策委員會之主席，並為本行首長，其任命須經任命委員會之同意。總裁無法出席委員會會議時，應指派副總裁一名代理，於此情形，貨幣委員會應指派一名委員擔任代理主席。

- (b) a member of the Cabinet to be designated by the President of the Philippines. Whenever the designated Cabinet Member is unable to attend a meeting of the Board, he shall designate an Undersecretary in his Department to attend as his alternate; and
- (c) five (5) members who shall come from the private sector, all of whom shall serve full-time: Provided, however, That of the members first appointed under the provisions of this subsection, three (3) shall have a term of six (6) years, and the other two (2), three (3) years.

No member of the Monetary Board may be reappointed more than once.

SECTION 7. Vacancies. - Any vacancy in the Monetary Board created by the death, resignation, or removal of any member shall be filled by the appointment of a new member to complete the unexpired period of the term of the member concerned.

SECTION 8. Qualifications. - The members of the Monetary Board must be natural-born citizens of the Philippines, at least thirty-five (35) years of age, with the exception of the Governor who should at least be forty (40) years of age, of good moral character, of unquestionable integrity, of known probity and patriotism, and with recognized competence in social and economic disciplines.

SECTION 9. Disqualifications. - In addition to the disqualifications imposed by Republic Act No. 6713, a member of the Monetary Board is disqualified from being a director, officer, employee, consultant, lawyer, agent or stockholder of any bank, quasi-bank or any other institution which is subject to supervision or examination by the Bangko Sentral, in which case such member shall resign from, and divest himself of any and all interests in such institution before assumption of office as member of the Monetary Board.

The members of the Monetary Board coming from the private sector shall not hold any other public office or public employment during their tenure.

No person shall be a member of the Monetary Board if he has been connected directly with any multilateral banking or financial institution or has a substantial interest in any private bank in the Philippines, within one (1) year prior to his appointment; likewise, no member of the Monetary Board shall be employed in any such institution within two (2) years after the expiration of his term except when he serves as an official representative of the Philippine Government to such institution.

- (b) 總統指派之閣員一人。受指派之閣員無法出席委員會會議時，應自其部門指派次長一人代理出席。
 - (c) 其餘委員 5 人由私部門選任，均為專任。依本款首次任命之委員，其中 3 人之任期為 6 年，2 人任期為 3 年。
- 貨幣委員會委員僅得續任一次。

第 7 條 出缺

貨幣委員會委員因死亡、辭職或解任而出缺時，應指派新委員遞補，完成其剩餘任期。

第 8 條 資格

貨幣委員會委員應為於本國出生之公民，年齡 35 歲以上，具有良好道德、正直、誠實、愛國，並具有受肯定之社交能力及經濟素養。總裁年齡至少應為 40 歲。

第 9 條 消極資格

除共和國第 6713 號法律明定之消極資格外，任何受本行監督或檢查之銀行、準銀行或其他機構之董事、職員、受雇人員、顧問、律師、代理人或股東，均不得為貨幣委員會委員。若有前述情形，貨幣委員會委員應於任職前，辭去該等機構之職務並拋棄所有之利益。

選任自私部門之貨幣委員會委員，於任職期間不得擔任其他公職。

受指派擔任貨幣委員會委員之前 1 年內，與跨國銀行或金融機構有直接關聯，或於本國民營銀行擁有重大利益者，不得擔任貨幣委員會委員。委員任期屆滿後 2 年內，亦不得受雇於該等機構，但代表政府擔任該等機構之官方代表者，不在此限。

SECTION 10. Removal. - The President may remove any member of the Monetary Board for any of the following reasons:

- (a) If the member is subsequently disqualified under the provisions of Section 8 of this Act; or
- (b) If he is physically or mentally incapacitated that he cannot properly discharge his duties and responsibilities and such incapacity has lasted for more than six (6) months; or
- (c) If the member is guilty of acts or operations which are of fraudulent or illegal character or which are manifestly opposed to the aims and interests of the Bangko Sentral; or
- (d) If the member no longer possesses the qualifications specified in Section 8 of this Act.

SECTION 11. Meetings. - The Monetary Board shall meet at least once a week. The Board may be called to a meeting by the Governor of the Bangko Sentral or by two (2) other members of the Board.

The presence of four (4) members shall constitute a quorum: Provided, That in all cases the Governor or his duly designated alternate shall be among the four (4).

Unless otherwise provided in this Act, all decisions of the Monetary Board shall require the concurrence of at least four (4) members.

The Bangko Sentral shall maintain and preserve a complete record of the proceedings and deliberations of the Monetary Board, including the tapes and transcripts of the stenographic notes, either in their original form or in microfilm.

SECTION 12. Attendance of the Deputy Governors. - The Deputy Governors may attend the meetings of the Monetary Board with the right to be heard.

SECTION 13. Salary. - The salary of the Governor and the members of the Monetary Board from the private sector shall be fixed by the President of the Philippines at a sum commensurate to the importance and responsibility attached to the position.

SECTION 14. Withdrawal of Persons Having a Personal Interest. - In addition to the requirements of Republic Act No. 6713, any member of the Monetary Board with personal or pecuniary interest in any matter in the agenda of the Monetary Board shall disclose his interest to the Board and shall retire from the meeting when the matter is taken up. The decision taken on the matter shall be made public. The minutes shall reflect the disclosure made and the retirement of the member concerned from the meeting.

第 10 條 解任

總統得依下列各款理由，解除貨幣委員會委員職務：

- (a) 委員有不符第 8 條所定之資格者。
- (b) 委員生理或心理喪失行為能力，無法履行其職務達 6 個月以上者。
- (c) 委員犯罪，或職務上之行為涉及虛偽不實、不法或有明顯抵觸本行目標及利益者。
- (d) 委員不再具有第 8 條所定之資格者。

第 11 條 會議

貨幣委員會每週至少開會一次；得由總裁或其他 2 名委員之提議召開。

4 名委員出席即達法定開會人數，但此 4 名委員應包含總裁或其依法委任之代理人員。

除本法另有規定外，貨幣委員會之決議應有至少 4 名委員之可決。

本行應保留貨幣委員會會議程序與決議之完整紀錄，包括錄音、速記筆記抄本之原本或縮影膠片。

第 12 條 副總裁列席

副總裁得列席貨幣委員會會議。

第 13 條 薪資

總裁及選任自私部門貨幣委員會委員之薪資，由總統依其職務之重要性及責任定之。

第 14 條 利益迴避

除共和國第 6713 號法律規定外，貨幣委員會委員對於貨幣委員會議程事項具有個人或金錢利益時，應向委員會揭露，並迴避該次會議。該事項之決議應予公布，會議紀錄應記載前述揭露事項與該委員迴避之情形。

SECTION 15. Exercise of Authority. - In the exercise of its authority, the Monetary Board shall:

- (a) issue rules and regulations it considers necessary for the effective discharge of the responsibilities and exercise of the powers vested upon the Monetary Board and the Bangko Sentral. The rules and regulations issued shall be reported to the President and the Congress within fifteen (15) days from the date of their issuance;
- (b) direct the management, operations, and administration of the Bangko Sentral, reorganize its personnel, and issue such rules and regulations as it may deem necessary or convenient for this purpose. The legal units of the Bangko Sentral shall be under the exclusive supervision and control of the Monetary Board;
- (c) establish a human resource management system which shall govern the selection, hiring, appointment, transfer, promotion, or dismissal of all personnel. Such system shall aim to establish professionalism and excellence at all levels of the Bangko Sentral in accordance with sound principles of management.

A compensation structure, based on job evaluation studies and wage surveys and subject to the Board's approval, shall be instituted as an integral component of the Bangko Sentral's human resource development program: Provided, That the Monetary Board shall make its own system conform as closely as possible with the principles provided for under Republic Act No. 6758: Provided, however, That compensation and wage structure of employees whose positions fall under salary grade 19 and below shall be in accordance with the rates prescribed under Republic Act No. 6758.

On the recommendation of the Governor, appoint, fix the remunerations and other emoluments, and remove personnel of the Bangko Sentral, subject to pertinent civil service laws: Provided, That the Monetary Board shall have exclusive and final authority to promote, transfer, assign, or reassign personnel of the Bangko Sentral and these personnel actions are deemed made in the interest of the service and not disciplinary: Provided, further, That the Monetary Board may delegate such authority to the Governor under such guidelines as it may determine.

- (d) adopt an annual budget for and authorize such expenditures by the Bangko Sentral as are in the interest of the effective administration and operations of the Bangko Sentral in accordance with applicable laws and regulations; and

第 15 條 執行權限

貨幣委員會執行其權限時，應：

- (a) 為有效履行責任及執行賦予貨幣委員會及本行權限，訂頒各項法規，並自法規發布後 15 天內向總統與國會報告。
- (b) 指揮監督本行之管理、營運與行政，調整本行人事，並訂頒必要之相關規章。本行之法務單位應直屬貨幣委員會監督與控管。
- (c) 建立人力資源管理系統，規範所有人員之選任、雇用、任命、調職、升遷或解任。該系統目標在於依據健全管理原則，建立本行各層級之專業性與優異性。
依據貨幣委員會認可之工作評量研究及薪資調查所建立之報酬結構，係本行人力資源發展計畫之一部分；但貨幣委員會應儘可能建立一套符合共和國第 6758 號法律所定原則之自有體系。職位屬薪級第 19 等以下之受雇人員報酬及薪資結構，應依共和國第 6758 號法律所定費率定之。
在相關公務員服務法之規範下，依總裁建議，任用及解任本行人員、訂定其薪水及其他酬金，但貨幣委員會對本行人員升遷、調職、指派或再指派具專有決定權限，其決定時應基於服務而非為懲處之因素為之。貨幣委員會亦得將此權限授權總裁依其所定原則為之。
- (d) 為依相關法令有效管理及經營本行，而編定本行年度預算並授權本行支出。

- (e) indemnify its members and other officials of the Bangko Sentral, including personnel of the departments performing supervision and examination functions against all costs and expenses reasonably incurred by such persons in connection with any civil or criminal action, suit or proceedings to which he may be, or is, made a party by reason of the performance of his functions or duties, unless he is finally adjudged in such action or proceeding to be liable for negligence or misconduct.

In the event of a settlement or compromise, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Bangko Sentral is advised by external counsel that the person to be indemnified did not commit any negligence or misconduct.

The costs and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the Bangko Sentral in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the member, officer, or employee to repay the amount advanced should it ultimately be determined by the Monetary Board that he is not entitled to be indemnified as provided in this subsection.

SECTION 16. Responsibility. - Members of the Monetary Board, officials, examiners, and employees of the Bangko Sentral who willfully violate this Act or who are guilty of negligence, abuses or acts of malfeasance or misfeasance or fail to exercise extraordinary diligence in the performance of his duties shall be held liable for any loss or injury suffered by the Bangko Sentral or other banking institutions as a result of such violation, negligence, abuse, malfeasance, misfeasance or failure to exercise extraordinary diligence.

Similar responsibility shall apply to members, officers, and employees of the Bangko Sentral for: (1) the disclosure of any information of a confidential nature, or any information on the discussions or resolutions of the Monetary Board, or about the confidential operations of the Bangko Sentral, unless the disclosure is in connection with the performance of official functions with the Bangko Sentral, or is with prior authorization of the Monetary Board or the Governor; or (2) the use of such information for personal gain or to the detriment of the Government, the Bangko Sentral or third parties: Provided, however, That any data or information required to be submitted to the President and/or the Congress, or to be published under the provisions of this Act shall not be considered confidential.

(e) 賠償貨幣委員會委員及本行職員，包括執行監督與檢查功能部門之人員因執行職務而成為相關民刑事訴訟或訴訟程序當事人時，所生之合理費用。但經確定判決須負故意或過失責任者，不在此限。

前項人員與對造達成和解或讓步時，本行僅於外部顧問表示該等將受補償者並無過失或不法行為時，方就與和解所涵蓋事項相關之部分負損害賠償責任。

本行得在訴訟終結前預付對前述行為或訴訟程序所為辯護所產生之費用與支出；但以本行收到委員、職員或受雇人員承諾於貨幣委員會認定其無權依本款規定受賠償時願償還本行預付之款項者為限。

第 16 條 責任

貨幣委員會委員、本行職員、檢查人員與受雇人員故意違反本法，或有過失、濫用、不法、不當行為，或履行職務時未盡特別注意者，應就本行或其他銀行機構因該等違法、過失、濫用、不法、不當行為，或未盡特別注意所遭受之損失或傷害負責。

本行成員、職員及受雇人員於下列情形，亦應負擔類似責任：(1)洩漏機密性質之資訊、貨幣委員會討論或決議之資訊、或有關本行營運秘密事項，但所揭露者係與履行本行法定功能有關，或經貨幣委員會或總裁事前許可者，不在此限；或(2)該等資訊之利用係為個人利益，或造成政府、本行或第三人傷害者，但依本法規定應呈送總統及/或國會或應公布之資訊，不得視為機密資訊。

ARTICLE III. THE GOVERNOR AND DEPUTY GOVERNORS OF THE BANGKO SENTRAL

SECTION 17. Powers and Duties of the Governor. - The Governor shall be the chief executive officer of the Bangko Sentral. His powers and duties shall be to:

- (a) prepare the agenda for the meetings of the Monetary Board and to submit for the consideration of the Board the policies and measures which he believes to be necessary to carry out the purposes and provisions of this Act;
- (b) execute and administer the policies and measures approved by the Monetary Board;
- (c) direct and supervise the operations and internal administration of the Bangko Sentral. The Governor may delegate certain of his administrative responsibilities to other officers or may assign specific tasks or responsibilities to any full-time member of the Monetary Board without additional remuneration or allowance whenever he may deem fit or subject to such rules and regulations as the Monetary Board may prescribe;
- (d) appoint and fix the remunerations and other emoluments of personnel below the rank of a department head in accordance with the position and compensation plans approved by the Monetary Board, as well as to impose disciplinary measures upon personnel of the Bangko Sentral, subject to the provisions of Section 15(c) of this Act: Provided, That removal of personnel shall be with the approval of the Monetary Board;
- (e) render opinions, decisions, or rulings, which shall be final and executory until reversed or modified by the Monetary Board, on matters regarding application or enforcement of laws pertaining to institutions supervised by the Bangko Sentral and laws pertaining to quasi-banks, as well as regulations, policies or instructions issued by the Monetary Board, and the implementation thereof; and
- (f) exercise such other powers as may be vested in him by the Monetary Board.

SECTION 18. Representation of the Monetary Board and the Bangko Sentral.

- The Governor of the Bangko Sentral shall be the principal representative of the Monetary Board and of the Bangko Sentral and, in such capacity and in accordance with the instructions of the Monetary Board, he shall be empowered to:

- (a) represent the Monetary Board and the Bangko Sentral in all dealings with other offices, agencies and instrumentalities of the Government and all other persons or entities, public or private, whether domestic, foreign or international;

第 3 節 本行總裁及副總裁

第 17 條 總裁職權

總裁為本行執行長，其職權如下：

- (a) 準備貨幣委員會會議議程，並提出其認為為實現本法目的及規定所必要之政策及措施，供委員會考量。
- (b) 執行及管理貨幣委員會核可之政策及措施。
- (c) 指揮監督本行之營運及內部管理。總裁得將其部分政務授權其他職員，亦得於其認為適當或依貨幣委員會所定規範，將特定工作或職務授權貨幣委員會之專職委員，但不得支付額外薪資或津貼。
- (d) 依據貨幣委員會核准之職位與報酬計畫，訂定部門主管以下各等級人員之薪資與其他報酬。依第 15 條第(c)款規定，訂定本行人員獎懲措施，但人員之解任須經貨幣委員會之核准。
- (e) 除經貨幣委員會之否決或修正外，總裁對於由本行監督機構及準銀行之有關法律，或貨幣委員會發布之規範、政策或指令等之適用或執行所提之意見、決定或裁定，具有最終確定執行力。
- (f) 行使貨幣委員會賦予之其他權力。

第 18 條 代表貨幣委員會及本行

總裁為貨幣委員會及本行之主要代表，依據此資格及貨幣委員會指令，賦予下列權力：

- (a) 代表貨幣委員會及本行與政府其他部門、機關、國內外或國際公私部門之個人、法人交涉。

- (b) sign contracts entered into by the Bangko Sentral, notes and securities issued by the Bangko Sentral, all reports, balance sheets, profit and loss statements, correspondence and other documents of the Bangko Sentral. The signature of the Governor may be in facsimile whenever appropriate;
- (c) represent the Bangko Sentral, either personally or through counsel, including private counsel, as may be authorized by the Monetary Board, in any legal proceedings, action or specialized legal studies; and
- (d) delegate his power to represent the Bangko Sentral, as provided in subsections (a), (b) and (c) of this section, to other officers upon his own responsibility: Provided, however, That in order to preserve the integrity and the prestige of his office, the Governor of the Bangko Sentral may choose not to participate in preliminary discussions with any multilateral banking or financial institution on any negotiations for the Government within or outside the Philippines. During the negotiations, he may instead be represented by a permanent negotiator.

SECTION 19. Authority of the Governor in Emergencies. - In case of emergencies where time is sufficient to call a meeting of the Monetary Board, the Governor of the Bangko Sentral, with the concurrence of two (2) other members of the Monetary Board, may decide any matter or take any action within the authority of the Board.

The Governor shall submit a report to the President and Congress within seventy-two (72) hours after the action has been taken.

At the soonest possible time, the Governor shall call a meeting of the Monetary Board to submit his action for ratification.

SECTION 20. Outside Interests of the Governor and the Full-time Members of the Board. - The Governor of the Bangko Sentral and the full-time members of the Board shall limit their professional activities to those pertaining directly to their positions with the Bangko Sentral. Accordingly, they may not accept any other employment, whether public or private, remunerated or ad honorem, with the exception of positions in eleemosynary, civic, cultural or religious organizations or whenever, by designation of the President, the Governor or the full-time member is tasked to represent the interest of the Government or other government agencies in matters connected with or affecting the economy or the financial system of the country.

SECTION 21. Deputy Governors. - The Governor of the Bangko Sentral, with the approval of the Monetary Board, shall appoint not more than three (3) Deputy Governors who shall perform duties as may be assigned to them by the Governor and the Board.

- (b) 簽署本行訂立之契約、本行發行之鈔券與有價證券、本行之報告、資產負責表、損益表、通訊及其他文件。
總裁之簽章得視情況以傳真為之。
- (c) 以個人或透過貨幣委員會授權之顧問（含私人顧問）之方式，代表本行為任何訴訟、法律行為或專業法律研究。
- (d) 將第(a)、(b)與(c)款所定本行之權力授權其他職員，並自行承擔責任。但為保持其職務之完整及威信，總裁得不參與在境內或境外與任何跨國銀行或金融機構為政府協商之初步討論；協商期間，得指派一人全程代表。

第 19 條 總裁之緊急權限

於情況緊急但仍有時間召開貨幣委員會會議時，總裁於取得貨幣委員會其他 2 名委員一致之意見，即得於委員會授權範圍內作成決定或採取行動。

總裁應於採取前項行動後 72 小時內，向總統及國會提出報告。

總裁應於最短期間內召開貨幣委員會會議，追認其所採取之行動。

第 20 條 總裁及專任委員之外在利益

總裁及專任委員之專業活動應侷限於與其本行職位有直接相關者。據此，他們不得接受其他公私職務，無論有償或榮譽職。但屬慈善、市民、文化或宗教組織之職位，或經總統指派就國家經濟或金融體系相關或有影響事項，代表政府或其他政府機關利益而擔任者，不在此限。

第 21 條 副總裁

總裁經貨幣委員會同意，任命 3 名以下副總裁，行使由總裁及委員會分派之職務。

In the absence of the Governor, a Deputy Governor designated by the Governor shall act as chief executive of the Bangko Sentral and shall exercise the powers and perform the duties of the Governor. Whenever the Government is unable to attend meetings of government boards or councils in which he is an ex officio member pursuant to provisions of special laws, a Deputy Governor as may be designated by the Governor shall be vested with authority to participate and exercise the right to vote in such meetings.

ARTICLE IV. OPERATIONS OF THE BANGKO SENTRAL

SECTION 22. Research and Statistics. - The Bangko Sentral shall prepare data and conduct economic research for the guidance of the Monetary Board in the formulation and implementation of its policies. Such data shall include, among others, forecasts of the balance of payments of the Philippines, statistics on the monthly movement of the monetary aggregates and of prices and other statistical series and economic studies useful for the formulation and analysis of monetary, banking, credit and exchange policies.

SECTION 23. Authority to Obtain Data and Information. - The Bangko Sentral shall have the authority to request from government offices and instrumentalities, or government-owned or controlled corporations, any data which it may require for the proper discharge of its functions and responsibilities. The Bangko Sentral through the Governor or in his absence, a duly authorized representative shall have the power to issue a subpoena for the production of the books and records for the aforesaid purpose. Those who refuse the subpoena without justifiable cause, or who refuse to supply the bank with data requested or required, shall be subject to punishment for contempt in accordance with the provisions of the Rules of Court.

Data on individual firms, other than banks, gathered by the Department of Economic Research and other departments or units of the Bangko Sentral shall not be made available to any person or entity outside of the Bangko Sentral whether public or private except under order of the court or under such conditions as may be prescribed by the Monetary Board: Provided, however, That the collective data on firms may be released to interested persons or entities: Provided, finally, That in the case of data on banks, the provisions of Section 27 of this Act shall apply.

SECTION 24. Training of Technical Personnel. - The Bangko Sentral shall promote and sponsor the training of technical personnel in the field of money and banking. Toward this end, the Bangko Sentral is hereby authorized to defray the costs of study, at home or abroad, of qualified employees of the Bangko Sentral, of promising university graduates or of any other qualified persons who shall be determined by proper competitive examinations. The Monetary Board shall prescribe rules and regulations to govern the training program of the Bangko Sentral.

總裁缺席時，由總裁指定一位副總裁擔任本行執行長，行使總裁權限及職務。依特別法規定，以總裁為政府委員會或諮議會之當然委員者，當其無法出席會議時，應由總裁指派一位副總裁參加該等會議及投票。

第 4 節 本行之營運

第 22 條 研究及統計

本行應備妥資料並進行經濟研究，以協助貨幣委員會制定及執行政策。該等資料尤應包括可供貨幣、金融、信用與外匯政策制定與分析之本國收支平衡預估、每月貨幣總計數與物價變動與其他統計，以及經濟研究報告。

第 23 條 取得資訊之權限

本行有權向政府機關、機構或國營公司索取任何為履行其職責所需之資料。基於前述目的，本行得透過總裁或總裁不在時依法授權之代表人，有權核發索取帳冊或紀錄之傳票。無正當理由而拒收傳票或拒絕提供所要求資料者，應依藐視法庭規定處罰之。

本行經濟研究處與其他部門或單位所蒐集之銀行業以外個別公司之資訊，不得提供予本行以外之人士或公民營團體。但依法院命令或貨幣委員會訂定之條件提供者，不在此限。公司之集體資訊得提供利害關係人或團體；銀行業之資訊，應適用第 27 條之規定。

第 24 條 專業人員訓練

本行應提升及贊助貨幣與金融領域專業人員之訓練。為此目的，本行得支付受雇人員、大學畢業生或其他通過正式甄選考試合格人員之國內外研究經費；其訓練計畫之相關規範，由貨幣委員會定之。

SECTION 25. Supervision and Examination. - The Bangko Sentral shall have supervision over, and conduct periodic or special examinations of, banking institutions and quasi-banks, including their subsidiaries and affiliates engaged in allied activities.

For purposes of this section, a subsidiary means a corporation more than fifty percent (50%) of the voting stock of which is owned by a bank or quasi-bank and an affiliate means a corporation the voting stock of which, to the extent of fifty percent (50%) or less, is owned by a bank or quasi-bank or which is related or linked to such institution or intermediary through common stockholders or such other factors as may be determined by the Monetary Board.

The department heads and the examiners of the supervising and/or examining departments are hereby authorized to administer oaths to any director, officer, or employee of any institution under their respective supervision or subject to their examination and to compel the presentation of all books, documents, papers or records necessary in their judgment to ascertain the facts relative to the true condition of any institution as well as the books and records of persons and entities relative to or in connection with the operations, activities or transactions of the institution under examination, subject to the provision of existing laws protecting or safeguarding the secrecy or confidentiality of bank deposits as well as investments of private persons, natural or juridical, in debt instruments issued by the Government.

No restraining order or injunction shall be issued by the court enjoining the Bangko Sentral from examining any institution subject to supervision or examination by the Bangko Sentral, unless there is convincing proof that the action of the Bangko Sentral is plainly arbitrary and made in bad faith and the petitioner or plaintiff files with the clerk or judge of the court in which the action is pending a bond executed in favor of the Bangko Sentral, in an amount to be fixed by the court. The provisions of Rule 58 of the New Rules of Court insofar as they are applicable and not inconsistent with the provisions of this section shall govern the issuance and dissolution of the restraining order or injunction contemplated in this section.

SECTION 26. Bank Deposits and Investments. - Any director, officer or stockholder who, together with his related interest, contracts a loan or any form of financial accommodation from: (1) his bank; or (2) from a bank (a) which is a subsidiary of a bank holding company of which both his bank and the lending bank are subsidiaries or (b) in which a controlling proportion of the shares is owned by the same interest that owns a controlling proportion of the shares of his bank, in excess of five percent (5%) of the capital and surplus of the bank, or in the maximum amount permitted by law, whichever is lower, shall be

第 25 條 監督及檢查

本行有監理權，並對金融機構、準銀行及其從事關聯業務之子公司及關係企業，辦理定期或專案檢查。

本條所稱子公司，係指銀行或準銀行持股超過 50% 之有投票權股份之子公司。所稱關係企業，係指銀行、準銀行或與其有關者之持股低於或等於 50% 有投票權股份，或該公司透過普通股股東或貨幣委員會所定之其他原因，而與該等機構或仲介相關聯者。

監理/檢查部門之主管及檢查人員有權要求受監理或檢查機構之董事、職員或受僱人員具結，並強制其提供查明機構真實狀況所需之帳冊、文件、文書或紀錄，以及提供與該受檢機構營運、活動或交易相關之個人或法人之帳冊或紀錄，但應遵行銀行存款、自然人或法人投資、政府債券保密義務之法律規範。

法院不得就本行對受監理機構之檢查，核發限制命令或禁止令，但有明確證據足認本行之行為有擅斷、惡意，且訴願人或原告向法院人員或法官提出申請，並依法院所定金額供擔保者，不在此限。法院新規則第 58 條與本條規定未牴觸且有其適用之部分，應規範本條有關限制命令或禁止令之核發與解除。

第 26 條 銀行存款及投資

銀行董事、職員或股東及其利害關係人向下列機構借款或為任何形式之融資時，放款銀行得要求其放棄在境內銀行存款之秘密權：(1) 借款人之銀行；或(2) 放款銀行係(a) 銀行控股公司之子公司，而借款人的銀行與該放款銀行為同一家銀行控股公司之子公司，或(b) 放款銀行之具控制權股份及借款人銀行之具控制權股份係由同一人持有，其持有股份超過銀行資本或盈餘之 5% 或法律許可之最高數量，兩者取其低者。因

required by the lending bank to waive the secrecy of his deposits of whatever nature in all banks in the Philippines. Any information obtained from an examination of his deposits shall be held strictly confidential and may be used by the examiners only in connection with their supervisory and examination responsibility or by the Bangko Sentral in an appropriate legal action it has initiated involving the deposit account.

SECTION 27. Prohibitions. - In addition to the prohibitions found in Republic Act Nos. 3019 and 6713, personnel of the Bangko Sentral are hereby prohibited from:

- (a) being an officer, director, lawyer or agent, employee, consultant or stockholder, directly or indirectly, of any institution subject to supervision or examination by the Bangko Sentral, except non-stock savings and loan associations and provident funds organized exclusively for employees of the Bangko Sentral, and except as otherwise provided in this Act;
- (b) directly or indirectly requesting or receiving any gift, present or pecuniary or material benefit for himself or another, from any institution subject to supervision or examination by the Bangko Sentral;
- (c) revealing in any manner, except under orders of the court, the Congress or any government office or agency authorized by law, or under such conditions as may be prescribed by the Monetary Board, information relating to the condition or business of any institution. This prohibition shall not be held to apply to the giving of information to the Monetary Board or the Governor of the Bangko Sentral, or to any person authorized by either of them, in writing, to receive such information; and
- (d) borrowing from any institution subject to supervision or examination by the Bangko Sentral shall be prohibited unless said borrowings are adequately secured, fully disclosed to the Monetary Board, and shall be subject to such further rules and regulations as the Monetary Board may prescribe: Provided, however, That personnel of the supervising and examining departments are prohibited from borrowing from a bank under their supervision or examination.

SECTION 28. Examination and Fees. - The supervising and examining department head, personally or by deputy, shall examine the books of every banking institution once in every twelve (12) months, and at such other times as the Monetary Board by an affirmative vote of five (5) members, may deem expedient and to make a report on the same to the Monetary Board: Provided, That there shall be an interval of at least twelve (12) months between annual examinations.

檢查該等借款人存款所取得之資訊應絕對保密，檢查人員僅得為監理及檢查目的之利用；或本行於採取與該存款帳戶有關之法律行為時利用之。

第 27 條 禁止事項

除共和國第 3019 號及第 6713 號法律之禁止規定者外，本行人員亦不得為下列行為：

- (a) 直接或間接擔任受本行監理或檢查機構之職員、董事、律師或代理人、受僱人員、顧問或股東，但該機構為非股份儲蓄暨貸款協會、專為本行受僱人員設置之退休基金，或本法另有規定者，不在此限。
- (b) 為自己或他人，向受本行監理或檢查機構直接或間接要求或收受禮物、金錢或有財產價值之利益。
- (c) 洩漏受檢機構狀況或業務相關之資訊，但依法院、國會或政府機關或法律授權機構之命令，或依貨幣委員會所定之條件而為揭漏者，不在此限。本款規定對於向貨幣委員會或總裁提供之資訊，或經兩者以書面許可得接收該等資訊之人，不適用之。
- (d) 向受本行監理或檢查之機構借款，但提供十足擔保並充分向貨幣委員會揭露者除外，並應受貨幣委員會另定規章規範之；惟監理與檢查部門之人員，仍不得向受其監理或檢查之銀行借款。

第 28 條 檢查及費用

監理與檢查部門主管每 12 個月，或於貨幣委員會 5 名委員投票通過所定之時間，應親自或由其代理人檢查每家金融機構之帳簿，並於適當時機向貨幣委員會報告。年度檢查之間隔期間至少應有 12 個月。

The bank concerned shall afford to the head of the appropriate supervising and examining departments and to his authorized deputies full opportunity to examine its books, cash and available assets and general condition at any time during banking hours when requested to do so by the Bangko Sentral: Provided, however, That none of the reports and other papers relative to such examinations shall be open to inspection by the public except insofar as such publicity is incidental to the proceedings hereinafter authorized or is necessary for the prosecution of violations in connection with the business of such institutions.

Banking and quasi-banking institutions which are subject to examination by the Bangko Sentral shall pay to the Bangko Sentral, within the first thirty (30) days of each year, an annual fee in an amount equal to a percentage as may be prescribed by the Monetary Board of its average total assets during the preceding year as shown on its end-of-month balance sheets, after deducting cash on hand and amounts due from banks, including the Bangko Sentral and banks abroad.

SECTION 29. Appointment of Conservator. - Whenever, on the basis of a report submitted by the appropriate supervising or examining department, the Monetary Board finds that a bank or a quasi-bank is in a state of continuing inability or unwillingness to maintain a condition of liquidity deemed adequate to protect the interest of depositors and creditors, the Monetary Board may appoint a conservator with such powers as the Monetary Board shall deem necessary to take charge of the assets, liabilities, and the management thereof, reorganize the management, collect all monies and debts due said institution, and exercise all powers necessary to restore its viability. The conservator shall report and be responsible to the Monetary Board and shall have the power to overrule or revoke the actions of the previous management and board of directors of the bank or quasi-bank.

The conservator should be competent and knowledgeable in bank operations and management. The conservatorship shall not exceed one (1) year.

The conservator shall receive remuneration to be fixed by the Monetary Board in an amount not to exceed two-thirds ($\frac{2}{3}$) of the salary of the president of the institution in one (1) year, payable in twelve (12) equal monthly payments: Provided, That, if at any time within one-year period, the conservatorship is terminated on the ground that the institution can operate on its own, the conservator shall receive the balance of the remuneration which he would have received up to the end of the year; but if the conservatorship is terminated on other grounds, the conservator shall not be entitled to such remaining balance. The Monetary Board may appoint a conservator connected with the Bangko Sentral, in which case he shall not be entitled to receive any remuneration or emolument from the Bangko Sentral during the conservatorship. The expenses attendant to the conservatorship shall be borne by the bank or quasi-bank concerned.

受檢銀行應依本行之要求，於營業期間向監理與檢查部門主管或其代理人提供銀行帳簿、現金、可利用資產及一般狀況。但與該檢查相關之報告及其他文件，除因附隨於其後授權進行之程序，或該機構違規有起訴之必要者外，不得公開。

受檢銀行及準銀行機構應於每年度之前 30 天內，按貨幣委員會依其前一年度月終資產負債表之平均資產總額，扣除庫存現金及該機構對本行與海外機構之應付款後所定之比例，向本行繳交年費。

第 29 條 接管人之指派

貨幣委員會依監理或檢查部門所提報告發現，銀行或準銀行持續處於無資力，或無意維持足以保護存款人與債權人利益之流動狀況者，貨幣委員會得指派接管人於必要時接管其資產、負債，重新組織管理階層，收取積欠上述機構之所有金錢與債務，並行使得使該機構回復正常營運所必要之所有權力。接管人應向貨幣委員會報告及向其負責，並有權推翻或撤銷該銀行或準銀行前任管理階層及董事會之行為。

接管人應具有銀行經營與管理之能力及知識；其任期不得超過一年。

接管人薪資由貨幣委員會定之，不得超過受接管機構總經理一年薪資總額的 2/3，並分 12 個月平均支付之。接管人因該機構回復自行營運而於 1 年期間內終止接管任期者，得受領該年度未到期之薪資；但因其他原因終止者，則不得受領該年度未到期之薪資。貨幣委員會得指派本行相關人員擔任接管人，接管人於任期內不得向本行支領薪資或俸給。接管人職務所生之費用，由受接管銀行或準銀行負擔之。

The Monetary Board shall terminate the conservatorship when it is satisfied that the institution can continue to operate on its own and the conservatorship is no longer necessary. The conservatorship shall likewise be terminated should the Monetary Board, on the basis of the report of the conservator or of its own findings, determine that the continuance in business of the institution would involve probable loss to its depositors or creditors, in which case the provisions of Section 30 shall apply.

SECTION 30. Proceedings in Receivership and Liquidation. - Whenever, upon report of the head of the supervising or examining department, the Monetary Board finds that a bank or quasi-bank:

- (a) is unable to pay its liabilities as they become due in the ordinary course of business: Provided, That this shall not include inability to pay caused by extraordinary demands induced by financial panic in the banking community;
- (b) by the Bangko Sentral, to meet its liabilities; or
- (c) cannot continue in business without involving probable losses to its depositors or creditors; or
- (d) has willfully violated a cease and desist order under Section 37 that has become final, involving acts or transactions which amount to fraud or a dissipation of the assets of the institution; in which cases, the Monetary Board may summarily and without need for prior hearing forbid the institution from doing business in the Philippines and designate the Philippine Deposit Insurance Corporation as receiver of the banking institution.

For a quasi-bank, any person of recognized competence in banking or finance may be designed as receiver.

The receiver shall immediately gather and take charge of all the assets and liabilities of the institution, administer the same for the benefit of its creditors, and exercise the general powers of a receiver under the Revised Rules of Court but shall not, with the exception of administrative expenditures, pay or commit any act that will involve the transfer or disposition of any asset of the institution: Provided, That the receiver may deposit or place the funds of the institution in nonspeculative investments. The receiver shall determine as soon as possible, but not later than ninety (90) days from take over, whether the institution may be rehabilitated or otherwise placed in such a condition so that it may be permitted to resume business with safety to its depositors and creditors and the general public: Provided, That any determination for the resumption of business of the institution shall be subject to prior approval of the Monetary Board.

貨幣委員會認為受接管機構得自行營業無繼續接管之必要時，應終止接管。貨幣委員會依接管人之報告或自為之判斷，認為受接管機構繼續營業可能造成其存款人或債權人之損失者，亦應終止接管，並應適用第 30 條之規定。

第 30 條 破產及清算程序

貨幣委員會依監理或檢查部門主管之報告，發現銀行或準銀行有下列情形之一者，貨幣委員會無須舉行事前聽證，即得停止該機構於國內營業，並指派存款保險公司擔任其清算人：

- (a) 無法支付正常情況下到期之負債。但不包括銀行業因金融恐慌之異常需求所引起之無力償還。
- (b) 須由本行負擔其負債。
- (c) 繼續營業將無法避免造成其存款人或債權人之可能損失。
- (d) 故意違反依第 37 條所頒之停業命令，涉有相當於詐騙或浪費機構資產之行為或交易。

就準銀行而言，具有銀行業或財務專業能力經認可者，得受指派擔任清算人。

清算人應立即清查及維護該機構之所有資產與負債，並為其債權人管理所有資產與負債，依「法院修正規則」行使清算人之一般權力。除行政支出外，不得支付或從事任何涉及移轉或處分受清算機構資產之行為。清算人得以受清算機構之資金，辦理轉存或作非投機性投資。清算人應於接管後 90 天內，儘速決定該機構可否復業，或在維護其存款人、債權人及一般大眾權益之條件下，允許其繼續營業。但得繼續營業之決定，應經貨幣委員會之事前核准。

If the receiver determines that the institution cannot be rehabilitated or permitted to resume business in accordance with the next preceding paragraph, the Monetary Board shall notify in writing the board of directors of its findings and direct the receiver to proceed with the liquidation of the institution. The receiver shall:

1. file *ex parte* with the proper regional trial court, and without requirement of prior notice or any other action, a petition for assistance in the liquidation of the institution pursuant to a liquidation plan adopted by the Philippine Deposit Insurance Corporation for general application to all closed banks. In case of quasi-banks, the liquidation plan shall be adopted by the Monetary Board. Upon acquiring jurisdiction, the court shall, upon motion by the receiver after due notice, adjudicate disputed claims against the institution, assist the enforcement of individual liabilities of the stockholders, directors and officers, and decide on other issues as may be material to implement the liquidation plan adopted. The receiver shall pay the cost of the proceedings from the assets of the institution.
2. convert the assets of the institutions to money, dispose of the same to creditors and other parties, for the purpose of paying the debts of such institution in accordance with the rules on concurrence and preference of credit under the Civil Code of the Philippines and he may, in the name of the institution, and with the assistance of counsel as he may retain, institute such actions as may be necessary to collect and recover accounts and assets of, or defend any action against, the institution. The assets of an institution under receivership or liquidation shall be deemed in *custodia legis* in the hands of the receiver and shall, from the moment the institution was placed under such receivership or liquidation, be exempt from any order of garnishment, levy, attachment, or execution.

The actions of the Monetary Board taken under this section or under Section 29 of this Act shall be final and executory, and may not be restrained or set aside by the court except on petition for *certiorari* on the ground that the action taken was in excess of jurisdiction or with such grave abuse of discretion as to amount to lack or excess of jurisdiction. The petition for *certiorari* may only be filed by the stockholders of record representing the majority of the capital stock within ten (10) days from receipt by the board of directors of the institution of the order directing receivership, liquidation or conservatorship. The designation of a conservator under Section 29 of this Act or the appointment of a receiver under this section shall be vested exclusively with the Monetary Board. Furthermore, the designation of a conservator is not a precondition to the designation of a receiver.

清算人認為無法依前項規定使其復業或繼續營業時，貨幣委員會應將其決定以書面通知該機構董事會，並指示清算人進行清算程序，清算人應：

1. 無須事前通知或為其他行為，依據存款保險公司對一般結束營業銀行所採清算計畫，向地方法院片面提出清算協助之申請。就準銀行而言，清算計畫應由貨幣委員會決行。管轄法院應依清算人之申請，對該機構有爭議之請求權進行裁判，協助股東、董事及職員個別責任之執行，並裁定清算計畫執行之重大議題。清算人應以該機構之資產支付法律程序費用。
2. 在符合雙方合意與民法有關債權優先順序之規定下，為清償該機構之債務，可將機構之資產轉換為現金，並處分予債權人及其他當事人。清算人亦得以該機構名義，聘請律師協助，採取為收取、取回或維護帳務及資產所必要之任何行為。該機構自被責付清算時起，其資產視為清算人持有，不受扣押、查封或執行。

貨幣委員會依本條或第 29 條規定採取之處分行為具最終性及執行力，法院不得限制或撤銷之，但逾越權限或嚴重濫用裁量權者，得申請復議。復議之聲請僅得由佔多數股權之股東，於董事會收受清算或接管通知後 10 天內提出。依第 29 條規定指派接管人或依本條指派清算人均屬貨幣委員會之專屬權限；且清算人之指派不以接管人之指派為先決條件。

SECTION 31. Distribution of Assets. - In case of liquidation of a bank or quasi-bank, after payment of the cost of proceedings, including reasonable expenses and fees of the receiver to be allowed by the court, the receiver shall pay the debts of such institution, under order of the court, in accordance with the rules on concurrence and preference of credit as provided in the Civil Code.

SECTION 32. Disposition of Revenues and Earnings. - All revenues and earnings realized by the receiver in winding up the affairs and administering the assets of any bank or quasi-bank within the purview of this Act shall be used to pay the costs, fees and expenses mentioned in the preceding section, salaries of such personnel whose employment is rendered necessary in the discharge of the liquidation together with other additional expenses caused thereby. The balance of revenues and earnings, after the payment of all said expenses, shall form part of the assets available for payment to creditors.

SECTION 33. Disposition of Banking Franchise. - The Bangko Sentral may, if public interest so requires, award to an institution, upon such terms and conditions as the Monetary Board may approve, the banking franchise of a bank under liquidation to operate in the area where said bank or its branches were previously operating: Provided, That whatever proceeds may be realized from such award shall be subject to the appropriate exclusive disposition of the Monetary Board.

SECTION 34. Refusal to Make Reports or Permit Examination. - Any officer, owner, agent, manager, director or officer-in-charge of any institution subject to the supervision or examination by the Bangko Sentral within the purview of this Act who, being required in writing by the Monetary Board or by the head of the supervising and examining department willfully refuses to file the required report or permit any lawful examination into the affairs of such institution shall be punished by a fine of not less than Fifty thousand pesos (₱50,000) nor more than One hundred thousand pesos (₱100,000) or by imprisonment of not less than one (1) year nor more than five (5) years, or both, in the discretion of the court.

SECTION 35. False Statement. - The willful making of a false or misleading statement on a material fact to the Monetary Board or to the examiners of the Bangko Sentral shall be punished by a fine of not less than One hundred thousand pesos (₱100,000) nor more than Two hundred thousand pesos (₱200,000), or by imprisonment of not more than (5) years, or both, at the discretion of the court.

第 31 條 資產分配

銀行或準銀行清算時，清算人應在符合雙方合意與民法有關債權優先順序之規定下，於支付包括法院核定之清算人合理花費與費用在內之程序費用後，依法院命令，支付該機構之債務。

第 32 條 收入及所得之處分

清算人在本法規定範圍內，結束銀行或準銀行及管理其財產所實現之收入及所得，應支付前條之費用與支出、執行清算所需人員之薪資，以及其他據此產生之額外支出。扣除前述支出後剩餘之收入及所得，應作為用以支付債權人之資產。

第 33 條 銀行特許權之處分

本行基於大眾利益之考量，得依貨幣委員會核准之條件，將進行清算之銀行的銀行特許授與另一機構，由該機構在前述銀行或其分行先前經營之區域內營運；但被授予特許之機構因此實現之收入，僅得由貨幣委員會為適當之處理。

第 34 條 拒絕報告或檢查

在本法規定範圍內受本行監理或檢查之機構，其職員、所有人、代理人、經理人、董事或負責人故意拒絕依貨幣委員會或監理及檢查部門主管以書面要求提出報告，或拒絕接受檢查者，由法院處 5 萬披索以上 10 萬披索以下之罰金，或科或併科 1 年以上 5 年以下有期徒刑。

第 35 條 不實陳述

故意向貨幣委員會或本行檢查人員就重要事項為不實或誤導之陳述者，由法院處 10 萬披索以上 20 萬披索以下之罰金，或科或併科 5 年以下有期徒刑。

SECTION 36. Proceedings Upon Violation of This Act and Other Banking Laws, Rules, Regulations, Orders or Instructions. - Whenever a bank or quasi-bank, or whenever any person or entity willfully violates this Act or other pertinent banking laws being enforced or implemented by the Bangko Sentral or any order, instruction, rule or regulation issued by the Monetary Board, the person or persons responsible for such violation shall unless otherwise provided in this Act be punished by a fine of not less than Fifty thousand pesos (₱50,000) nor more than Two hundred thousand pesos (₱200,000) or by imprisonment of not less than two (2) years nor more than ten (10) years, or both, at the discretion of the court.

Whenever a bank or quasi-bank persists in carrying on its business in an unlawful or unsafe manner, the Board may, without prejudice to the penalties provided in the preceding paragraph of this section and the administrative sanctions provided in Section 37 of this Act, take action under Section 30 of this Act.

SECTION 37. Administrative Sanctions on Banks and Quasi-banks. - Without prejudice to the criminal sanctions against the culpable persons provided in Sections 34, 35, and 36 of this Act, the Monetary Board may, at its discretion, impose upon any bank or quasi-bank, their directors and/or officers, for any willful violation of its charter or by-laws, willful delay in the submission of reports or publications thereof as required by law, rules and regulations; any refusal to permit examination into the affairs of the institution; any willful making of a false or misleading statement to the Board or the appropriate supervising and examining department or its examiners; any willful failure or refusal to comply with, or violation of, any banking law or any order, instruction or regulation issued by the Monetary Board, or any order, instruction or ruling by the Governor; or any commission of irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the Monetary Board, the following administrative sanctions, whenever applicable:

- (a) fines in amounts as may be determined by the Monetary Board to be appropriate, but in no case to exceed Thirty thousand pesos (₱30,000) a day for each violation, taking into consideration the attendant circumstances, such as the nature and gravity of the violation or irregularity and the size of the bank or quasi-bank;
- (b) suspension of rediscounting privileges or access to Bangko Sentral credit facilities;
- (c) suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;
- (d) suspension of interbank clearing privileges; and/or
- (e) revocation of quasi-banking license.

Resignation or termination from office shall not exempt such director or officer from administrative or criminal sanctions.

第 36 條 違反本法及其他銀行法、規則、辦法、命令或指示之處罰銀行、準銀行、任何個人或團體故意違反本法或本行訂頒之其他相關銀行法規，或由貨幣委員會發布之命令、指示、規則或規定時，除本法另有規定外，由法院處 5 萬披索以上 20 萬披索以下之罰金，或科或併科 2 年以上 10 年以下有期徒刑。

銀行或準銀行持續以非法或不健全方式經營其業務者，除依前項規定處罰並處以第 37 條行政罰外，委員會得採取第 30 條規定之處置。

第 37 條 對銀行或準銀行之行政處罰

除依第 34 條、第 35 條及第 36 條規定對可歸責之人處以刑罰外，對於銀行或準銀行、其董事及/或職員故意違反其章程或規章、故意延遲依法律、規則、辦法規定應遞交之報告或為公布、拒絕接受檢查、故意向委員會或監理及檢查部門或其檢查人員為不實或誤導之陳述、故意拒絕遵守或違反銀行法律或由貨幣委員會發布之命令、指示或規定或總裁之命令、指示或裁定，或貨幣委員會認定為異常之行為及以不健全方式經營業務者，貨幣委員會得裁處以下之行政罰：

- (a) 由貨幣委員會視違規情節輕重、異常性及違規銀行或準銀行規模等具體情況，處以每日 3 萬披索以下之罰鍰。
- (b) 停止重貼現或向本行融資之權利。
- (c) 停止經營放款、外匯業務，或接受新存款或為新投資。
- (d) 停止銀行間之結算權。
- (e) 撤銷準銀行執照。

辭去或終止董事或職員職務者，不得因而豁免受行政或刑事處罰。

The Monetary Board may, whenever warranted by circumstances, preventively suspend any director or officer of a bank or quasi-bank pending an investigation: Provided, That should the case be not finally decided by the Bangko Sentral within a period of one hundred twenty (120) days after the date of suspension, said director or officer shall be reinstated in his position: Provided, further, That when the delay in the disposition of the case is due to the fault, negligence or petition of the director or officer, the period of delay shall not be counted in computing the period of suspension herein provided.

The above administrative sanctions need not be applied in the order of their severity.

Whether or not there is an administrative proceeding, if the institution and/or the directors and/or officers concerned continue with or otherwise persist in the commission of the indicated practice or violation, the Monetary Board may issue an order requiring the institution and/or the directors and/or officers concerned to cease and desist from the indicated practice or violation, and may further order that immediate action be taken to correct the conditions resulting from such practice or violation. The cease and desist order shall be immediately effective upon service on the respondents.

The respondents shall be afforded an opportunity to defend their action in a hearing before the Monetary Board or any committee chaired by any Monetary Board member created for the purpose, upon request made by the respondents within five (5) days from their receipt of the order. If no such hearing is requested within said period, the order shall be final. If a hearing is conducted, all issues shall be determined on the basis of records, after which the Monetary Board may either reconsider or make final its order.

The Governor is hereby authorized, at his discretion, to impose upon banking institutions, for any failure to comply with the requirements of law, Monetary Board regulations and policies, and/or instructions issued by the Monetary Board or by the Governor, fines not in excess of Ten thousand pesos (₱10,000) a day for each violation, the imposition of which shall be final and executory until reversed, modified or lifted by the Monetary Board on appeal.

SECTION 38. Operating Departments of the Bangko Sentral. - The Monetary Board shall, in accordance with its authority under this Act, determine and provide for such operating departments and other offices, including a public information office, of the Bangko Sentral as it deems convenient for the proper and efficient conduct of the operations and the accomplishment of the objectives of the Bangko Sentral. The functions and duties of such operating departments and other offices shall be determined by the Monetary Board.

貨幣委員會得視情況之需要，於調查期間暫停受調查銀行或準銀行董事或職員職務。本行未於該等人員被停職後 120 天內作出最後決定者，應回復其董事或職員職務。但因董事或職員之錯誤、過失或請求導致遲延處理者，該項遲延期間不計入停職期間。

前述行政罰無須依其嚴重性順序為之。

有關機構及/或其相關董事及/或職員繼續或持續從事所指之行為或違規時，不論有無行政處罰，貨幣委員會得發布命令，要求該機構及/或其相關董事及/或職員停止，並得令其立即採取糾正措施。停止命令於送達相關當事人時，即生效力。

當事人於收受停止命令 5 天內，得要求在貨幣委員會或由貨幣委員會委員主持之聽證會，就其行為提出辯護。前述期間未提出聽證之要求者，該停止命令即告確定。如經舉行聽證，所有爭議問題應由貨幣委員會以紀錄為基礎決定重新考慮或予以確定。

總裁有權依其裁量，對違反法律、貨幣委員會規定與政策、貨幣委員會與/或總裁指示之銀行，就每一違規事項處以每日 1 萬披索以下之罰鍰。該處分除經申訴並由貨幣委員會駁回、修正或撤銷外，應即告確定並付執行。

第 38 條 本行營運部門

為完成本行經營目標及妥適有效運作，貨幣委員會應依本法授權，設立包括公共關係室在內之本行營運部門及其他單位。各部門之功能與職務，由貨幣委員會定之。

ARTICLE V. REPORTS AND PUBLICATIONS

SECTION 39. Reports and Publications. - The Bangko Sentral shall publish a general balance sheet showing the volume and composition of its assets and liabilities as of the last working day of the month within sixty (60) days after the end of each month except for the month of December, which shall be submitted within ninety (90) days after the end hereof.

The Monetary Board shall publish and submit the following reports to the President and to the Congress:

- (a) not later than ninety (90) days after the end of each quarter, an analysis of economic and financial developments, including the condition of net international reserves and monetary aggregates;
- (b) within ninety (90) days after the end of the year, the preceding year's budget and profit and loss statement of the Bangko Sentral showing in reasonable detail the result of its operations;
- (c) one hundred twenty (120) days after the end of each semester, a review of the state of the financial system; and
- (d) as soon as practicable, abnormal movements in monetary aggregates and the general price level, and, not later than seventy-two (72) hours after they are taken, remedial measures in response to such abnormal movements.

SECTION 40. Annual Report. - Before the end of March of each year, the Bangko Sentral shall publish and submit to the President and the Congress an annual report on the condition of the Bangko Sentral including a review of the policies and measures adopted by the Monetary Board during the past year and an analysis of the economic and financial circumstances which gave rise to said policies and measures.

The annual report shall also include a statement of the financial condition of the Bangko Sentral and a statistical appendix which shall present, as a minimum, the following data:

- (a) the monthly movement of monetary aggregates and their components;
- (b) the monthly movement of purchases and sales of foreign exchange and of the international reserves of the Bangko Sentral;
- (c) the balance of payments of the Philippines;
- (d) monthly indices of consumer prices and of import and export prices;
- (e) the monthly movement, in summary form, of exports and imports, by volume and value;
- (f) the monthly movement of the accounts of the Bangko Sentral and of other banks;
- (g) the principal data on government receipts and expenditures and on the status of the public debt, both domestic and foreign; and
- (h) the texts of the major legal and administrative measures adopted by the Government and the Monetary Board during the year which relate to the functions or operations of the Bangko Sentral or of the financial system.

第 5 節 報告及公布

第 39 條 報告及公布

本行應於每月終了後 60 天內，公布該月最後一個營業日之資產負債數額與內容之總資產負債表。但十二月之總資產負債表，應於該月終了後 90 天內提出。

貨幣委員會應公布並向總統及國會遞交下列報告：

- (a) 於每季終了後 90 天內，提出經濟與金融發展分析，包括淨國際準備及貨幣總計數狀況。
- (b) 於每年終了後 90 天內，提出本行前一年度預算及損益報表，並列出其經營績效。
- (c) 於每半年終了後 120 天內，提出金融體系概況報告。
- (d) 於貨幣總計數及一般物價水準不正常變動時儘快提出報告，並於其後 72 小時內，提出該不正常異動之補救措施。

第 40 條 年報

本行應於每年三月底前，公布年報並遞陳總統及國會，其內容應包含過去一年貨幣委員會採取之政策與措施之檢討，及作成該等政策與措施之原因。

年報亦應包括本行財務狀況報表及下列之統計資料附件：

- (a) 每月貨幣供給額變動情形及其組成內容。
- (b) 本行每月外匯買賣及外匯存底變動情形。
- (c) 國際收支平衡表。
- (d) 每月消費者物價指數及進出口物價指數。
- (e) 每月進出口價、量變動情形之摘要。
- (f) 本行及其他銀行每月帳戶變動情形。
- (g) 政府收支及國內外公共債務之主要資料。
- (h) 政府及貨幣委員會當年度所採取與本行或金融體系功能或運作相關之主要法規與行政措施內容。

The Bangko Sentral shall publish another version of the annual report in terms understandable to the layman.

Failure to comply with the reportorial requirements pursuant to this article without justifiable reason as may be determined by the Monetary Board shall cause the withholding of the salary of the personnel concerned until the requirements are complied with.

SECTION 41. Signatures on Statements. - The balance sheets and other financial statements of the Bangko Sentral shall be signed by the officers responsible for their preparation, by the Governor, and by the auditor of the Bangko Sentral.

ARTICLE VI. PROFITS, LOSSES, AND SPECIAL ACCOUNTS

SECTION 42. Fiscal Year. - The fiscal year of the Bangko Sentral shall begin on January first and end on December thirty-first of each year.

SECTION 43. Computation of Profits and Losses. - Within the first thirty (30) days following the end of each year, the Bangko Sentral shall determine its net profits or losses. In the calculation of net profits, the Bangko Sentral shall make adequate allowance or establish adequate reserves for bad and doubtful accounts.

SECTION 44. Distribution of Net Profits. - Within the first sixty (60) days following the end of each fiscal year, the Monetary Board shall determine and carry out the distribution of the net profits, in accordance with the following rule:

Fifty percent (50%) of the net profits shall be carried to surplus and the remaining fifty percent (50%) shall revert back to the National Treasury, except as otherwise provided in the transitory provisions of this Act.

SECTION 45. Revaluation Profits and Losses. - Profits or losses arising from any revaluation of the Bangko Sentral's net assets or liabilities in gold or foreign currencies with respect to the Philippine peso shall not be included in the computation of the annual profits and losses of the Bangko Sentral. Any profits or losses arising in this manner shall be offset by any amounts which, as a consequence of such revaluations, are owed by the Philippines to any international or regional intergovernmental financial institution of which the Philippines is a member or are owed by these institutions to the Philippines. Any remaining profit or loss shall be carried in a special frozen account which shall be named "Revaluation of International Reserve" and the net balance of which shall appear either among the liabilities or among the assets of the Bangko Sentral, depending on whether the revaluations have produced net profits or net losses.

本行應另行公布一般大眾所能理解之年報版本。

相關人員無正當理由而未遵守本條規定之義務者，貨幣委員會得決定於該人員履行義務前，扣留其薪資。

第 41 條 報表簽署

本行資產負債表及其他財務報表，應由負責準備資料之職員、總裁及本行監事簽署。

第 6 節 收益、損失及特別會計

第 42 條 會計年度

本行會計年度自每年 1 月 1 日起至 12 月 31 日止。

第 43 條 收益及損失之計算

本行應於年度終了 30 天內確認其淨損益，於計算淨利時，應提列足額呆帳損失或準備。

第 44 條 淨利之分配

貨幣委員會應於每會計年度終了 60 天內，依據下列規定確認並執行淨利之分配：

淨利之 50% 轉記盈餘；除本法過渡條款另有規定外，其餘 50% 歸屬國庫。

第 45 條 損益重估

本行淨資產或負債中之黃金或外匯，因披索平價變動重估所生之損益，不計入本行年度損益；該項損益，可與菲律賓積欠其所屬之國際或區域性跨國金融機構之款項，或該等機構積欠菲律賓之款項經重估後之數額，相互抵銷。剩餘之收益或損失，應計入名為「外匯存底重估」之特別凍結帳戶，且依其為淨收益或損失，而分別列為本行之資產或負債。

The Revaluation of International Reserve account shall be neither credited nor debited for any purposes other than those specifically authorized in this section.

SECTION 46. Suspense Accounts. - Sections 43 and 43-A of Republic Act No. 265, as amended, creating the Monetary Adjustment Account (MAA) and the Exchange Stabilization Adjustment Account (ESAA), respectively, are hereby repealed. Amounts outstanding as of the effective date of this Act based on these accounts shall continue to be for the account of the Central Bank and shall be governed by the transitory provisions of this Act.

The Revaluation of International Reserve (RIR) account as of the effective date of this Act of the Central Bank shall continue to be for the account of the same entity and shall be governed by the provisions of Section 44 of Republic Act No. 265, as amended, until otherwise provided for in accordance with the transitory provisions of this Act.

ARTICLE VII. THE AUDITOR

SECTION 47. Appointment and Personnel. - The Chairman of the Commission on Audit shall act as the ex officio auditor of the Bangko Sentral and, as such, he is empowered and authorized to appoint a representative who shall be the auditor of the Bangko Sentral and, in accordance with law, fix his salary, and to appoint and fix salaries and number of personnel to assist said representative in his work. The salaries and other emoluments shall be paid by the Commission. The auditor of the Bangko Sentral and personnel under him may be removed only by the Chairman of the Commission.

The representative of the Chairman of the Commission must be a certified public accountant with at least ten (10) years experience as such. No relative of any member of the Monetary Board or the Chairman of the Commission within the sixth degree of consanguinity or affinity shall be appointed such representative.

CHAPTER II - THE BANGKO SENTRAL AND THE MEANS OF PAYMENT

ARTICLE I. THE UNIT OF MONETARY VALUE

SECTION 48. The Peso. - The unit of monetary value in the Philippines is the "peso," which is represented by the sign "₱."

外匯存底帳戶之重估金額，不得以本條以外之目的而記入借方或貸方。

第 46 條 懸帳

創設貨幣調整帳戶(MAA)及外匯穩定調整帳戶(ESAA)之共和國第 265 號法律第 43 條及第 43 之 A 條規定，據此廢止。各該帳戶截至本法生效日之餘額計入本行帳戶，並受本法過渡條款規範。

除本法過渡條款另有規定外，至本法生效日為止之外匯存底重估帳戶(RIR)仍為同一實體之帳戶，並受修正共和國第 265 號法律第 44 條之規範。

第 7 節 監事

第 47 條 任命及資格

稽核委員會之主席為本行之當然監事，有權指派本行其他監事為其代表；其薪資，以法律定之；其亦有權指派協助前述代表之人員，並決定該員薪資。薪資及其他報酬，由稽核委員會支付之。本行監事及其所屬人員，僅稽核委員會主席得解任之。

稽核委員會主席之代表，至少應具 10 年經驗之會計師。貨幣委員會或稽核委員會委員之六親等以內血親或姻親，不得指派為代表。

第 2 章 本行及支付方式

第 1 節 貨幣價值單位

第 48 條 披索

菲律賓貨幣單位稱為「披索」，並以「₱」記號代表之。

The peso is divided into one hundred (100) equal parts called "centavos," which are represented by the sign "c."

ARTICLE II. ISSUE OF MEANS OF PAYMENT

A. CURRENCY

SECTION 49. Definition of Currency. - The word "currency" is hereby defined, for purposes of this Act, as meaning all Philippine notes and coins issued or circulating in accordance with the provisions of this Act.

SECTION 50. Exclusive Issue Power. - The Bangko Sentral shall have the sole power and authority to issue currency, within the territory of the Philippines. No other person or entity, public or private, may put into circulation notes, coins or any other object or document which, in the opinion of the Monetary Board, might circulate as currency, nor reproduce or imitate the facsimiles of Bangko Sentral notes without prior authority from the Bangko Sentral.

The Monetary Board may issue such regulations as it may deem advisable in order to prevent the circulation of foreign currency or of currency substitutes as well as to prevent the reproduction of facsimiles of Bangko Sentral notes.

The Bangko Sentral shall have the authority to investigate, make arrests, conduct searches and seizures in accordance with law, for the purpose of maintaining the integrity of the currency.

Violation of this provision or any regulation issued by the Bangko Sentral pursuant thereto shall constitute an offense punishable by imprisonment of not less than five (5) years but not more than ten (10) years. In case the Revised Penal Code provides for a greater penalty, then that penalty shall be imposed.

SECTION 51. Liability for Notes and Coins. - Notes and coins issued by the Bangko Sentral shall be liabilities of the Bangko Sentral and may be issued only against, and in amounts not exceeding, the assets of the Bangko Sentral. Said notes and coins shall be a first and paramount lien on all assets of the Bangko Sentral.

The Bangko Sentral's holdings of its own notes and coins shall not be considered as part of its currency issue and, accordingly, shall not form part of the assets or liabilities of the Bangko Sentral.

披索可分為一百等分，每等分單位為「分（centavos）」，以「c」記號代表之。

第 2 節 支付工具之發行

A. 通貨

第 49 條 通貨定義

本法所稱「通貨」，係指依本法所發行或流通之菲律賓紙幣及硬幣。

第 50 條 專屬發行權

本行在菲律賓境內有發行通貨專屬權力。任何個人或公私實體，均不得將貨幣委員會認為可能具貨幣流通性質之紙幣、硬幣或其他物體或文件使之流通；未經本行事前授權，不得重製或仿造本行紙幣之摹本。

貨幣委員會得發布法規，以防止外國通貨或通貨替代品之流通，並防止本行紙幣摹本之重製。

為維護通貨之完整性，本行有依法調查、逮捕、搜索及扣押之權限。

違反本條或本行發布之規定者，處 5 年以上 10 年以下有期徒刑。修正刑法如有較重處罰，從其規定。

第 51 條 紙幣及硬幣之負債

本行發行之紙幣及硬幣，屬本行負債；其發行額，不得超過本行資產。前述紙幣及硬幣對本行所有資產具有第一優先質押權。

紙幣及硬幣為本行所持有者，不視為本行通貨發行之一部分，亦非屬本行之資產或負債。

SECTION 52. Legal Tender Power. - All notes and coins issued by the Bangko Sentral shall be fully guaranteed by the Government of the Republic of the Philippines and shall be legal tender in the Philippines for all debts, both public and private: Provided, however, That, unless otherwise fixed by the Monetary Board, coins shall be legal tender in amounts not exceeding Fifty pesos (₱ 50.00) for denominations of Twenty-five centavos and above, and in amounts not exceeding Twenty pesos (₱ 20.00) for denominations of Ten centavos or less.

SECTION 53. Characteristics of the Currency. - The Monetary Board, with the approval of the President of the Philippines, shall prescribe the denominations, dimensions, designs, inscriptions and other characteristics of notes issued by the Bangko Sentral: Provided, however, That said notes shall state that they are liabilities of the Bangko Sentral and are fully guaranteed by the Government of the Republic of the Philippines. Said notes shall bear the signatures, in facsimile, of the President of the Philippines and of the Governor of the Bangko Sentral.

Similarly, the Monetary Board, with the approval of the President of the Philippines, shall prescribe the weight, fineness, designs, denominations and other characteristics of the coins issued by the Bangko Sentral. In the minting of coins, the Monetary Board shall give full consideration to the availability of suitable metals and to their relative prices and cost of minting.

SECTION 54. Printing of Notes and Mining of Coins. - The Monetary Board shall prescribe the amounts of notes and coins to be printed and minted, respectively, and the conditions to which the printing of notes and the minting of coins shall be subject. The Monetary Board shall have the authority to contract institutions, mints or firms for such operations.

All expenses incurred in the printing of notes and the minting of coins shall be for the account of the Bangko Sentral.

SECTION 55. Interconvertibility of Currency. - The Bangko Sentral shall exchange, on demand and without charge, Philippine currency of any denomination for Philippine notes and coins of any other denomination requested. If for any reason the Bangko Sentral is temporarily unable to provide notes or coins of the denominations requested, it shall meet its obligations by delivering notes and coins of the denominations which most nearly approximate those requested.

第 52 條 法償效力

本行發行之紙幣及硬幣由政府全額保證，對菲律賓境內所有公私債務，均具法償效力。但除貨幣委員會另有規定外，面額 25 分硬幣之支付，以不超過 50 披索為限；面額 10 分或低於 10 分硬幣之支付，以不超過 25 披索為限。

第 53 條 通貨規格

貨幣委員會經總統之核准，應規定本行發行紙幣之面額、尺寸、圖案、印文及其他規格，亦應載明其為本行負債並由政府保證。前述紙幣應有總統及本行總裁之簽名樣章。

貨幣委員會經總統之核准，應規定本行發行硬幣之重量、成色、圖案、面額及其他規格。貨幣委員會對於硬幣之鑄造，應充分考量合宜金屬之可取得性，及其相關價格與鑄造成本。

第 54 條 紙幣印製及硬幣鑄造

貨幣委員會應分別規定紙幣印製與硬幣鑄造之數量及其必備之條件。貨幣委員會為辦理此等印鑄業務，得與機構、鑄造廠或公司簽約。

紙幣印製及硬幣鑄造之所有費用，由本行負擔。

第 55 條 貨幣可互換性

本行應依申請，無償兌換任何面額之紙幣、硬幣；如因故暫時無法提供需求面額之紙幣或硬幣時，應提供最接近需求面額之紙幣及硬幣。

SECTION 56. Replacement of Currency Unfit for Circulation. - The Bangko Sentral shall withdraw from circulation and shall demonetize all notes and coins which for any reason whatsoever are unfit for circulation and shall replace them by adequate notes and coins: Provided, however, That the Bangko Sentral shall not replace notes and coins the identification of which is impossible, coins which show signs of filing, clipping or perforation, and notes which have lost more than two-fifths (2/5) of their surface or all of the signatures inscribed thereon. Notes and coins in such mutilated conditions shall be withdrawn from circulation and demonetized without compensation to the bearer.

SECTION 57. Retirement of Old Notes and Coins. - The Bangko Sentral may call in for replacement notes of any series or denomination which are more than five (5) years old and coins which are more than (10) years old.

Notes and coins called in for replacement in accordance with this provision shall remain legal tender for a period of one (1) year from the date of call. After this period, they shall cease to be legal tender but during the following year, or for such longer period as the Monetary Board may determine, they may be exchanged at par and without charge in the Bangko Sentral and by agents duly authorized by the Bangko Sentral for this purpose. After the expiration of this latter period, the notes and coins which have not been exchanged shall cease to be a liability of the Bangko Sentral and shall be demonetized. The Bangko Sentral shall also demonetize all notes and coins which have been called in and replaced.

B. DEMAND DEPOSITS

SECTION 58. Definition. - For purposes of this Act, the term "demand deposits" means all those liabilities of the Bangko Sentral and of other banks which are denominated in Philippine currency and are subject to payment in legal tender upon demand by the presentation of checks.

SECTION 59. Issue of Demand Deposits. - Only banks duly authorized to do so may accept funds or create liabilities payable in pesos upon demand by the presentation of checks, and such operations shall be subject to the control of the Monetary Board in accordance with the powers granted it with respect thereto under this Act.

第 56 條 不適流通通貨之兌換

本行應收回不適流通之紙幣及硬幣，並停止其流通及兌換等額之紙幣及硬幣。但硬幣有銹磨、削角或穿孔，紙幣表面減失超過 2/5 或所有簽名樣章均減失，致無法辨識真偽者，本行應不予兌換。前述污破損紙幣及硬幣應予以收回並停止流通，無須賠償持有人。

第 57 條 舊紙幣及硬幣之收回

本行得收回任何系列或面額之已發行 5 年以上之紙幣及 10 年以上之硬幣。

依本條規定收回之紙幣及硬幣，自收回之日起 1 年內，仍具法償效力。該期間經過後，該等紙幣及硬幣失其法償效力，但在其後 1 年或貨幣委員會所定之較長期間內，得向本行及其授權之代理機構無償兌換等值之紙幣及硬幣。前述兌換期間經過後，尚未兌換之紙幣及硬幣不再屬本行債務，且亦非屬貨幣。本行應銷毀所有已收回之舊紙幣及硬幣。

B. 活期性存款

第 58 條 定義

本法所稱「活期性存款」，係指本行及其他銀行，以菲律賓通貨為貨幣單位，且於提示支票時以法償貨幣支付之負債。

第 59 條 活期性存款之發行

經認可之銀行始得收受資金，或創造得以提示支票請求以披索支付之債務；該項業務之經營，應受貨幣委員會依本法所授權力之監管。

SECTION 60. Legal Character. - Checks representing demand deposits do not have legal tender power and their acceptance in the payment of debts, both public and private, is at the option of the creditor: Provided, however, That a check which has been cleared and credited to the account of the creditor shall be equivalent to a delivery to the creditor of cash in an amount equal to the amount credited to his account.

CHAPTER III - GUIDING PRINCIPLES OF MONETARY ADMINISTRATION BY THE BANGKO SENTRAL

ARTICLE I. DOMESTIC MONETARY STABILIZATION

SECTION 61. Guiding Principle. - The Monetary Board shall endeavor to control any expansion or contraction in monetary aggregates which is prejudicial to the attainment or maintenance of price stability.

SECTION 62. Power to Define Terms. - For purposes of this article and of this Act, the Monetary Board shall formulate definitions of monetary aggregates, credit and prices and shall make public such definitions and any changes thereof.

SECTION 63. Action When Abnormal Movements Occur in the Monetary Aggregates, Credit, or Price Level. - Whenever abnormal movements in the monetary aggregates, in credit, or in prices endanger the stability of the Philippine economy or important sectors thereof, the Monetary Board shall:

- (a) take such remedial measures as are appropriate and within the powers granted to the Monetary Board and the Bangko Sentral under the provisions of this Act; and
- (b) submit to the President of the Philippines and the Congress, and make public, a detailed report which shall include, as a minimum, a description and analysis of:
 - (1) the causes of the rise or fall of the monetary aggregates, of credit or of prices;
 - (2) the extent to which the changes in the monetary aggregates, in credit, or in prices have been reflected in changes in the level of domestic output, employment, wages and economic activity in general, and the nature and significance of any such changes; and

第 60 條 法律性質

表彰活期存款之支票不具法償效力，債權人得選擇是否接受以支票清償債務。但業經結算且記入債權人帳戶之支票，相當於交付等額現金予債權人。

第 3 章 本行貨幣管理之指導原則

第 1 節 國內之貨幣穩定

第 61 條 指導原則

貨幣委員會應致力於控制任何不利於達成或維持物價穩定之貨幣總計數的擴張或緊縮。

第 62 條 界定項目之權限

為本法及本條規定之目的，貨幣委員會應就貨幣總計數、信用及物價明確定義，並應予公布；更動時，亦同。

第 63 條 貨幣總計數、信用或物價水準異常變動時之因應措施

當貨幣總計數、信用或物價之異常變動危及本國經濟或重要產業之穩定時，貨幣委員會應採下列措施：

- (a) 於本法賦予貨幣委員會及本行之權限範圍內，採取補救措施。
- (b) 向總統及國會提出詳細報告並公布之。報告內容至少包括下列說明及分析：
 - (1) 貨幣總計數、信用或物價漲跌之原因。
 - (2) 貨幣總計數、信用或物價之變動已反映在國內產出、就業、薪資及一般經濟活動之變動，以及該等變動之本質及重要性。

- (3) the measures which the Monetary Board has taken and the other monetary, fiscal or administrative measures which it recommends to be adopted.

Whenever the monetary aggregates, or the level of credit, increases or decreases by more than fifteen percent (15%), or the cost of living index increases by more than ten percent (10%), in relation to the level existing at the end of the corresponding month of the preceding year, or even though any of these quantitative guidelines have not been reached when in its judgment the circumstances so warrant, the Monetary Board shall submit the reports mentioned in this section, and shall state therein whether, in the opinion of the Board, said changes in the monetary aggregates, credit or cost of living represent a threat to the stability of the Philippine economy or of important sectors thereof.

The Monetary Board shall continue to submit periodic reports to the President of the Philippines and to Congress until it considers that the monetary, credit or price disturbances have disappeared or have been adequately controlled.

ARTICLE II. INTERNATIONAL MONETARY STABILIZATION

SECTION 64. International Monetary Stabilization. - The Bangko Sentral shall exercise its powers under this Act to preserve the international value of the peso and to maintain its convertibility into other freely convertible currencies primarily for, although not necessarily limited to, current payments for foreign trade and invisibles.

SECTION 65. International Reserves. - In order to maintain the international stability and convertibility of the Philippine peso, the Bangko Sentral shall maintain international reserves adequate to meet any foreseeable net demands on the Bangko Sentral for foreign currencies.

In judging the adequacy of the international reserves, the Monetary Board shall be guided by the prospective receipts and payments of foreign exchange by the Philippines. The Board shall give special attention to the volume and maturity of the Bangko Sentral's own liabilities in foreign currencies, to the volume and maturity of the foreign exchange assets and liabilities of other banks operating in the Philippines and, insofar as they are known or can be estimated, the volume and maturity of the foreign exchange assets and liabilities of all other persons and entities in the Philippines.

SECTION 66. Composition of the International Reserves. - The international reserves of the Bangko Sentral may include but shall not be limited to the following assets:

(3)貨幣委員會已採取之行動及擬採行之其他貨幣、財政或行政措施。

相較於前一年度同一月基期，當貨幣總計數或信用水準之增減超過 15%，或生活指數成本增加超過 10%，或未達到貨幣委員會依當時情況所定之量化指標時，貨幣委員會應提出本條所定之報告，並應分析貨幣總計數、信用或生活成本之變動是否對本國經濟或重要產業之穩定產生威脅。

貨幣委員會應持續向總統及國會提出定期報告，直到其認為貨幣、信用或物價波動已消失或被適度控制。

第 2 節 國際之貨幣穩定

第 64 條 國際之貨幣穩定

為國外貿易與無形貿易之支付及其他目的，本行應依本法授與之權限，確保披索之國際價值，並維持其與可自由兌換貨幣間之可兌換性。

第 65 條 國際準備

為維持披索之國際穩定及可兌換性，本行應維持足以支付本行可預見需求之國際準備。

貨幣委員會應視相關外匯收支情形，判斷國際準備是否充足。委員會應特別注意本行外幣債務總數及到期日、對境內銀行營運之外匯資產總數及到期日、境內其他個人及實體已知或可估算之外匯資產及負債。

第 66 條 國際準備結構

本行國際準備包括但不限於下列各項資產：

- (a) gold; and
- (b) assets in foreign currencies in the form of: documents and instruments customarily employed for the international transfer of funds; demand and time deposits in central banks, treasuries and commercial banks abroad; foreign government securities; and foreign notes and coins.

The Monetary Board shall endeavor to hold the foreign exchange resources of the Bangko Sentral in freely convertible currencies; moreover, the Board shall give particular consideration to the prospects of continued strength and convertibility of the currencies in which the reserve is maintained, as well as to the anticipated demands for such currencies. The Monetary Board shall issue regulations determining the other qualifications which foreign exchange assets must meet in order to be included in the international reserves of the Bangko Sentral.

The Bangko Sentral shall be free to convert any of the assets in its international reserves into other assets as described in subsections (a) and (b) of this section.

SECTION 67. Action When the International Stability of the Peso Is Threatened. - Whenever the international reserve of the Bangko Sentral falls to a level which the Monetary Board considers inadequate to meet prospective net demands on the Bangko Sentral for foreign currencies, or whenever the international reserve appears to be in imminent danger of falling to such a level, or whenever the international reserve is falling as a result of payments or remittances abroad which, in the opinion of the Monetary Board, are contrary to the national welfare, the Monetary Board shall:

- (a) take such remedial measures as are appropriate and within the powers granted to the Monetary Board and the Bangko Sentral under the provisions of this Act; and
- (b) submit to the President of the Philippines and to Congress a detailed report which shall include, as a minimum, a description and analysis of:
 - (1) the nature and causes of the existing or imminent decline;
 - (2) the remedial measures already taken or to be taken by the Monetary Board;
 - (3) the monetary, fiscal or administrative measures further proposed; and
 - (4) the character and extent of the cooperation required from other government agencies for the successful execution of the policies of the Monetary Board.

If the resultant actions fail to check the deterioration of the reserve position of the Bangko Sentral, or if the deterioration cannot be checked except by chronic restrictions on exchange and trade transactions or by sacrifice of the domestic objectives of a balanced and sustainable growth of the economy, the Monetary Board shall propose to the President, with appropriate notice of the Congress, such additional action as it deems necessary to restore equilibrium in the international balance of payments of the Philippines.

(a) 黃金。

(b) 以下形式之外幣資產：國際資金移轉慣用之權證或支付工具；在中央銀行、國庫機構及國外商業銀行之活期及定期存款；外國政府債券；外國紙幣及硬幣。

貨幣委員會應致力於以得自由兌換之外幣作為本行外匯來源；委員會尤應特別注意作為準備之外幣之持續優勢與可兌換性，以及對該外幣之預期需求。委員會應訂定可作為本行國際準備之外國貨幣適格條件。

本行得自行將國際準備之資產轉換為本條第（a）及（b）款規定之其他資產。

第 67 條 披索之國際穩定性受威脅時之因應措施

當本行國際準備下降到貨幣委員會認為不足以支付本行外幣預期需求之程度，或顯然有下降至該程度之立即危險，或因國外付款或匯出而下降至貨幣委員會認為有違國民福祉時，貨幣委員會應採下列措施：

(a) 於本法賦與貨幣委員會及本行之權限範圍內，採取適當補救措施。

(b) 向總統及國會提出詳細報告並公布之。報告內容至少包括下列說明及分析：

(1) 目前或即將下降之情形及原因。

(2) 貨幣委員會已採取或擬採取之補救措施。

(3) 進一步提議之貨幣、財政或行政措施。

(4) 為達成貨幣委員會之政策，其他政府機關要求合作之事項及範圍。

若因應措施無法查出本行準備部位之惡化情形；或除長期限制外匯及貿易交易，或犧牲國內收支平衡及經濟穩定成長外，無法查出惡化情形者，貨幣委員會應於通知國會後，向總統建議爭取恢復本行國際收支平衡所必要之額外措施。

The Monetary Board shall submit periodic reports to the President and to Congress until the threat to the international monetary stability of the Philippines has disappeared.

CHAPTER IV - INSTRUMENTS OF BANGKO SENTRAL ACTION

ARTICLE I. GENERAL CRITERION

SECTION 68. Means of Action. - In order to achieve the primary objective of price stability, the Monetary Board shall rely on its moral influence and the powers granted to it under this Act for the management of monetary aggregates.

ARTICLE II. OPERATIONS IN GOLD AND FOREIGN EXCHANGE

SECTION 69. Purchases and Sales of Gold. - The Bangko Sentral may buy and sell gold in any form, subject to such regulations as the Monetary Board may issue.

The purchases and sales of gold authorized by this section shall be made in the national currency at the prevailing international market price as determined by the Monetary Board.

SECTION 70. Purchases and Sales of Foreign Exchange. - The Bangko Sentral may buy and sell foreign notes and coins, and documents and instruments of types customarily employed for the international transfer of funds. The Bangko Sentral may engage in future exchange operations.

The Bangko Sentral may engage in foreign exchange transactions with the following entities or persons only:

- (a) banking institutions operating in the Philippines;
- (b) the Government, its political subdivisions and instrumentalities;
- (c) foreign or international financial institutions;
- (d) foreign governments and their instrumentalities; and
- (e) other entities or persons which the Monetary Board is hereby empowered to authorize as foreign exchange dealers, subject to such rules and regulations as the Monetary Board shall prescribe.

In order to maintain the convertibility of the peso, the Bangko Sentral may, at the request of any banking institution operating in the Philippines, buy any quantity of foreign exchange offered, and sell any quantity of foreign exchange demanded, by such institution, provided that the foreign currencies so offered or demanded are freely convertible into gold or United States dollars. This requirement shall not apply to demands for foreign notes and coins.

貨幣委員會應持續向總統及國會提出定期報告，直到對本國國際貨幣穩定之威脅消失為止。

第 4 章 本行之貨幣政策工具

第 1 節 一般原則

第 68 條 行動方式

貨幣委員會應以其道德影響力，並依本法賦與其對貨幣總計數管理之權限，達成物價穩定之主要目標。

第 2 節 黃金及外匯之操作

第 69 條 黃金買賣

本行得依據貨幣委員會之規定，買賣黃金。

依本條授權所為之黃金買賣，應依貨幣委員會決定之一般國際市場價格，以國幣買賣之。

第 70 條 外匯買賣

本行得買賣外國紙幣及硬幣、國際資金移轉慣用之權証及支付工具，並得從事期貨操作。

本行僅得與下列實體或個人從事外匯交易：

- (a) 境內之銀行機構。
 - (b) 政府、其附屬之分支機構及所屬機關。
 - (c) 國外或國際金融機構。
 - (d) 外國政府及其所屬機關。
 - (e) 依貨幣委員會之規定，經該委員會許可之外匯交易商。
- 為維持披索之可兌換性，本行依境內銀行機構之請求，得向其買入及賣出外匯；其標的，以得自由兌換為黃金或美元者為限。此項規定不適用於外國紙幣及硬幣之需求。

The Bangko Sentral shall effect its exchange transactions between foreign currencies and the Philippine peso at the rates determined in accordance with the provisions of Section 74 of this Act.

SECTION 71. Foreign Asset Position of the Bangko Sentral. - The Bangko Sentral shall endeavor to maintain at all times a net positive foreign asset position so that its gross foreign exchange assets will always exceed its gross foreign liabilities. In the event that the equivalent amount in pesos of the foreign exchange liabilities of the Bangko Sentral exceed twice the equivalent amount in pesos of the foreign exchange assets of the bank, the Bangko Sentral shall, within sixty (60) days from the date the limit is exceeded, submit a report to the Congress stating the origin of these liabilities, and the manner in which they will be paid.

SECTION 72. Emergency Restrictions on Exchange Operations. - In order to achieve the primary objective of the Bangko Sentral as set forth in Section 3 of this Act, or protect the international reserves of the Bangko Sentral in the imminence of, or during an exchange crisis, or in time of national emergency and to give the Monetary Board and the Government time in which to take constructive measures to forestall, combat, or overcome such a crisis or emergency, the Monetary Board, with the concurrence of at least five (5) of its members and with the approval of the President of the Philippines, may temporarily suspend or restrict sales of exchange by the Bangko Sentral, and may subject all transactions in gold and foreign exchange to license by the Bangko Sentral, and may require that any foreign exchange thereafter obtained by any person residing or entity operating in the Philippines be delivered to the Bangko Sentral or to any bank or agent designated by the Bangko Sentral for the purpose, at the effective exchange rate or rates: Provided, however, That foreign currency deposits made under Republic Act No. 6426 shall be exempt from these requirements.

SECTION 73. Acquisition of Inconvertible Currencies. - The Bangko Sentral shall avoid the acquisition and holding of currencies which are not freely convertible, and may acquire such currencies in an amount exceeding the minimum balance necessary to cover current demands for said currencies only when, and to the extent that, such acquisition is considered by the Monetary Board to be in the national interest. The Monetary Board shall determine the procedures which shall apply to the acquisition and disposition by the Bangko Sentral of foreign exchange which is not freely utilizable in the international market.

本行應依據第 74 條所定匯率，履行披索及外幣間之交易。

第 71 條 本行之國外資產部位

本行應致力於隨時維持正的淨國外資產部位，使其外匯資產總額經常大於其國外負債總額。本行於外匯負債超過外匯資產兩倍時，應自該超過之日起 60 天內，向國會提出報告，說明該等負債之起因及支付之方式。

第 72 條 外匯操作之緊急限制

為達成第 3 條規定之本行主要目標，或於兌換危機期間或國家緊急時期，為保護本行國際準備，以及使貨幣委員會及政府得以掌握先機，即時因應危機或緊急之具體狀況，經貨幣委員會至少 5 名委員之合意，並報請總統核准，得暫時停止或限制本行賣匯，並得規定所有黃金及外匯交易須經本行許可，以及要求居住於境內之個人或於境內營運之實體，將其後取得之外匯依當時匯率存入本行，或本行指定之銀行或代理機構。但依共和國第 6426 號法律所為之外幣存款者，不在此限。

第 73 條 不可兌換性貨幣之取得

本行應避免取得及持有不可自由兌換之貨幣；但在貨幣委員會認為係為國家利益者，本行得取得超過目前需求所必要之最低額度。本行買入及處分無法於國際市場自由使用之貨幣之程序，由貨幣委員會定之。

SECTION 74. Exchange Rates. - The Monetary Board shall determine the exchange rate policy of the country.

The Monetary Board shall determine the rates at which the Bangko Sentral shall buy and sell spot exchange, and shall establish deviation limits from the effective exchange rate or rates as it may deem proper. The Bangko Sentral shall not collect any additional commissions or charges of any sort, other than actual telegraphic or cable costs incurred by it.

The Monetary Board shall similarly determine the rates for other types of foreign exchange transactions by the Bangko Sentral, including purchases and sales of foreign notes and coins, but the margins between the effective exchange rates and the rates thus established may not exceed the corresponding margins for spot exchange transactions by more than the additional costs or expenses involved in each type of transactions.

SECTION 75. Operations with Foreign Entities. - The Monetary Board may authorize the Bangko Sentral to grant loans to and receive loans from foreign banks and other foreign or international entities, both public and private, and may engage in such other operations with these entities as are in the national interest and are appropriate to its character as a central bank. The Bangko Sentral may also act as agent or correspondent for such entities.

Upon authority of the Monetary Board, the Bangko Sentral may pledge any gold or other assets which it possesses as security against loans which it receives from foreign or international entities.

ARTICLE III. REGULATION OF FOREIGN EXCHANGE OPERATIONS OF THE BANKS

SECTION 76. Foreign Exchange Holdings of the Banks. - In order that the Bangko Sentral may at all times have foreign exchange resources sufficient to enable it to maintain the international stability and convertibility of the peso, or in order to promote the domestic investment of bank resources, the Monetary Board may require the banks to sell to the Bangko Sentral or to other banks all or part of their surplus holdings of foreign exchange. Such transfers may be required for all foreign currencies or for only certain of such currencies, according to the decision of the Monetary Board. The transfers shall be made at the rates established under the provisions of Section 74 of this Act.

The Monetary Board may, whenever warranted, determine the net assets and net liabilities of banks and shall, in making such a determination, take into account the bank's networth, outstanding liabilities, actual and contingent, or such other financial or performance ratios as may be appropriate under the circumstances. Any such determination of net assets and net liabilities shall be applied in all banks uniformly and without discrimination.

第 74 條 匯率

國家之匯率政策由貨幣委員會定之。

本行買賣外匯現貨之匯率，以及有效匯率與適當匯率間之乖離率，由貨幣委員會定之。除實際發生之電信費用或電報費用外，本行不得收取任何額外之佣金或費用。

本行各類外匯交易之匯率，包括外國紙幣及硬幣之買賣，由貨幣委員會定之。但實質匯率與公定匯率間之差額，除交易所生之額外成本或支出外，不得超過現貨交易之對應差額。

第 75 條 與外國實體之操作

貨幣委員會得授權本行與外國銀行及其他外國或國際公、民營實體，從事借貸業務，並得從事合於國家利益及本行角色之其他操作。本行亦得擔任該等實體之代理機構或聯行。

本行經貨幣委員會授權，得以所有之黃金或其他資產作為向外國或國際實體借款之擔保。

第 3 節 銀行外匯操作之規定

第 76 條 銀行持有之外匯

為使本行隨時持有充足之外匯資產，以維持披索之國際穩定及可兌換性，或為促進銀行資產之國內投資，貨幣委員會得要求銀行將其外匯盈餘之全部或一部賣給本行或其他銀行。此項轉讓，得由貨幣委員會決定適用於所有外幣，或僅適用於某些外幣；其轉讓，並應依第 74 條所定之匯率為之。

貨幣委員會得於必要時，依銀行之淨值、已發生或有負債、或其他財務或業績比率，決定銀行之淨資產及淨負債。此項淨資產及淨負債之決定，應一體適用於同種類之所有銀行。

SECTION 77. Requirement of Balanced Currency Position. - The Monetary Board may require the banks to maintain a balanced position between their assets and liabilities in Philippine pesos or in any other currency or currencies in which they operate. The banks shall be granted a reasonable period of time in which to adjust their currency positions to any such requirement. The powers granted under this section shall be exercised only when special circumstances make such action necessary, in the opinion of the Monetary Board, and shall be applied to all banks alike and without discrimination.

SECTION 78. Regulation of Non-spot Exchange Transactions. - In order to restrain the banks from taking speculative positions with respect to future fluctuations in foreign exchange rates, the Monetary Board may issue such regulations governing bank purchases and sales of non-spot exchange as it may consider necessary for said purpose.

SECTION 79. Other Exchange Profits and Losses. - The banks shall bear the risks of non-compliance with the terms of the foreign exchange documents and instruments which they buy and sell, and shall also bear any other typically commercial or banking risks, including exchange risks not assumed by the Bangko Sentral under the provisions of the preceding section.

SECTION 80. Information on Exchange Operations. - The banks shall report to the Bangko Sentral the volume and composition of their purchases and sales of gold and foreign exchange each day, and must furnish such additional information as the Bangko Sentral may request with reference to the movements in their accounts in foreign currencies.

The Monetary Board may also require other persons and entities to report to it currently all transactions or operations in gold, in any shape or form, and in foreign exchange whether entered into or undertaken by them directly or through agents, or to submit such data as may be required on operations or activities giving rise to or in connection with or relating to a gold or foreign exchange transaction. The Monetary Board shall prescribe the forms on which such declarations must be made. The accuracy of the declarations may be verified by the Bangko Sentral by whatever inspection it may deem necessary.

ARTICLE IV. LOANS TO BANKING AND OTHER FINANCIAL INSTITUTIONS A. CREDIT POLICY

SECTION 81. Guiding Principles. - The rediscounts, discounts, loans and advances which the Bangko Sentral is authorized to extend to banking institutions under the provisions of the present article of this Act shall be used to influence the volume of credit consistent with the objective of price stability.

第 77 條 平衡貨幣部位之要求

貨幣委員會得要求銀行維持其披索或其所操作之其他貨幣資產與負債間之平衡，並應給予銀行一合理期間調節其貨幣部位，以符合此項要求。

本條所賦與之權限僅得於貨幣委員會認為必要之特殊情況時採行之，並應一體適用於同種類之銀行。

第 78 條 非現貨外匯交易之規定

為防止銀行利用外匯匯率波動從事投機交易，貨幣委員會於必要時得發布有關銀行買賣非現貨外匯之相關規定。

第 79 條 其他外匯損益

銀行應承擔買賣外匯權證及工具違約之風險，並承擔其他典型的商業或金融風險，包括本行依前條規定不承擔之匯兌風險。

第 80 條 外匯操作資訊

銀行應向本行報告其每天買賣黃金及外匯之數量及內容，並依本行要求提供其外幣帳戶異動資訊。

貨幣委員會得要求其他個人及實體報告由其本身或透過代理人所從事之黃金或外匯之交易或操作，或提交與黃金或外匯交易相關之操作或活動之資訊。各項申報格式，由貨幣委員會定之。本行認為有必要時，得以任何檢查方式確認申報之正確性。

第 4 節 對銀行及其他金融機構之融通

A. 信用政策

第 81 條 指導原則

本行依本法規定之授權，對金融機構所為之重貼現、貼現、貸款及墊款，應用以影響與物價穩定目標相符之信用數量。

B. NORMAL CREDIT OPERATIONS

SECTION 82. Authorized Types of Operations. - Subject to the principle stated in the preceding section of this Act, the Bangko Sentral may normally and regularly carry on the following credit operations with banking institutions operating in the Philippines:

- (a) **Commercial credits.** - The Bangko Sentral may rediscount, discount, buy and sell bills, acceptances, promissory notes and other credit instruments with maturities of not more than one hundred eighty (180) days from the date of their rediscount, discount or acquisition by the Bangko Sentral and resulting from transactions related to:
 - (1) the importation, exportation, purchase or sale of readily saleable goods and products, or their transportation within the Philippines; or
 - (2) the storing of non-perishable goods and products which are duly insured and deposited, under conditions assuring their preservation, in authorized bonded warehouses or in other places approved by the Monetary Board.
- (b) **Production credits.** - The Bangko Sentral may rediscount, discount, buy and sell bills, acceptances, promissory notes and other credit instruments having maturities of not more than three hundred sixty (360) days from the date of their rediscount, discount or acquisition by the Bangko Sentral and resulting from transactions related to the production or processing of agricultural, animal, mineral, or industrial products. Documents or instruments acquired in accordance with this subsection shall be secured by a pledge of the respective crops or products: Provided, however, That the crops or products need not be pledged to secure the documents if the original loan granted by the Bangko Sentral is secured by a lien or mortgage on real estate property seventy percent (70%) of the appraised value of which equals or exceeds the amount of the loan granted.
- (c) **Other credits.** - Special credit instruments not otherwise rediscountable under the immediately preceding subsections (a) and (b) may be eligible for rediscounting in accordance with rules and regulations which the Bangko Sentral shall prescribe. Whenever necessary, the Bangko Sentral shall provide funds from non-inflationary sources: Provided, however, That the Monetary Board shall prescribe additional safeguards for disbursing these funds.
- (d) **Advances.** - The Bangko Sentral may grant advances against the following kinds of collaterals for fixed periods which, with the exception of advances against collateral named in clause (4) of the present subsection, shall not exceed one hundred eighty (180) days:

B. 正常信用操作

第 82 條 操作類型

本行依前條規定之原則，得與境內金融機構從事下列各款信用操作：

- (a) 商業授信—本行得買賣下列原因產生之匯票、承兌匯票、本票及其他信用工具或以其辦理重貼現、貼現，但其到期日，自本行重貼現、貼現或取得之日起不得超過 180 天：
 - (1) 貨物及產品之進出口、買賣或在境內之運輸。
 - (2) 非易腐壞貨物及產品經投保與妥善保存後，儲存於保稅倉庫或貨幣委員會核准之處所。
- (b) 產業授信—本行得買賣源自於與農、牧、礦或工業產品相關交易所產生之匯票、承兌匯票、本票及其他信用工具或以其辦理重貼現、貼現，但其到期日，自本行重貼現、貼現或取得之日起不得超過 360 天。依本項取得之權證或信用工具，應以相關農作物或產品為擔保品，但本行核貸之原始貸款，以相當於或超過核貸金額 70% 之不動產作為擔保者，不在此限。
- (c) 其他授信—無法依第 (a) 及 (b) 款規定辦理重貼現之特殊信用工具，得依本行規定成為合格重貼現標的。必要時，本行應自非通膨資產中提供資金，但貨幣委員會應就此等資金之支用，訂定控管機制。
- (d) 墊款—本行得對下列擔保品，提供不超過 180 天之墊款，但第(4)目之擔保品除外：

- (1) gold coins or bullion;
- (2) securities representing obligations of the Bangko Sentral or of other domestic institutions of recognized solvency;
- (3) the credit instruments to which reference is made in subsection (a) of this section;
- (4) the credit instruments to which reference is made in subsection (b) of this section, for periods which shall not exceed three hundred sixty (360) days;
- (5) utilized portions of advances in current amount covered by regular overdraft agreements related to operations included under subsections (a) and (b) of this section, and certified as to amount and liquidity by the institution soliciting the advance;
- (6) negotiable treasury bills, certificates of indebtedness, notes and other negotiable obligations of the Government maturing within three (3) years from the date of the advance; and
- (7) negotiable bonds issued by the Government of the Philippines, by Philippine provincial, city or municipal governments, or by any Philippine Government instrumentality, and having maturities of not more than ten (10) years from the date of advance.

The rediscounts, discounts, loans and advances made in accordance with the provisions of this section may not be renewed or extended unless extraordinary circumstances fully justify such renewal or extension.

Advances made against the collateral named in clauses (6) and (7) of subsection (d) of this section may not exceed eighty percent (80%) of the current market value of the collateral.

C. SPECIAL CREDIT OPERATION

SECTION 83. Loans for Liquidity Purposes. - The Bangko Sentral may extend loans and advances to banking institutions for a period of not more than seven (7) days without any collateral for the purpose of providing liquidity to the banking system in times of need.

D. EMERGENCY CREDIT OPERATION

SECTION 84. Emergency Loans and Advances. - In periods of national and/or local emergency or of imminent financial panic which directly threaten monetary and banking stability, the Monetary Board may, by a vote of at least five (5) of its members, authorize the Bangko Sentral to grant extraordinary loans or advances to banking institutions secured by assets as defined hereunder: Provided, That while such loans or advances are outstanding, the debtor institution shall not, except upon prior authorization by the Monetary Board, expand the total volume of its loans or investments.

- (1)金幣或金塊。
- (2)本行或本國其他具支付能力機構之債券。
- (3)已依本條第(a)款提出證明之信用工具。
- (4)已依本條第(b)款提出證明之信用工具，其期間不得超過360天。
- (5)與本條第(a)及(b)款相關，且由請求墊款機構確認數額及流動性之一般透支合約所涵蓋之已使用墊款部分。
- (6)自墊款日起，到期日不超過3年之可轉讓國庫券、債務憑證、票據及其他可轉讓政府債券。
- (7)自墊款日起，到期日不超過10年之中央政府、省、市、地方政府，或其他政府機構發行之可轉讓債券。

依本條規定所為之重貼現、貼現、貸款及墊款，除因特殊情形合於更新或展期者外，不得予以更新或展期。

以本條第(d)款第(6)及(7)目所定擔保品所為之墊款，其金額不得超過該等擔保品當時市價之80%。

C. 特殊信用操作

第83條 流動性融通

為提供金融體系所需及時流動性，本行得給予金融機構不超過7天之無擔保貸款及墊款。

D. 緊急信用操作

第84條 緊急貸款及墊款

於全國及/或地區發生緊急狀況，或有金融恐慌直接威脅貨幣及金融之穩定時，貨幣委員會得以至少5名委員之投票決議，授權本行對於以一定資產提供擔保之金融機構，給予額外之貸款或墊款。除經貨幣委員會事先許可外，未清償此等貸款或墊款之金融機構，不得擴增其貸款或投資總額。

The Monetary Board may, at its discretion, likewise authorize the Bangko Sentral to grant emergency loans or advances to banking institutions, even during normal periods, for the purpose of assisting a bank in a precarious financial condition or under serious financial pressures brought by unforeseen events, or events which, though foreseeable, could not be prevented by the bank concerned: Provided, however, That the Monetary Board has ascertained that the bank is not insolvent and has the assets defined hereunder to secure the advances: Provided, further, That a concurrent vote of at least five (5) members of the Monetary Board is obtained.

The amount of any emergency loan or advance shall not exceed the sum of fifty percent (50%) of total deposits and deposit substitutes of the banking institution and shall be disbursed in two (2) or more tranches. The amount of the first tranche shall be limited to twenty-five percent (25%) of the total deposit and deposit substitutes of the institution and shall be secured by government securities to the extent of their applicable loan values and other unencumbered first class collaterals which the Monetary Board may approve: Provided, That if as determined by the Monetary Board, the circumstances surrounding the emergency warrant a loan or advance greater than the amount provided hereinabove, the amount of the first tranche may exceed twenty-five percent (25%) of the bank's total deposit and deposit substitutes if the same is adequately secured by applicable loan values of government securities and unencumbered first class collaterals approved by the Monetary Board, and the principal stockholders of the institution furnish an acceptable undertaking to indemnify and hold harmless from suit a conservator whose appointment the Monetary Board may find necessary at any time.

Prior to the release of the first tranche, the banking institution shall submit to the Bangko Sentral a resolution of its board of directors authorizing the Bangko Sentral to evaluate other assets of the banking institution certified by its external auditor to be good and available for collateral purposes should the release of the subsequent tranche be thereafter applied for.

The Monetary Board may, by a vote of at least five (5) of its members, authorize the release of a subsequent tranche on condition that the principal stockholders of the institution:

- (a) furnish an acceptable undertaking to indemnify and hold harmless from suit a conservator whose appointment the Monetary Board may find necessary at any time; and
- (b) provide acceptable security which, in the judgment of the Monetary Board, would be adequate to supplement, where necessary, the assets tendered by the banking institution to collateralize the subsequent tranche.

即使在承平時期，為協助金融機構紓解危險狀況，或因不可預見或雖可預見惟該金融機構無法防止之嚴重金融壓力，貨幣委員會亦得授權本行給予金融機構緊急貸款或墊款。但貨幣委員會應確認該機構有清償能力，且提供以下所定資產作為墊款之擔保品，並經至少 5 名貨幣委員會委員之投票同意。

緊急貸款或墊款額度不得超過該金融機構存款及代存款總額之 50%，並應分 2 次以上撥款；第一次撥款額度，限於該機構存款及代存款總額之 25%，並應提供相當貸款金額之政府債券及貨幣委員會核可之未設定質押之第一優先順位擔保品作為擔保品。但貨幣委員會認為在緊急狀況下貸款或墊款須大於前述額度時，則在同樣以提供相當貸款金額之政府債券及貨幣委員會核可之未設定質押之第一優先順位擔保品作為擔保品，且該機構主要股東承諾負擔賠償責任及不與貨幣委員會於必要時指派之接管人爭訟之情況下，第一次撥款額度得超過 25%。

第一次撥款前，金融機構應向本行提交其董事會決議，同意本行透過其外部稽核員評定該機構之其他資產是否足供擔保。其後續之撥款，亦同。

貨幣委員會經至少 5 名委員之投票通過，並於該機構主要股東履行下列條件時，許可後續撥款：

- (a) 承諾負擔賠償責任及不與貨幣委員會於必要時指派之接管人爭訟。
- (b) 於貨幣委員會認為有必要時，提供合格證券，俾以對該機構之後續撥款作為補充之擔保品。

In connection with the exercise of these powers, the prohibitions in Section 128 of this Act shall not apply insofar as it refers to acceptance as collateral of shares and their acquisition as a result of foreclosure proceedings, including the exercise of voting rights pertaining to said shares: Provided, however, That should the Bangko Sentral acquire any of the shares it has accepted as collateral as a result of foreclosure proceedings, the Bangko Sentral shall dispose of said shares by public bidding within one (1) year from the date of consolidation of title by the Bangko Sentral.

Whenever a financial institution incurs an overdraft in its account with the Bangko Sentral, the same shall be eliminated within the period prescribed in Section 102 of this Act.

E. CREDIT TERMS

SECTION 85. Interest and Rediscount. - The Bangko Sentral shall collect interest and other appropriate charges on all loans and advances it extends, the closure, receivership or liquidations of the debtor-institution notwithstanding. This provision shall apply prospectively.

The Monetary Board shall fix the interest and rediscount rates to be charged by the Bangko Sentral on its credit operations in accordance with the character and term of the operation, but after due consideration has been given to the credit needs of the market, the composition of the Bangko Sentral's portfolio, and the general requirements of the national monetary policy. Interest and rediscount rates shall be applied to all banks of the same category uniformly and without discrimination.

SECTION 86. Endorsement. - The documents rediscounted, discounted, bought or accepted as collateral by the Bangko Sentral in the course of the credit operations authorized in this article shall bear the endorsement of the institution from which they are received.

SECTION 87. Repayment of Credits. - Documents rediscounted, discounted or accepted as collateral by the Bangko Sentral must be withdrawn by the borrowing institution on the dates of their maturities, or upon liquidation of the obligations which they represent or to which they relate whenever said obligations have been liquidated prior to their dates of maturity.

Banks shall have the right at any time to withdraw any documents which they have presented to the Bangko Sentral as collateral, upon payment in full of the corresponding debt to the Bangko Sentral, including interest charges.

為執行該等權限，第 128 條之禁止規定不適用於收受股權供擔保，因實行抵押權而取得包括具投票權股份在內之股權。但本行應自取得權利之日起 1 年內，以公開競標方式處分前述股權。

金融機構在本行之帳戶發生透支情形者，應於第 102 條所定期間內償還之。

E. 信用條款

第 85 條 利息及重貼現

本行應就所辦理之貸款及墊款，收取利息及其他合理費用，即使債務人機構已結束營業、被接管或清算者，亦同。本條規定不溯及既往。

貨幣委員會應就市場之信用需求、本行資產組合結構及國家貨幣政策之一般要求，為適當之考量後，依信用操作之特性及期間，訂定本行辦理信用操作所採計之利率及重貼現率。利率及重貼現率應一體適用於同種類之所有銀行，不得有差別待遇。

第 86 條 保證

本行依本法規定而為之各項信用操作，其重貼現、貼現、買入或充作擔保品之權證，均應由提供該等權證之機構保證。

第 87 條 信用償還

本行重貼現、貼現、買入或充作擔保品之權證，借款機構應於該等權證之到期日取回之；借款機構如於到期日前清償該等權證所擔保之債務或相關債務者，則於清償時，即可取回該等權證。

銀行於償還包括利息在內之全部債務時，得隨時將其提供予本行作為擔保品之權證取回。

SECTION 88. Other requirements. - The Monetary Board may prescribe, within the general powers granted to it under this Act, additional conditions which borrowing institutions must satisfy in order to have access to the credit of the Bangko Sentral. These conditions may refer to the rates of interest charged by the banks, to the purposes for which their loans in general are destined, and to any other clearly definable aspect of the credit policy of the bank.

SECTION 89. Provisional Advances to the National Government. - The Bangko Sentral may make direct provisional advances with or without interest to the National Government to finance expenditures authorized in its annual appropriation: Provided, That said advances shall be repaid before the end of three (3) months extendible by another three (3) months as the Monetary Board may allow following the date the National Government received such provisional advances and shall not, in their aggregate, exceed twenty percent (20%) of the average annual income of the borrower for the last three (3) preceding fiscal years.

ARTICLE V. OPEN MARKET OPERATIONS FOR THE ACCOUNT OF THE BANGKO SENTRAL

SECTION 90. Principles of Open Market Operations. - The open market purchases and sales of securities by the Bangko Sentral shall be made exclusively in accordance with its primary objective of achieving price stability.

SECTION 91. Purchases and Sales of Government Securities. - In order to achieve the objectives of the national monetary policy, the Bangko Sentral may, in accordance with the principle stated in Section 90 of this Act and with such rules and regulations as may be prescribed by the Monetary Board, buy and sell in the open market for its own account:

- (a) evidences of indebtedness issued directly by the Government of the Philippines or by its political subdivisions; and
- (b) evidences of indebtedness issued by government instrumentalities and fully guaranteed by the Government.

The evidences of indebtedness acquired under the provisions of this section must be freely negotiable and regularly serviced and must be available to the general public through banking institutions and local government treasuries in denominations of a thousand pesos or more.

第 88 條 其他要求

貨幣委員會得於本法賦與之一般權限內，訂定借款銀行取得本行授信應符合之額外條件，包括貸款利息、借款目的及得清楚界定銀行授信政策之其他事項。

第 89 條 對政府臨時墊款

本行得給予中央政府有息或無息之直接臨時墊款，俾資助經核定之年度預算支出。中央政府應於收受臨時墊款後 3 個月內償還之，經貨幣委員會許可，得展延 3 個月。前述墊款總額不得超過借款機關最近 3 個會計年度平均歲入之 20%。

第 5 節 本行帳戶之公開市場操作

第 90 條 公開市場操作原則

本行於公開市場買賣有價證券，僅限於為達成物價穩定之主要目標始得為之。

第 91 條 買賣政府債券

為達成國家貨幣政策目標，本行得依第 90 條規定之原則及貨幣委員會訂定之規定，以本行帳戶，於公開市場買賣：

- (a) 政府或其地方政府直接發行之債務憑證。
- (b) 政府機關發行並由政府完全保證之債務憑證。

依本條規定取得之債務憑證，應可自由轉讓及提供一般收付服務，並且須為一般大眾可透過金融機構及地方公庫而取得面額 1,000 披索以上者。

SECTION 92. Issue and Negotiation of Bangko Sentral Obligations. - In order to provide the Bangko Sentral with effective instruments for open market operations, the Bangko Sentral may, subject to such rules and regulations as the Monetary Board may prescribe and in accordance with the principles stated in Section 90 of this Act, issue, place, buy and sell freely negotiable evidences of indebtedness of the Bangko Sentral: Provided, That issuance of such certificates of indebtedness shall be made only in cases of extraordinary movement in price levels. Said evidences of indebtedness may be issued directly against the international reserve of the Bangko Sentral or against the securities which it has acquired under the provisions of Section 91 of this Act, or may be issued without relation to specific types of assets of the Bangko Sentral.

The Monetary Board shall determine the interest rates, maturities and other characteristics of said obligations of the Bangko Sentral, and may, if it deems it advisable, denominate the obligations in gold or foreign currencies.

Subject to the principles stated in Section 90 of this Act, the evidences of indebtedness of the Bangko Sentral to which this section refers may be acquired by the Bangko Sentral before their maturity, either through purchases in the open market or through redemptions at par and by lot if the Bangko Sentral has reserved the right to make such redemptions. The evidences of indebtedness acquired or redeemed by the Bangko Sentral shall not be included among its assets, and shall be immediately retired and cancelled.

ARTICLE VI. COMPOSITION OF BANGKO SENTRAL'S PORTFOLIO

SECTION 93. Review of the Bangko Sentral's Portfolio. - At least once every month the Monetary Board shall review the portfolio of the Bangko Sentral in relation to its future credit policy. In reviewing the Bangko Sentral's portfolio, the Monetary Board shall especially consider whether a sufficiently large part of the portfolio consists of assets with early maturities, in order that a contraction in Bangko Sentral credit may be effected promptly whenever the national monetary policy so requires.

ARTICLE VII. BANK RESERVES

SECTION 94. Reserve Requirements. - In order to control the volume of money created by the credit operations of the banking system, all banks operating in the Philippines shall be required to maintain reserves against their deposit liabilities: Provided, That the Monetary Board may, at its discretion, also require all banks and/or quasi-banks to maintain reserves against funds held in trust and liabilities for deposit substitutes as defined in this Act. The required reserves of each bank shall be proportional to the volume of its deposit liabilities and shall ordinarily take the form of a deposit in the Bangko Sentral. Reserve requirements shall be applied to all banks of the same category uniformly and without discrimination.

第 92 條 本行債券之發行及轉讓

為提供本行公開市場操作之有效工具，本行得依貨幣委員會之規定，並遵循第 90 條所定原則，發行、投資或買賣可轉讓債務憑證，但此等債務憑證之發行，僅得於物價異常波動時始得為之。前述債務憑證，得直接以本行國際準備或以依第 91 條規定取得之有價證券發行之，亦得在與本行特定類型資產無關之情況下發行之。

前項本行債務憑證之利率、到期日及其他條件，由貨幣委員會定之。貨幣委員會認為適當時，得以黃金或外幣決定該債務憑證之面額。

依第 90 條所定原則，本條所定之本行債務憑證得由本行於到期日前，透過公開市場買回，或於本行保留贖回權時，按面額以抽籤方式贖回。本行買回或贖回之債務憑證，不得列入資產，並應立即註銷。

第 6 節 本行資產組合

第 93 條 本行資產之複查

貨幣委員會對於與本行未來貨幣政策相關之資產組合，每月應至少複查一次。複查時，貨幣委員會應特別檢視資產組合有無足數需要之到期日較近之資產，俾於國家貨幣政策需要時得立即有效執行本行信用緊縮。

第 7 節 銀行準備金

第 94 條 準備金規定

為控制金融體系信用創造之貨幣量，所有境內銀行應就其存款負債提存準備金；貨幣委員會亦得要求銀行與/或準銀行，就其信託持有之資金及本法所指代存款之負債提存準備金。各銀行應提之準備金，按其所收存款之比例定之，且通常以存款形式提存於本行。準備金之規定，應一體適用於同種類之所有銀行。

Reserves against deposit substitutes, if imposed, shall be determined in the same manner as provided for reserve requirements against regular bank deposits, with respect to the imposition, increase, and computation of reserves. The Monetary Board may exempt from reserve requirements deposits and deposit substitutes with remaining maturities of two (2) years or more, as well as interbank borrowings.

Since the requirement to maintain bank reserves is imposed primarily to control the volume of money, the Bangko Sentral shall not pay interest on the reserves maintained with it unless the Monetary Board decides otherwise as warranted by circumstances.

SECTION 95. Definition of Deposit Substitutes. - The term "deposit substitutes" is defined as an alternative form of obtaining funds from the public, other than deposits, through the issuance, endorsement, or acceptance of debt instruments for the borrower's own account, for the purpose of relending or purchasing of receivables and other obligations. These instruments may include, but need not be limited to, bankers acceptances, promissory notes, participations, certificates of assignment and similar instruments with recourse, and repurchase agreements. The Monetary Board shall determine what specific instruments shall be considered as deposit substitutes for the purposes of Section 94 of this Act: Provided, however, That deposit substitutes of commercial, industrial and other non-financial companies for the limited purpose of financing their own needs or the needs of their agents or dealers shall not be covered by the provisions of Section 94 of this Act.

SECTION 96. Required Reserves Against Peso Deposits. - The Monetary Board may fix and, when it deems necessary, alter the minimum reserve ratios to peso deposits, as well as to deposit substitutes, which each bank and/or quasi-bank may maintain, and such ratio shall be applied uniformly to all banks of the same category as well as to quasi-banks.

SECTION 97. Required Reserves Against Foreign Currency Deposits. - The Monetary Board is similarly authorized to prescribe and modify the minimum reserve ratios applicable to deposits denominated in foreign currencies.

SECTION 98. Reserves Against Unused Balances of Overdraft Lines. - In order to facilitate Bangko Sentral control over the volume of bank credit, the Monetary Board may establish minimum reserve requirements for unused balances of overdraft lines.

對代存款計提準備金時，其計提、增加及計算，應按一般銀行存款準備金之方式定之。

貨幣委員會得明定到期日在 2 年以上之存款、代存款及銀行間之拆借，免提準備。

鑒於提存存款準備金主要在於控制貨幣數量，除貨幣委員會因情況所需而另為規定外，本行不得對提存於本行之準備支付利息。

第 95 條 代存款之定義

「代存款」，係指借款人基於重新借出或買入應收帳款及其他債務之目的，而透過發行、保證或承兌債務工具，所為存款以外向大眾吸收資金之替代方式。這類工具包括但不限於銀行承兌匯票、本票、參與抵押貸款、轉讓憑證與具追索權之類似工具，以及附買回合約。得視為前條所稱代存款之特定工具，應由貨幣委員會定之。但僅供商業、工業及其他非金融公司本身或其代理人或交易商資金需求之代存款，不在第 94 條所稱代存款之範圍。

第 96 條 披索存款之應提準備

貨幣委員會於必要時，得訂定並調整銀行及/或準銀行披索存款及代存款提存之最低準備率。該準備率應一體適用於同種類之所有銀行及準銀行。

第 97 條 外幣存款之應提準備

貨幣委員會亦得訂定及調整外幣存款之最低準備率。

第 98 條 透支額度未使用餘額之準備金

為使本行得以控制銀行之信用量，貨幣委員會得訂立透支額度未使用餘額之最低準備規定。

The powers of the Monetary Board to prescribe and modify reserve requirements against unused balances of overdraft lines shall be the same as its powers with respect to reserve requirements against demand deposits.

SECTION 99. Increase in Reserve Requirements. - Whenever in the opinion of the Monetary Board it becomes necessary to increase reserve requirements against existing liabilities, the increase shall be made in a gradual manner and shall not exceed four percentage points in any thirtyday period. Banks and other affected financial institutions shall be notified reasonably in advance of the date on which such increase is to become effective.

SECTION 100. Computation on Reserves. - The reserve position of each bank or quasi-bank shall be calculated daily on the basis of the amount, at the close of business for the day, of the institution's reserves and the amount of its liability accounts against which reserves are required to be maintained: Provided, That with reference to holidays or non-banking days, the reserve position as calculated at the close of the business day immediately preceding such holidays and non-banking days shall apply on such days.

For the purpose of computing the reserve position of each bank or quasi-bank, its principal office in the Philippines and all its branches and agencies located therein shall be considered as a single unit.

SECTION 101. Reserve Deficiencies. - Whenever the reserve position of any bank or quasi-bank, computed in the manner specified in the preceding section of this Act, is below the required minimum, the bank or quasi-bank shall pay the Bangko Sentral one-tenth of one percent (1/10 of 1%) per day on the amount of the deficiency or the prevailing ninety-one-day treasury bill rate plus three percentage points, whichever is higher: Provided, however, That banks and quasi-banks shall ordinarily be permitted to offset any reserve deficiency occurring on one or more days of the week with any excess reserves which they may hold on other days of the same week and shall be required to pay the penalty only on the average daily deficiency during the week. In cases of abuse, the Monetary Board may deny any bank or quasi-bank the privilege of offsetting reserve deficiencies in the aforesaid manner.

If a bank or quasi-bank chronically has a reserve deficiency, the Monetary Board may limit or prohibit the making of new loans or investments by the institution and may require that part or all of the net profits of the institution be assigned to surplus.

貨幣委員會訂定及調整透支額度未使用餘額準備規定之權限，與其就活期存款準備規定之權限相同。

第 99 條 準備金之提高

貨幣委員會認為有提高負債準備之必要時，應以漸進方式為之，且不得於 30 天內提高逾 4%；並應於提高生效日前之合理期間內，通知銀行及其他受影響之金融機構。

第 100 條 準備金之計算

各銀行或準銀行之準備部位應於每日營業終了時，以當日金額為基準，計算該機構應提之準備金，以及其應提準備之相關負債帳戶金額。但例假日或非營業日，以該例假日或非營業日前一營業日終了時之準備部位為準。

為計算各銀行或準銀行之準備部位，其於境內之主營業所及所有分支機構應視為一個單位。

第 101 條 準備金不足

銀行或準銀行之準備金低於依前條規定計算之最低應提準備時，應就不足額部分，按每日 0.1% 或 91 天期國庫券利率加上 3%，以其中較高者計算之罰息，按日支付本行。但銀行及準銀行得以同一週內其他天數之超額準備金抵充準備不足部分，並僅須就低於該週日平均準備之不足額部分，支付罰息。若有濫用之情形，貨幣委員會得拒絕銀行或準銀行以前述方式抵充準備不足額。

銀行或準銀行長期有準備金不足之情形，貨幣委員會得限制或禁止該機構為新貸款或投資，並得要求該機構將全部或部分淨利轉入盈餘。

The Monetary Board may modify or set aside the reserve deficiency penalties provided in this section, for part or the entire period of a strike or lockout affecting a bank or a quasi-bank as defined in the Labor Code, or of a national emergency affecting operations of banks or quasi-banks. The Monetary Board may also modify or set aside reserved deficiency penalties for rehabilitation program of a bank.

SECTION 102. Interbank Settlement. - The Bangko Sentral shall establish facilities for interbank clearing under such rules and regulations as the Monetary Board may prescribe: Provided, That the Bangko Sentral may charge administrative and other fees for the maintenance of such facilities.

The deposit reserves maintained by the banks in the Bangko Sentral in accordance with the provisions of Section 94 of this Act shall serve as basis for the clearing of checks and the settlement of interbank balances, subject to such rules and regulations as the Monetary Board may issue with respect to such operations: Provided, That any bank which incurs on overdrawing in its deposit account with the Bangko Sentral shall fully cover said overdraft, including interest thereon at a rate equivalent to onetenth of one percent (1/10 of 1%) per day or the prevailing ninety-one-day treasury bill rate plus three percentage points, whichever is higher, not later than the next clearing day: Provided, further, That settlement of clearing balances shall not be effected for any account which continues to be overdrawn for five (5) consecutive banking days until such time as the overdrawing is fully covered or otherwise converted into an emergency loan or advance pursuant to the provisions of Section 84 of this Act: Provided, finally, That the appropriate clearing office shall be officially notified of banks with overdrawn balances. Banks with existing overdrafts with the Bangko Sentral as of the effectivity of this Act shall, within such period as may be prescribed by the Monetary Board, either convert the overdraft into an emergency loan or advance with a plan of payment, or settle such overdrafts, and that, upon failure to so comply herewith, the Bangko Sentral shall take such action against the bank as may be warranted under this Act.

SECTION 103. Exemption from Attachment and Other Purposes. - Deposits maintained by banks with the Bangko Sentral as part of their reserve requirements shall be exempt from attachment, garnishments, or any other order or process of any court, government agency or any other administrative body issued to satisfy the claim of a party other than the Government, or its political subdivisions or instrumentalities.

貨幣委員會得於勞工法所定義之影響銀行或準銀行之罷工或停工之全部或一部期間，或國家緊急狀況影響銀行或準銀行營運之全部或一部期間，調降或暫停適用本條準備金不足之罰息規定。

第 102 條 銀行間清算

本行應依貨幣委員會之規定設立銀行間清算之設施，本行得收取維護該設施所需之管理及其他費用。

銀行依第 94 條規定提存於本行之存款準備金應作為票據交換及銀行間之清算基礎，並受貨幣委員會發布之相關規定規範。銀行於本行之存款帳戶有透支情形者，應於下一個結算日前全額清償，並支付相當於每日 0.1% 或 91 天期國庫券利率加上 3%，以其中較高者計算之利息。連續 5 個營業日透支之帳戶，其餘額清算不受影響，直到透支全額償還或轉成第 84 條規定之緊急借款或墊款為止，但應告知相關交換機構各銀行之透支餘額。於本法生效日對本行仍有透支之銀行，應於貨幣委員會規定期間內，將透支轉為緊急借款或墊款，並提出償還計畫或為清償；未遵守者，本行應對該銀行採取本法認可之行動。

第 103 條 扣押及其他目的之豁免

銀行存放於本行充當其應提準備之存款，不受法院、政府機關或任何其他行政單位因政府、其地方政府或所屬機關以外當事人之債權而核發之扣留、扣押或其他命令或程序之拘束。

ARTICLE VIII. SELECTIVE REGULATION OF BANK OPERATIONS

SECTION 104. Guiding Principle. - The Monetary Board shall use the powers granted to it under this Act to ensure that the supply, availability and cost of money are in accord with the needs of the Philippine economy and that bank credit is not granted for speculative purposes prejudicial to the national interests. Regulations on bank operations shall be applied to all banks of the same category uniformly and without discrimination.

SECTION 105. Margin Requirements Against Letters of Credit. - The Monetary Board may at any time prescribe minimum cash margins for the opening of letters of credit, and may relate the size of the required margin to the nature of the transaction to be financed.

SECTION 106. Required Security Against Bank Loans. - In order to promote liquidity and solvency of the banking system, the Monetary Board may issue such regulations as it may deem necessary with respect to the maximum permissible maturities of the loans and investments which the banks may make, and the kind and amount of security to be required against the various types of credit operations of the banks.

SECTION 107. Portfolio Ceilings. - Whenever the Monetary Board considers it advisable to prevent or check an expansion of bank credit, the Board may place an upper limit on the amount of loans and investments which the banks may hold, or may place a limit on the rate of increase of such assets within specified periods of time. The Monetary Board may apply such limits to the loans and investments of each bank or to specific categories thereof.

In no case shall the Monetary Board establish limits which are below the value of the loans or investments of the banks on the date on which they are notified of such restrictions. The restrictions shall be applied to all banks uniformly and without discrimination.

SECTION 108. Minimum Capital Ratios. - The Monetary Board may prescribe minimum ratios which the capital and surplus of the banks must bear to the volume of their assets, or to specific categories thereof, and may alter said ratios whenever it deems necessary.

第 8 節 銀行營運之選擇性管制

第 104 條 指導原則

貨幣委員會應以本法賦與之權限，確保貨幣之供給及成本，符合菲律賓經濟之需求，授予銀行之信用不被用於不利國家利益之投機目的上。銀行營運之管制，應一體適用於同種類之所有銀行。

第 105 條 信用狀之保證金

貨幣委員會得隨時訂定開發信用狀之最低現金保證金，並得依融資交易性質，規定應提保證金之多寡。

第 106 條 銀行貸款之擔保

為增進銀行體系流動性及償付能力，貨幣委員會於必要時，得發布有關銀行從事借款及投資之最長期間，以及銀行各類授信營運所需之擔保品種類及額度之規定。

第 107 條 資產組合上限

貨幣委員會認為有必要防止或查核銀行信用之擴充時，得對銀行可辦理之借款及投資金額設定最高限額，或限制特定期間內該等資產之增加率。貨幣委員會得明定該限制適用於各銀行之借款或投資，或適用於特定種類之借款及投資。前項貨幣委員會設定之限制，不得低於銀行被通知之日銀行借款或投資金額。該等限制應一體適用於所有銀行，不得有差別待遇。

第 108 條 最低資本比率

貨幣委員會得規定銀行資產或特定種類資產所應承擔之最低資本及盈餘比率，並得於必要時，變更上述比率。

ARTICLE IX. COORDINATION OF CREDIT POLICIES BY GOVERNMENT INSTITUTIONS

SECTION 109. Coordination of Credit Policies. - Government-owned corporations which perform banking or credit functions shall coordinate their general credit policies with those of the Monetary Board.

Toward this end, the Monetary Board may, whenever it deems it expedient, make suggestions or recommendations to such corporations for the more effective coordination of their policies with those of the Bangko Sentral.

CHAPTER V - FUNCTIONS AS BANKER AND FINANCIAL ADVISOR OF THE GOVERNMENT

ARTICLE I. FUNCTIONS AS BANKER OF THE GOVERNMENT

SECTION 110. Designation of Bangko Sentral as Banker of the Government. - The Bangko Sentral shall act as a banker of the Government, its political subdivisions and instrumentalities.

SECTION 111. Representation with the International Monetary Fund. - The Bangko Sentral shall represent the Government in all dealings, negotiations and transactions with the International Monetary Fund and shall carry such accounts as may result from Philippine membership in, or operations with, said Fund.

SECTION 112. Representation with Other Financial Institutions. - The Bangko Sentral may be authorized by the Government to represent it in dealings, negotiations or transactions with the International Bank for Reconstruction and Development and with other foreign or international financial institutions or agencies. The President may, however, designate any of his other financial advisors to jointly represent the Government in such dealings, negotiations or transactions.

SECTION 113. Official Deposits. - The Bangko Sentral shall be the official depository of the Government, its political subdivisions and instrumentalities as well as of government-owned or controlled corporations and, as a general policy, their cash balances should be deposited with the Bangko Sentral, with only minimum working balances to be held by government-owned banks and such other banks incorporated in the Philippines as the Monetary Board may

第 9 節 政府機關信用政策之整合

第 109 條 信用政策之整合

執行金融或信用功能之國營公司，應將其一般信用政策與貨幣委員會之信用政策整合。

為此目的，貨幣委員會得為權宜之計，對國營公司提出更有效的政策整合建議。

第 5 章 擔任政府之銀行及財政顧問

第 1 節 擔任政府之銀行

第 110 條 本行為政府銀行

本行應為政府、其地方政府及所屬機關之銀行。

第 111 條 政府於國際貨幣基金之代表

本行應代表政府與國際貨幣基金進行交涉、協商及交易，並管理及執行基金會員國或與該基金運作所產生之帳務。

第 112 條 於其他金融機構之代表

本行得經政府授權，代表政府與國際復興開發銀行及其他國外或國際金融機構或機關進行交涉、協商及交易。但總統得指派其他財政顧問共同代表政府進行該等交涉、協商及交易。

第 113 條 政府存款

本行為政府、其地方政府及所屬機關、國營公司之官方存款保管者。就一般政策而言，該等機構之現金餘額應存放於本行；其最低營運資金，僅得依貨幣委員會訂定之規章存放於

designate, subject to such rules and regulations as the Board may prescribe: Provided, That such banks may hold deposits of the political subdivisions and instrumentalities of the Government beyond their minimum working balances whenever such subdivisions or instrumentalities have outstanding loans with said banks.

The Bangko Sentral may pay interest on deposits of the Government or of its political subdivisions and instrumentalities, as well as on deposits of banks with the Bangko Sentral.

SECTION 114. Fiscal Operations. - The Bangko Sentral shall open a general cash account for the Treasurer of the Philippines, in which the liquid funds of the Government shall be deposited.

Transfers of funds from this account to other accounts shall be made only upon order of the Treasurer of the Philippines.

SECTION 115. Other Banks as Agents of the Bangko Sentral. - In the performance of its functions as fiscal agent, the Bangko Sentral may engage the services of other government-owned and controlled banks and of other domestic banks for operations in localities at home or abroad in which the Bangko Sentral does not have offices or agencies adequately equipped to perform said operations: Provided, however, That for fiscal operations in foreign countries, the Bangko Sentral may engage the services of foreign banking and financial institutions.

SECTION 116. Remuneration for Services. - The Bangko Sentral may charge equitable rates, commissions or fees for services which it renders to the Government, its political subdivisions and instrumentalities.

ARTICLE II. THE MARKETING AND STABILIZATION OF SECURITIES FOR THE ACCOUNT OF THE GOVERNMENT

A. THE ISSUE AND PLACING OF GOVERNMENT SECURITIES

SECTION 117. Issue of Government Obligations. - The issue of securities representing obligations of the Government, its political subdivisions or instrumentalities, may be made through the Bangko Sentral, which may act as agent of, and for the account of, the Government or its respective subdivisions or instrumentality, as the case may be: Provided, however, That the Bangko Sentral shall not guarantee the placement of said securities, and shall not subscribe to their issue except to replace its maturing holdings of securities with the same type as the maturing securities.

國營銀行及其他於菲律賓登記而經貨幣委員會指定之銀行。但地方政府或政府機關向銀行借款未清償者，其存放於貸行之存款，得高於其最低營運資金。本行得對政府、其地方政府及所屬機關之存款及銀行之存款支付利息。

第 114 條 財政運作

本行應為國庫開設一般現金帳戶，以存放政府之流動資金。前項帳戶資金，僅得依國庫署署長之指示移轉至其他帳戶。

第 115 條 本行之代理行

為經理國庫業務，本行得於未設置相關設備之辦公處所或代理機關之國內外地點，雇用其他國營銀行及其他本國銀行提供此項服務。但於外國之國庫業務，本行得雇用外國銀行與金融機構提供服務。

第 116 條 服務報酬

本行得對提供政府、其地方政府及所屬機關之服務事項，收取相當之費率、手續費或費用。

第 2 節 政府有價證券之行銷及穩定

A. 政府有價證券之發行及銷售

第 117 條 政府債券之發行

政府、其地方政府或所屬機關之有價證券，得透過本行發行。本行得視情況擔任政府、其地方政府或所屬機關之代理人，但不得保證前述有價證券之銷售，且除以同類有價證券替換其持有之到期有價證券外，不得承購其發行之有價證券。

SECTION 118. Methods of Placing Government Securities. - The Bangko Sentral may place the securities to which the preceding section refers through direct sale to financial institutions and the public.

The Bangko Sentral shall not be a member of any stock exchange or syndicate, but may intervene therein for the sole purpose of regulating their operations in the placing of government securities.

The Government, or its political subdivisions or instrumentalities, shall reimburse the Bangko Sentral for the expenses incurred in the placing of the aforesaid securities.

SECTION 119. Servicing and Redemption of the Public Debt. - The servicing and redemption of the public debt shall also be effected through the Bangko Sentral.

B. BANGKO SENTRAL SUPPORT OF THE GOVERNMENT SECURITIES MARKET

SECTION 120. The Securities Stabilization Fund. - There shall be established a "Securities Stabilization Fund" which shall be administered by the Bangko Sentral for the account of the Government.

The operations of the Securities Stabilization Fund shall consist of purchases and sales, in the open market, of bonds and other evidences of indebtedness issued or fully guaranteed by the Government. The purpose of these operations shall be to increase the liquidity and stabilize the value of said securities in order thereby to promote investment in government obligations.

The Monetary Board shall use the resources of the Fund to prevent, or moderate, sharp fluctuations in the quotations of said government obligations, but shall not endeavor to alter movements of the market resulting from basic changes in the pattern or level of interest rates.

The Monetary Board shall issue such regulations as may be necessary to implement the provisions of this section.

SECTION 121. Resources of the Securities Stabilization Fund. - Subject to Section 132 of this Act, the resources of the Securities Stabilization Fund shall come from the balance of the fund as held by the Central Bank under Republic Act No. 265 as of the effective date of this Act.

SECTION 122. Profits and Losses of the Fund. - The Securities Stabilization Fund shall retain net profits which it may make on its operations, regardless of whether said profits arise from capital gains or from interest earnings. The Fund shall correspondingly bear any net losses which it may incur.

第 118 條 政府債券之銷售方式

前條有價證券，本行得直接出售予金融機構及大眾。

本行不得為證券交易所或證券聯合團體之成員，但基於管理之目的，得對其銷售政府有價證券之行為予以規範。

政府、其地方政府或所屬機關，應償付本行因銷售前述有價證券所生之費用。

第 119 條 公債之還本付息

公債之還本付息，亦由本行為之。

B. 本行對政府債券市場之支持

第 120 條 有價證券穩定基金

政府應設立「有價證券穩定基金」，並由本行管理之。

有價證券穩定基金之操作，包括於公開市場買賣政府發行或完全保證之公債及其他債務憑證。操作目的在於提高流動性及穩定前述有價證券價值，以促進對政府債務之投資。

貨幣委員會應利用基金財源防止或緩和政府債券行情之大幅波動，但不得致力變更因利率模式或水準之基本變化所造成之市場變動。

貨幣委員會應訂定執行本條規定之法令。

第 121 條 有價證券穩定基金之財源

依第 132 條規定，有價證券穩定基金財源係來自於至本法生效日為止，依共和國第 265 號法律規定由本行持有之基金餘額。

第 122 條 基金之損益

有價證券穩定基金之操作，無論係來自資本利得或利息收入，均應維持淨收益，並承擔可能產生之任何淨損失。

ARTICLE III. FUNCTIONS AS FINANCIAL ADVISOR OF THE GOVERNMENT

SECTION 123. Financial Advice on Official Credit Operations. - Before undertaking any credit operation abroad, the Government, through the Secretary of Finance, shall request the opinion, in writing, of the Monetary Board on the monetary implications of the contemplated action. Such opinions must similarly be requested by all political subdivisions and instrumentalities of the Government before any credit operation abroad is undertaken by them. The opinion of the Monetary Board shall be based on the gold and foreign exchange resources and obligations of the nation and on the effects of the proposed operation on the balance of payments and on monetary aggregates. Whenever the Government, or any of its political subdivisions or instrumentalities, contemplates borrowing within the Philippines, the prior opinion of the Monetary Board shall likewise be requested in order that the Board may render an opinion on the probable effects of the proposed operation on monetary aggregates, the price level, and the balance of payments.

SECTION 124. Representation on the National Economic and Development Authority. - In order to assure effective coordination between the economic, financial and fiscal policies of the Government and the monetary, credit and exchange policies of the Bangko Sentral, the Deputy Governor designated by the Governor of the Bangko Sentral shall be an ex officio member of the National Economic and Development Authority Board.

CHAPTER VI - PRIVILEGES AND PROHIBITIONS

ARTICLE I. PRIVILEGES

SECTION 125. Tax Exemptions. - The Bangko Sentral shall be exempt for a period of five (5) years from the approval of this Act from all national, provincial, municipal and city taxes, fees, charges and assessments. The exemption authorized in the preceding paragraph of this section shall apply to all property of the Bangko Sentral, to the resources, receipts, expenditures, profits and income of the Bangko Sentral, as well as to all contracts, deeds, documents and transactions related to the conduct of the business of the Bangko Sentral: Provided, however, That said exemptions shall apply only to such taxes, fees, charges and assessments for which the Bangko Sentral itself would otherwise be liable, and shall not apply to taxes, fees, charges, or assessments payable by persons or other entities doing business with the Bangko Sentral: Provided, further, That foreign loans and other obligations of the Bangko Sentral shall be exempt, both as to principal and interest, from any and all taxes if the payment of such taxes has been assumed by the Bangko Sentral.

第 3 節 擔任政府財政顧問之功能

第 123 條 對政府信用操作之財政建議

政府從事境外信用操作之前，應透過財政部長徵詢貨幣委員會對預期行動之貨幣意涵提供書面意見。地方政府及政府機關從事任何境外信用操作之前，亦同。

貨幣委員會提出之意見，應依據國家之黃金、外匯資產及債務，以及預期操作對國際收支與貨幣總計數之影響為之。

政府、其地方政府及所屬機關之本國借款，應事先徵詢貨幣委員會意見，以便其提出該借款可能對貨幣總計數、物價水準及國際收支影響之意見。

第 124 條 國家經濟暨發展委員會之代表

為確保有效整合政府經濟、金融與財政政策及本行貨幣、信用與外匯政策，總裁得指派副總裁擔任國家經濟暨發展委員會之當然委員。

第 6 章 特權與禁止規定

第 1 節 特權

第 125 條 免稅

本行自本法施行之日起 5 年間，免徵中央、省、縣市之各項稅費。

前項各類豁免規定適用於本行所有財產、資產、收入、支出、利潤與所得，以及所有與本行從業務務相關之契約、契據、文件及交易，並僅限於本行本身應負擔之稅費，不包括本行交易對手應負擔之稅費。此外，本行國外借款及其他債務已由本行承擔之支付者，其本金及利息亦均免稅。

SECTION 126. Exemption from Customs Duties. - The provision of any general or special law to the contrary notwithstanding, the importation and exportation by the Bangko Sentral of notes and coins, and of gold and other metals to be used for purposes authorized under this Act, and the importation of all equipment needed for bank note production, minting of coins, metal refining and other security printing operations shall be fully exempt from all customs duties and consular fees and from all other taxes, assessments and charges related to such importation or exportation.

SECTION 127. Applicability of the Civil Service Law. - Appointments in the Bangko Sentral, except as to those which are policy-determining, primarily confidential or highly technical in nature, shall be made only according to the Civil Service Law and regulations: Provided, That no qualification requirements for positions in the Bangko Sentral shall be imposed other than those set by the Monetary Board: Provided, further, That, the Monetary Board or Governor, in accordance with Sections 15(c) and 17(d) of this Act, respectively, may without need of obtaining prior approval from any other government agency, appoint personnel in the Bangko Sentral whose services are deemed necessary in order not to unduly disrupt the operations of the Bangko Sentral.

Officers and employees of the Bangko Sentral, including all members of the Monetary Board, shall not engage directly or indirectly in partisan activities or take part in any election except to vote.

ARTICLE II. PROHIBITIONS

SECTION 128. Prohibitions. - The Bangko Sentral shall not acquire shares of any kind or accept them as collateral, and shall not participate in the ownership or management of any enterprise, either directly or indirectly.

The Bangko Sentral shall not engage in development banking or financing: Provided, however, That outstanding loans obtained or extended for development financing shall not be affected by the prohibition of this section.

CHAPTER VII - TRANSITORY PROVISIONS

SECTION 129. Phase-out of Fiscal Agency Functions. - Unless circumstances warrant otherwise and approved by the Congress Oversight Committee, the Bangko Sentral shall, within a period of three (3) years but in no case longer than five (5) years from the approval of this Act, phase out all fiscal agency functions provided for in Sections 117, 118, 119, and 120 as well as in other pertinent provisions of this Act and transfer the same to the Department of Finance.

第 126 條 關稅豁免

儘管一般或特別法律另有其他規定，本行依本法授權而進、出口紙幣、硬幣、使用之黃金與其他材料，以及進口因生產紙幣、鑄造硬幣、金屬精煉與其他有價證券印製作業所需之設備，均免徵關稅、領事費及與該進出口相關之其他各項稅費。

第 127 條 文官制度法之適用

本行人員之任命，除本質上屬政策決定、極機密或高度技術者外，僅得依文官制度法及規定為之；但貨幣委員會得就本行之職位設定資格要件。貨幣委員會或總裁得分別依第 15 條第(c)款及第 17 條第(d)款規定，無須經其他政府機關事先同意即任命本行人員，以避免本行營運中斷。

本行職員與受雇人員，包括貨幣委員會委員在內，不得直接或間接從事黨派活動或參與投票以外之任何選舉活動。

第 2 節 禁止規定

第 128 條 禁止規定

本行不得取得任何種類之股票或接受以股票為擔保品，且不得直接或間接參與任何企業之所有權或經營。

本行不得從事發展銀行或金融之經營；但為發展金融而取得或貸與款項者，不受本條禁止規定之影響。

第 7 章 過渡條款

第 129 條 經理國庫功能之移轉

除情況所需且經國會監督委員會核准外，本行應於本法通過之日起 3 年內，最多不超過 5 年之期間內，逐漸將第 117 條、第 118 條、第 119 條、第 120 條及本法其他相關條款賦與經理國庫之功能移轉予財政部。

SECTION 130. Phase-out of Regulatory Powers Over the Operations of Finance Corporations and Other Institutions Performing Similar Functions. - The Bangko Sentral shall, within a period of five (5) years from the effectivity of this Act, phase out its regulatory powers over finance companies without quasi-banking functions and other institutions performing similar functions as provided in existing laws, the same to be assumed by the Securities and Exchange Commission.

SECTION 131. Implementing Details. - The Bangko Sentral shall be made operational by the performance of the following acts:

- (a) the President shall constitute the Monetary Board by appointing the members thereof within sixty (60) days from the effectivity of this Act; and
- (b) the transfer of such assets and liabilities from the Central Bank to the Bangko Sentral as provided in Section 132 shall be completed within ninety (90) days from the constitution of the Monetary Board.

All incumbent personnel in the Central Bank as of the date of the approval of this Act shall continue to exercise their duties and functions as personnel of the Bangko Sentral subject to the provisions of Section 133: Provided, That such personnel in the Central Bank as may be necessary for the purpose of implementing Section 132 may be assigned by the Bangko Sentral Monetary Board to the Central Bank.

SECTION 132. Transfer of Assets and Liabilities. - Upon the effectivity of this Act, three (3) members of the Monetary Board, which may include the Governor, in representation of the Bangko Sentral, the Secretary of Finance and the Secretary of Budget and Management in representation of the National Government, and the Chairmen of the Committees on Banks of the Senate and the House of Representatives shall determine the assets and liabilities of the Central Bank which may be transferred to or assumed by the Bangko Sentral. The Committee shall complete its work within ninety (90) days from the constitution of the Monetary Board submitting a comprehensive report with all its findings and justification.

The following guidelines shall be strictly observed in the determination of which assets and liabilities shall be transferred to the Bangko Sentral:

- (a) the Monetary Board and the Secretary of Finance shall have primary responsibility for working out creative monetary and financial solutions to retire the Central Bank liabilities and losses at the least cost to the Government;

第 130 條 對金融公司及其他同類機構監理權限之移轉

本行應於本法生效日起 5 年內，逐漸將對於無準銀行功能之金融公司及其他依現行法執行類似功能機構之監理權限，移轉由證券交易委員會承擔。

第 131 條 執行細節

本行之營運應先履行下列行為：

- (a) 總統應於本法生效日起 60 天內組成貨幣委員會，並指派其委員。
- (b) 貨幣委員會產生之日起 90 天內，應完成第 132 條有關原中央銀行(Central Bank)之資產及負債移轉予本行。

本法通過之日，原中央銀行所有現職人員應依第 133 條規定，繼續執行原來之職務；但為執行第 132 條規定所需之原中央銀行現職人員，得由貨幣委員會指派之。

第 132 條 資產及負債之移轉

本法生效時，貨幣委員會委員 3 人，包括代表本行之總裁、代表中央政府之財政部長及預算管理部長，以及參議院與眾議院銀行委員會之主席，應成立委員會，決定原中央銀行得移轉本行或由本行承擔之資產及負債。該委員會應於貨幣委員會成立之日起 90 天內，提交其裁決及理由之詳細報告。

於決定移轉資產及負債時，應嚴格遵守下列原則：

- (a) 貨幣委員會及財政部長主要責任在於研議創造性貨幣及財務解決方案，俾政府以最低成本解除原中央銀行之負債及損失。

- (b) the Bangko Sentral shall remit seventy-five percent (75%) of its net profits to a special deposit account (sinking fund) until such time as the net liabilities of the Central Bank shall have been liquidated through generally accepted finance mechanisms such as, but not limited to, write-offs, set-offs, condonation, collections, reappraisal, revaluation and bond issuance by the National Government, or to the National Government as dividends;
- (c) the assets and liabilities to be transferred shall be limited to an amount that will enable the Bangko Sentral to perform its responsibilities adequately and operate on a viable basis: Provided, That the assets shall exceed the liabilities as certified by the Commission on Audit (COA), by an initial amount of Ten billion pesos (₱10,000,000,000);
- (d) liabilities to be assumed by the Bangko Sentral shall include liability for notes and coins in circulation as of the effective date of this Act; and
- (e) any asset or liability of the Central Bank not transferred to the Bangko Sentral shall be retained and administered, disposed of and liquidated by the Central Bank itself which shall continue to exist as the CB Board of Liquidators only for the purposes provided in this paragraph but not later than twenty-five (25) years or until such time that liabilities have been liquidated: Provided, That the Bangko Sentral may financially assist the Central Bank of Liquidators in the liquidation of CB liabilities: Provided, finally, That upon disposition of said retained assets and liquidation of said retained liabilities, the Central Bank shall be deemed abolished.

All actions taken by the Bangko Sentral Monetary Board under this section shall be reported to Congress and the President within thirty (30) days.

SECTION 133. Mandate to Organize. - The Bangko Sentral shall be organized by the Monetary Board without being subject to the provisions of Republic Act No. 7430, by adopting if it so desires, an entirely new staffing pattern on organizational structure to suit the operations of the Bangko Sentral under this Act. No preferential or priority right shall be given to or enjoyed by any personnel for appointment to any position in the new staffing pattern, nor shall any personnel be considered as having prior or vested rights with respect to retention in the Bangko Sentral or in any position which may be created in the new staffing pattern, even if he should be the incumbent of a similar position prior to organization. The formulation of the program of organization shall be completed within six (6) months after the effectivity of this Act, and shall be fully implemented within a period of six (6) months thereafter. Personnel who may not be retained are deemed separated from the service.

- (b) 本行應將淨收益之 75% 匯入一特別存款帳戶(償債基金)，直到原中央銀行淨負債已透過普遍接受之財務機制清償為止。該等財務機制，包括但不限於提列呆帳、抵銷、免除、收款、重新評估、重新估價及由政府發行公債或給予中央政府當成股利。
- (c) 資產及負債移轉之額度，應以足供本行履行其責任，並得存續經營者為限。但原始資產額應超過稽核委員會認證之負債 100 億披索。
- (d) 本行承擔之負債，包括本法生效之日，流通紙幣及硬幣之發行量。
- (e) 未移轉予本行之原中央銀行資產或負債，應由續存之原中央銀行清算委員會為本款所定目的，而予保留、管理、處分及清算之，但期限不得超過 25 年或直到該等負債業經清算為止。本行得於財務上協助原中央銀行清算人之清算。於前述保留資產及負債清算成完時，原中央銀行應視為解散。

本行依本條規定採取之所有行動，應於 30 天內向國會及總統報告。

第 133 條 對組織設立之規範

本行應由貨幣委員會組織設立之，且不受共和國第 7430 號法律拘束，得採用適合本行營運之全新組織架構及人員配置。任何人不享有優先受任新職位之權利。即使之前擔任類似職位，亦未享有得留任或受任新職位之既有權利。組織設立計畫應於本法生效後 6 個月內定案，並於其後 6 個月內實施完成。未予留任之人員，視為離任公職。

SECTION 134. Separation Benefits. - Pursuant to Section 15 of this Act, the Monetary Board is authorized to provide separation incentives, and all those who shall retire or be separated from the service on account of reorganization under the preceding section shall be entitled to such incentives, which shall be in addition to all gratuities and benefits to which they may be entitled under existing laws.

SECTION 135. Repealing Clause. - Except as may be provided for in Section 46 and 132 of this Act, Republic Act No. 265, as amended, the provisions of any other law, special charters, rule or regulation issued pursuant to said Republic Act No. 265, as amended, or parts thereof, which may be inconsistent with the provisions of this Act are hereby repealed. Presidential Decree No. 1792 is likewise repealed.

SECTION 136. Transfer of Powers. - All powers, duties and functions vested by law in the Central Bank of the Philippines not inconsistent with the provisions of this Act shall be deemed transferred to the Bangko Sentral ng Pilipinas. All references to the Central Bank of the Philippines in any law or special charters shall be deemed to refer to the Bangko Sentral.

SECTION 137. Separability Clause. - If any provision or section of this Act or the application thereof to any person or circumstance is held invalid, the other provisions or sections of this Act, and the application of such provision or section to other persons or circumstances, shall not be affected thereby.

SECTION 138. Effectivity Clause. - This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in two (2) national newspapers of general circulation.

第 134 條 優退

第 15 條授權貨幣委員會提供離職優惠，並適用於因前條重組將退休或離任公職之人員。此項優退與該等人員依現行法律得享有之退休金及利益併存。

第 135 條 廢止條款

除第 46 條及第 132 條、修正之共和國第 265 號法律另有規定外，其他法律條款、特別規章、依前述修正之共和國第 265 號法律發布之規則或規定，與本法規定不符者，應予以廢止。第 1792 號總統指令，亦同。

第 136 條 權限移轉

所有依法律賦與原中央銀行之權限、職責及功能，與本法規定相符者，應視為已移轉於本行。其他法律或特別規章規定之中央銀行係指本行。

第 137 條 效力區隔條款

本法部分規定或適用有無效之情形者，不影響本法其他規定或該規定適用於其他人之效力。

第 138 條 生效

本法於刊登政府公報或發行之 2 家全國性報紙 15 天後生效。

Approved,

(Sgd.) EDGARDO J. ANGARA
President of the Senate

(Sgd.) JOSE DE VENECIA, JR.
Speaker of the House
of Representatives

This Act which is a consolidation of House Bill No. 7037 and Senate Bill No. 1235 was finally passed by the House of Representatives and the Senate on June 10, 1993.

(Sgd.) EDGARDO E. TUMANGAN
Secretary of the Senate

(Sgd.) JOSE DE VENECIA, JR.
Secretary General
House of Representatives

Approved:

(Sgd.) FIDEL V. RAMOS
President of the Philippines

EDGARDOJ.ANGARA

(簽章)

參議院主席

JOSEDEVENECIA,JR.

(簽章)

眾議院發言人

核准

本法係整合眾議院第 7037 號法案及參議院第 1235 號法案，
最後於 1993 年 6 月 10 日經參眾兩院通過。

EDGARDOJ.TUMANGAN

(簽章)

參議院秘書

JOSEDEVENECIA,JR.

(簽章)

眾議院秘書長

核准：

FIDELV.RAMOS

(簽章)

菲律賓總統

附錄 The Central Bank of
the Republic of China
(Taiwan) Act
中華民國中央銀行法

The Central Bank of the Republic of China (Taiwan) Act

Chapter I. General Provisions

Chapter II. Organization

Chapter III. Operations

Chapter IV. Budgets and Fiscal Reports

Chapter V. Appendix

中華民國中央銀行法

第一章 總則

第二章 組織

第三章 業務

第四章 預算及決算

第五章 附則

The Central Bank of the Republic of China (Taiwan) Act

Promulgated on May 23, 1935

Amended on November 8, 1979

Articles 23 and 44 amended on May 21, 1997

Article 23 amendment effected on July 7, 1999

Articles 18-1, 18-2 and 18-3 added, 32 and 35 amended on June 5, 2002

Chapter I. General Provisions

Article 1:

The Central Bank of the Republic of China (Taiwan) (hereafter called the Bank) shall be a government bank and an agency under the Executive Yuan.

Article 2:

The primary objectives of the Bank's operations shall be:

- (1) To promote financial stability;
- (2) To guide sound banking operations;
- (3) To maintain the stability of the internal and external value of the currency;
- (4) To foster economic development within the scope of the above objectives.

Article 3:

The Bank shall have its Head Office at the site of the Central Government and may establish branch offices in all regions of the country. The establishment and abolishment of its branch offices shall be authorized by the resolution of the Board of Directors and reported to the Executive Yuan for approval.

Article 4:

The capital of the Bank shall be appropriated from the National Treasury. It shall be fully owned by the Central Government and nontransferable.

中華民國中央銀行法

中華民國二十四年五月二十三日國民政府制定公布全文三十六條

中華民國六十八年十一月八日總統令修正公布全文四十四條

中華民國八十六年五月二十一日總統令修正公布第二十三條及第四十四條條文（中華民國八十八年六月二十二日行政院令定第二十三條於八十八年七月七日施行）

中華民國九十一年六月五日總統令公布增訂第十八條之一至第十八條之三條文；並修正第三十二條及第三十五條條文

第一章 總 則

第 一 條 中央銀行（以下簡稱本行）為國家銀行，隸屬行政院。

第 二 條 本行經營之目標如左：

一、促進金融穩定。

二、健全銀行業務。

三、維護對內及對外幣值之穩定。

四、於上列目標範圍內，協助經濟之發展。

第 三 條 本行設總行於中央政府所在地，並得於國內各地區設立分行。分行之設立及撤銷，須經理事會決議，報請行政院核准。

第 四 條 本行資本，由國庫撥給之。其資本全部為中央政府所有，不得轉讓。

Chapter II. Organization

Article 5:

The Bank shall have a Board of Directors consisting of eleven to fifteen directors to be nominated by the Executive Yuan and appointed by the President of the Republic. An Executive Board of Directors composed of five to seven executive directors shall be designated among the directors.

The Governor of the Bank, the Minister of Finance and the Minister of Economic Affairs shall be ex officio directors and executive directors. Among the directors, there shall be at least one each from the agricultural, the industrial and commercial, and the banking sectors.

Except for the ex officio directors, the directors shall be appointed for a term of five years, and may be reappointed upon the expiration of such term.

Article 6:

The powers and functions of the Board of Directors shall be as follows:

- (1) To examine policies concerning money, credit and foreign exchange;
- (2) To examine the adjustment of the Bank's capital;
- (3) To approve the operation plans of the Bank;
- (4) To examine the budget and fiscal reports of the Bank;
- (5) To examine and approve major by-laws and regulations of the Bank;
- (6) To examine the establishment and abolition of the Bank's branch offices;
- (7) To approve the appointment and the removal of the Bank's department heads and their deputies, and branch managers;
- (8) To examine matters proposed by the Governor.

The Board of Directors may delegate all or part of the above powers and functions to the Board of Executive Directors. The resolution of the Board of Executive Directors shall be reported to the Board of Directors for record and approval.

The Board of Directors shall establish rules and regulations of board meetings. Such rules and regulations shall be reported to the Executive Yuan for record.

第二章 組 織

第 五 條 本行設理事會，置理事十一人至十五人，由行政院報請總統派充之，並指定其中五人至七人為常務理事，組織常務理事會。

前項理事，除本行總裁、財政部長及經濟部長為當然理事，並為常務理事外，應有實際經營農業、工商業及銀行業者至少各一人。

除當然理事外，理事任期為五年，期滿得續派連任。

第 六 條 理事會之職權如左：

- 一、有關貨幣、信用及外匯政策事項之審議。
- 二、本行資本額調整之審議。
- 三、本行業務計劃之核定。
- 四、本行預算、決算之審議。
- 五、本行重要章則之審議及核定。
- 六、本行各分行設立及撤銷之審議。
- 七、本行各局、處、會正副主管及分行經理任免之核定。
- 八、總裁提議事項之審議。

前項各款職權，理事會得以一部或全部授權常務理事會。常務理事會之決議，應報請理事會追認。

理事會應訂定會議規則，並報請行政院備查。

Article 7:

The Bank shall have a Board of Supervisors, composed of five to seven supervisors to be nominated by the Executive Yuan and appointed by the President. The Director-General of Budget, Accounting and Statistics of the Executive Yuan shall be an ex officio supervisor.

Except for the ex officio supervisor, the supervisors shall be appointed for a term of three years and may be re-appointed upon the expirations of such term.

The Board of Supervisors shall have a chairman to be elected from among the supervisors.

Article 8:

The powers and functions of the Board of Supervisors shall be as follows:

- (1) To examine the Bank's assets and liabilities;
- (2) To audit the Bank's accounts;
- (3) To examine the reserves for the issuance of currency by the Bank;
- (4) To examine the amount of currency issued by the Bank;
- (5) To examine and approve the Bank's fiscal reports;
- (6) To investigate any case involving violation of this Act and the bylaws and regulations of the Bank. The result of such investigation shall be referred to the Board of Directors for corrective action.

Article 9:

The Bank shall have a Governor with the rank of special appointment and two Deputy Governors with the rank of selective appointment, all of whom shall be appointed for a term of five years and may be reappointed upon the expiration of such term.

Article 10:

The Governor shall be the chief executive in directing and supervising the operations of the Bank, shall carry out resolutions of the Board of Directors, and shall represent the Bank on all occasions. The Deputy Governors shall assist the Governor in the execution of the above duties.

The Governor shall be the chairman of the Board of Directors and the Board of Executive Directors. Whenever the Governor is unable to attend in person, the Deputy Governor designated to act for the Governor shall be the chairman.

Article 11:

Upon the resolution of the Board of Directors and approval by the Executive Yuan, the Head Office of the Bank may establish the following departments to effect its operations:

- (1) Department of Banking.
- (2) Department of Issuing.

第 七 條 本行設監事會，置監事五人至七人，由行政院報請總統派充之。行政院主計長為當然監事。除當然監事外，監事任期為三年，期滿得續派連任。

監事會置主席一人，由監事互推之。

第 八 條 監事會之職權如左：

- 一、本行資產、負債之檢查。
- 二、本行帳目之稽核。
- 三、本行貨幣發行準備之檢查。
- 四、本行貨幣發行數額之查核。
- 五、本行決算之審核。
- 六、違反本法及本行章則情事之調查，並提請理事會予以糾正。

第 九 條 本行置總裁一人，特任；副總裁二人，簡任，任期均為五年，期滿得續加任命。

第 十 條 總裁綜理行務，執行理事會之決議，對外代表本行；副總裁輔佐總裁處理行務。總裁為理事會及常務理事會之主席，總裁缺席時，由代理總裁職務之副總裁代理之。

第 十 一 條 本行總行為辦理各項業務，經理事會之決議，報請行政院核定，得設左列各局、處：

- 一、業務局
- 二、發行局

- (3) Department of Foreign Exchange.
- (4) Department of the Treasury.
- (5) Department of Financial Inspection.
- (6) Department of Economic Research.
- (7) Secretariat.
- (8) Department of Accounting.

The Head Office of the Bank may establish committees to handle special matters.

Chapter III. Operations

Article 12:

Unless otherwise specified by law, the Bank's operations shall be circumscribed to business with the following organizations:

- (1) Government agencies.
- (2) Banks and other financial institutions.
- (3) International and foreign financial institutions.

Article 13:

The currency of the Republic of China shall be issued by the Bank.

The currency issued by the Bank shall be the national currency, and shall be legal tender for all payments within the territory of the Republic of China.

The Bank shall establish plants under its management to carry out the printing and minting of the currency.

Article 14:

The Bank may, whenever necessary, delegate other government banks to issue currency by region on its behalf, to be regarded as national currency. The assets and liabilities pertaining to the issuance of such currency shall be for the account of the Bank.

Article 15:

The basic monetary unit of the national currency is Yuan and the subsidiary currencies are Chiou and Fen. Ten Fens equal to one Chiou and ten Chiou equal to one Yuan.

The denomination, ingredient, form, and pattern of the notes and coins issued by the Bank shall be proposed by the Bank, for approval by the Executive Yuan.

The Bank shall make public the specifications of notes and coins prior to the issuance.

三、外匯局

四、國庫局

五、金融業務檢查處

六、經濟研究處

七、秘書處

八、會計處

本行總行為處理特定事務，得設各種委員會。

第三章 業 務

第十二條 本行業務，除法令另有規定外，其範圍如左：

一、政府機關。

二、銀行及其他金融機構。

三、國際及國外金融機構。

第十三條 中華民國貨幣，由本行發行之。

本行發行之貨幣為國幣，對於中華民國境內之一切支付，具有法償效力。

貨幣之印製及鑄造，由本行設廠專營並管理之。

第十四條 本行於必要時得分區委託公營銀行代理發行貨幣，視同國幣；其有關發行之資產與負債，均屬於本行。

第十五條 國幣之基本單位為圓，輔幣為角、分，拾分為壹角，拾角為壹圓。

本行所發行紙幣及硬幣之面額、成分、形式及圖案，由本行擬定，報請行政院核定之。

本行應將紙幣及硬幣之規格於發行前公告之。

Article 16:

Against currency issued by the Bank and its delegated banks, reserves in full equivalent value shall be maintained in gold, silver, foreign exchange, and eligible bills and securities.

The issuance of coins shall be exempt from reserves.

Article 17:

The amount and reserve status of the currency issued by the Bank and its delegated banks shall be made public in regular intervals.

Article 18:

The Bank shall exchange stained or damaged notes and coins deemed to be unfit for circulation in accord with certain standards, and destroy them according to law.

The Bank may redeem currency issued. Currency redeemed shall no longer be considered as legal tender. However, the redemption period shall not be less than one year, during which time holders may exchange redeemed currency with the Bank.

Article 18-1

The maximum amount of national currency that may be carried or mailed into or out of the territory of the Republic of China shall be prescribed by the Bank. Currency in excess of the aforesaid maximum can not be transported from into or out of the territory.

Article 18-2

When financial institutions or other enterprises which are authorized to engage in foreign exchange operations receive counterfeit or falsified national currency or foreign currency, they shall retain, void and destroy those currencies, save that suspicion of crime involvement shall be reported to the judicial authority. Regulations handling counterfeit or falsified currencies shall be stipulated by the Bank.

Article 18-3

The Bank may issue gold and silver coins and commemorative notes and coins. Regulations governing the issuance of gold and silver coins and commemorative notes and coins shall be stipulated by the Bank.

第十六條 本行發行及委託發行之貨幣，應以金銀、外匯、合格票據及有價證券，折值十足準備。

硬幣免提發行準備。

第十七條 本行發行及委託發行之貨幣數額及準備狀況，應定期公告之。

第十八條 本行對污損或破損而不適流通之紙幣及硬幣，應按所定標準予以收兌，並依法銷燬之。

本行對已發行之貨幣，得公告予以收回。經公告收回之貨幣，依公告規定失其法償效力。但公告收回期間不得少於一年，期內持有人得向本行兌換等值之貨幣。

第十八條之一 攜帶或寄送國幣出入境之限額，由本行定之。
攜帶或寄送國幣出入境超過本行依前項規定所定限額者，其超過部分，應予退運。

第十八條之二 金融機構及經本行指定辦理外匯業務之其他事業經收之國幣或外國貨幣有偽造或變造者，除有犯罪嫌疑，應報請司法機關偵辦外，應予截留、作廢並銷燬；其處理辦法，由本行定之。

第十八條之三 本行得發行金銀幣及紀念性券幣；其發行辦法，由本行定之。

The sale or resale prices of aforesaid notes and coins may be higher than their denomination.

Article 19:

The Bank may provide the following accommodations to banks:

- (1) Rediscounts of eligible bills, with maturity not exceeding 90 days for industrial and commercial bills, and 180 days for agricultural bills.
- (2) Temporary advances not exceeding 10 days.
- (3) Refinancing of secured loans not exceeding 360 days.

The Bank may impose limits on rediscounts or other accommodations to banks.

Article 20:

The Bank, in order to assist economic development, may establish various funds, using savings deposits re-deposited by financial institutions and other special funds to refinance medium and long term loans disbursed by banks.

Article 21:

The interest rates of the Bank's rediscounts and other accommodations shall be determined by the Bank in the light of prevailing financial and economic conditions, and made public. However, a branch of the Bank may establish its own interest rates on rediscounts and accommodations according to special local financial conditions, with prior approval by the Head Office, and make them public.

Article 22:

The Bank may, at its discretion and in the light of financial and economic conditions, prescribe an upper limit for the interest rates of bank deposits, and approve the range of interest rates on bank loans as proposed by the Bankers Associations of the Republic of China.

Article 23:

The Bank shall receive and keep reserves against deposits and other liabilities of banks which are regulated by Banking Law of the Republic of China, and may, at its discretion, adjust various deposit and other liability reserve ratios under the following maximum limits in accordance with the regulation governing adjustment and audit thereof, which shall be prescribed by the Bank:

- (1) Checking deposits: 25%
- (2) Demand deposits: 25%
- (3) Savings deposits: 15%

前項券幣，得高於面額另定價格發售或轉售。

第十九條 本行得對銀行辦理左列各項融通：

一、合格票據之重貼現，其期限：工商票據不得超過九十天；農業票據不得超過一百八十天。

二、短期融通，其期限不得超過十天。

三、擔保放款之再融通，其期限不得超過三十六十天。

本行對銀行之重貼現及其他融通，得分別訂定最高限額。

第二十條 本行為協助經濟建設，得設立各種基金，運用金融機構轉存之儲蓄存款及其他專款，辦理對銀行中、長期放款之再融通。

第二十一條 本行之重貼現率及其他融通利率，由本行就金融及經濟狀況決定公告之。但各地區分行得因所在地特殊金融狀況，酌定其重貼現率及其他融通利率，報經總行核定公告之。

第二十二條 本行得視金融及經濟狀況，隨時訂定銀行各種存款之最高利率，並核定銀行公會建議之各種放款利率之幅度。

第二十三條 本行收管應適用銀行法規定之金融機構存款及其他各種負債準備金，並得於左列最高比率範圍內隨時調整各種存款及其他負債準備金比率，其調整及查核辦法，由本行定之：

一、支票存款，百分之二十五。

二、活期存款，百分之二十五。

三、儲蓄存款，百分之十五。

(4) Time deposits: 15%

(5) Other liabilities: 25%

The scope of aforesaid other liabilities shall be prescribed by the Bank.

The Bank may, whenever necessary and from a specific date, impose on the increment of the checking deposits, demand deposits and other liabilities, a marginal reserve ratio which shall not be bound by the maximum limits on paragraph 1 of this Article.

The Bank may charge the banks having insufficient reserves, on the portion of the shortfall, a penalty interest rate not higher than two times of that prescribed in Article 21 on unsecured temporary advances as stated in subparagraph 2, paragraph 1 of Article 19.

Article 24:

The Bank shall, in conformity with law, receive and keep reserves for indemnity deposited by investment and trust companies.

Article 25:

The Bank, after consulting with the Ministry of Finance, may at its discretion, prescribe for banks a minimum ratio of their liquid assets to various liabilities.

Article 26:

The Bank may, in the light of financial conditions, purchase and sell in the open market the bonds issued or guaranteed by the government, financial bonds issued by banks and bills accepted or guaranteed by banks.

Article 27:

The Bank may, for the purpose of regulating monetary conditions, issue certificates of deposits, savings bonds and short-term bonds, and may purchase and sell them in the open market.

Article 28:

The Bank may, whenever necessary, prescribe maximum loanable ratios selectively on the items used as collateral or mortgage of secured loans extended by banks.

Article 29:

The Bank may, whenever necessary, prescribe and regulate the amount of down-payment and the term of credit extended by banks for the purchase or construction of buildings and the purchase of durable consumer goods.

四、定期存款，百分之十五。

五、其他各種負債，百分之二十五。

前項其他各種負債之範圍，由本行另定之。

本行於必要時對自一定期日起之支票存款、活期存款及其他各種負債增加額，得另訂額外準備金比率，不受前項所列最高比率之限制。

本行對繳存準備金不足之金融機構，得就其不足部分按第十九條第一項第二款無擔保短期融通，依第二十一條所定之利率加收一倍以下之利息。

第二十四條 本行依法收管信託投資公司繳存之賠償準備。

第二十五條 本行經洽商財政部後，得隨時就銀行流動資產與各項負債之比率，規定其最低標準。

第二十六條 本行得視金融狀況，於公開市場買賣由政府發行或保證債券及由銀行發行之金融債券與承兌或保證之票據。

第二十七條 本行為調節金融，得發行定期存單、儲蓄券及短期債券，並得於公開市場買賣之。

第二十八條 本行於必要時，得就銀行辦理擔保放款之質物或抵押物，選擇若干種類，規定其最高貸放率。

第二十九條 本行於必要時，得就銀行辦理購建房屋及購置耐久消費品貸款之付現條件及信用期限，予以規定，並管理之。

Article 30:

The Bank shall prescribe and regulate the accommodations extended by banks to securities dealers and securities finance companies.

Article 31:

The Bank may, whenever it deems that the monetary and credit conditions so warrant, prescribe a maximum limit for the amount of various kinds of credit extended by all, or any category of, financial institutions.

Article 32:

The Bank shall establish a clearing house for checks and settlement of accounts among banks at the sites of Head Office or branch offices. The Bank may delegate a government bank to carry out this function in places where the Bank has no branch office. Regulations governing checks clearance and settlement of accounts among banks shall be stipulated by the Bank.

Article 33:

The Bank shall hold the international monetary reserves, and undertake the overall management of foreign exchange.

Article 34:

The Bank may, in the light of balance of payments situation, take measures to adjust the demand for and supply of foreign exchange with the view of maintaining an orderly foreign exchange market.

Article 35:

The Bank shall undertake the following foreign exchange operations:

- (1) To draw up plans for foreign exchange management and on anticipated receipts and payments;
- (2) To authorize and supervise banks and other enterprises engaging in foreign exchange operations;
- (3) To settle the purchase and sale of foreign exchange;
- (4) To examine and approve private outward and inward remittances;
- (5) To supervise private enterprises' foreign borrowings guaranteed by appointed banks, with reference to their management and their repayment schedule;
- (6) To purchase and sell foreign currencies, bills of exchange and securities;
- (7) To calculate, compile, analyse and report the receipts and payments of foreign exchange;
- (8) Other operations relating to foreign exchange.

第三十條 本行就銀行辦理對證券商或證券金融公司之融通，訂定辦法管理之。

第三十一條 本行認為貨幣及信用情況有必要時，得對全體或任何一類金融機構，就其各類信用規定最高貸放限額。

第三十二條 本行得於總行及分行所在地設立票據交換所，辦理票據交換及各銀行間之劃撥結算。在未設分行地點，並得委託其他公營銀行辦理；票據交換及各銀行間劃撥結算業務管理之辦法，由本行定之。

第三十三條 本行持有國際貨幣準備，並統籌調度外匯。

第三十四條 本行得視對外收支情況，調節外匯供需，以維持有秩序之外匯市場。

第三十五條 本行辦理左列外匯業務：

- 一、外匯調度及收支計劃之擬訂。
- 二、指定銀行及其他事業辦理外匯業務，並督導之。
- 三、外匯之結購與結售。
- 四、民間對外匯出、匯入款項之審核。
- 五、民營事業國外借款經指定銀行之保證、管理及其清償、稽催之監督。
- 六、外國貨幣、票據及有價證券之買賣。
- 七、外匯收支之核算、統計、分析與報告。
- 八、其他有關外匯業務事項。

Regulations governing requirements of application, the examination procedure, approval of authorization, the scope of foreign operations, withdrawal of authorization, and other matters which banks and other enterprises applying to engage in foreign exchange operations must comply with, shall be stipulated by the Bank.

Article 36:

The Bank shall effect the operations of the National Treasury and manage the National Treasury's cash accounts. It shall also manage the Central Governmental agencies' cash accounts, bills, securities, including receipts and payments, safekeeping and transfers, and the safekeeping of their other asset documents. The Bank may delegate, whenever necessary, the operations mentioned above to other financial institutions in places where the Bank has no branch office.

Article 37:

The Bank shall undertake the floatation and the redemption of government bonds, issued domestically or abroad, and treasury bills. The Bank may delegate, whenever necessary, the above to other financial institutions.

Article 38:

In conformity with the powers and functions authorized in this Act, the Bank shall undertake the examination of the operations of all financial institutions in the country.

The above examination may be performed in conjunction with the bank examination program delegated to the Bank by the Ministry of Finance.

The Bank may delegate a government financial institution to perform the examination of the operations of the credit cooperatives and the credit departments of farmers' associations.

Article 39:

To coordinate the formulation of monetary policies and the execution of financial operations, the Bank shall regularly collect economic information, compile financial statistics and conduct monetary and economic research.

Chapter IV. Budgets and Fiscal Reports

Article 40:

Before the beginning of each fiscal year, the Bank shall prepare a draft budget for examination and adoption by the Board of Directors, the adopted budget shall be processed in accordance with the Budgeting Law.

銀行及其他事業申請辦理外匯業務應具備之條件、審查程序、核准指定、業務範圍、廢止指定及其他應遵行事項之辦法，由本行定之。

第三十六條 本行經理國庫業務，經管國庫及中央政府各機關現金、票據、證券之出納、保管、移轉及財產契據之保管事務。

前項業務，在本行未設分支機構地點，必要時得委託其他金融機構辦理。

第三十七條 本行經理中央政府國內外公債與國庫券之發售及還本付息業務；必要時得委託其他金融機構辦理。

第三十八條 本行依本法賦與之職責，辦理全國金融機構業務之檢查。

前項檢查，得與財政部委託之檢查配合辦理。信用合作社及農會信用部之檢查，本行得委託公營金融機構辦理。

第三十九條 本行為配合金融政策之訂定及其業務之執行，應經常蒐集資料，編製金融統計，辦理金融及經濟研究工作。

第四章 預算及決算

第四十條 本行應於會計年度開始前，擬編預算，提理事會議決後，依預算法規定辦理。

Article 41:

After the close of each fiscal year, the Bank shall prepare fiscal reports for examination and adoption by the Board of Directors. The adopted reports shall be examined and approved by the Board of Supervisors, and processed in accordance with the Fiscal Reporting Law.

Article 42:

At the close of each fiscal year, the Bank shall set aside fifty per cent of its net profit as legal reserve. In case the amount of the accumulated legal reserve equal or exceed of the Bank's current capital, the percentage herein prescribed may, subject to the resolution of the Board of Directors and the concurrence of the Board of Supervisors, be reduced to a level no lower than twenty per cent.

Article 43:

The gain or loss from the Bank's assets or liabilities denominated in gold, silver, foreign currencies and other forms of international reserve, result from changes in parity of the national currency, or changes in the value, parity or exchange rate of these assets and liabilities relative to the national currency, shall not be listed in the Bank's annual income statement.

Any gain from the above changes shall be posted in an Exchange Reserve Account, and any loss shall be offset in the balance of that Account.

Chapter V. Appendix

Article 44:

This Act shall become effective on the date of promulgation.

The effective date of Article 23 amendment shall be prescribed by the Executive Yuan.

- 第四十一條 本行應於會計年度終了後，辦理決算，提經理事會議決，監事會審核，依決算法規定辦理。
- 第四十二條 本行每屆決算，於純益項下提百分之五十為法定盈餘公積。法定盈餘公積達當年度資本額時，經理事會議決，監事會同意，得將定率減低。但不得低於百分之二十。
- 第四十三條 本行以黃金、白銀、外幣及其他國際準備計算之資產或負債，如其價值因國幣平價之改變，或此類資產、負債對國幣之價值、平價或匯率改變而發生利得或損失，均不得列為本行年度損益。
- 前項變動所生之利得，應列入兌換準備帳戶；其損失應由兌換準備帳戶餘額抵沖。

第五章 附 則

- 第四十四條 本法自公布日施行。
- 本法修正條文第二十三條施行日期，由行政院定之。

本行出版各國中央銀行法選譯明細

年度	名 稱	選 譯 國 家 (國 家 數)
64	美國聯邦準備法	美國 (含聯準法及相關法規) (1 國)
65	各國中央銀行法選譯	加拿大、英國、法國、義大利、日本、印尼、印度、約旦、韓國、泰國 (10 國)
81	各國中央銀行法選譯 (第一輯)	英國、德國、法國、瑞士、瑞典、丹麥、比利時、日本、韓國、新加坡、泰國、澳洲、紐西蘭 (13 國) (附我國央行法)
82	各國中央銀行法選譯 (第二輯)	美國 (含聯準法及相關法規)、加拿大 (2 國)
92	各國中央銀行法選譯 (九十二年版)	歐盟及歐洲央行、德國、英國、法國、瑞士、瑞典、芬蘭、日本、韓國、新加坡、馬來西亞、澳洲、加拿大、墨西哥 (14 國) (附我國央行法、日本及韓國央行法原文)
93	各國中央銀行法選輯 (2003 年版) 《中英對照本》 Collections of Central Bank Acts of Selected Countries (2003 Edition)	同上
98	各國中央銀行法選譯 (續編)	義大利、荷蘭、比利時、盧森堡、葡萄牙、捷克、巴西、俄羅斯、印度、菲律賓 (10 國) (附我國央行法)
98	各國中央銀行法選輯 (續編) 《中英對照本》 Collections of Central Bank Acts of Selected Countries (Volume II)	同上

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