

2004 FINANCIAL SYSTEM REFORMS

This document describes the most important financial sector provisions issued in 2004. To facilitate their consultation they were ordered by topics: firstly those issued by Banco de México in relation to monetary and foreign exchange regulation; secondly those issued by the Bank as financial system regulator; thirdly, those issued as financial agent of the Federal Government and the Bank Savings Protection Institute; and fourthly provisions issued by the Central Bank jointly with other financial authorities. Finally a brief explanation is provided of the most important financial legislation reforms that took place during the period.

I. PROVISIONS ISSUED BY BANCO DE MÉXICO

I.1 Monetary and foreign exchange policy provisions issued by Banco de México.

MONETARY REGULATION DEPOSITS

In order to control the expansion of liquidity during the final months of 2004 as a result of transactions undertaken by the Federal Public Sector, Banco de México deemed it necessary for banks to create a new compulsory monetary regulation deposit totaling \$50,000'000,000.00 (FIFTY BILLION PESOS 00/100 M.N.). To achieve this daily deposits of \$10,000'000,000.00 (TEN BILLION PESOS 00/100 M.N.) were made on December 6,7,8,9 and 10, 2004.

The following are the terms of the new deposit:

a) An indefinite maturity and the amount that each bank must deposit is based on their individual local currency liabilities versus the banking system's total liabilities. The concept of core deposits was considered for this purpose in accordance with National Banking and Securities Commission (CNBV) criteria; and

b) The interest rate is referenced to the overnight funding rate published by Banco de México daily on its web page. Interest is capitalized daily and is payable every 28 days, with the exception of the first period of interest, which was met on December 17th, 2004.¹

DOLLAR AUCTIONS

The Foreign Exchange Commission decided to modify mechanisms for reducing the speed at which international reserves are accumulated through US dollar auctions in order to make the daily amounts sold more stable during the year. As a result, as of May 3rd, 2004, the Central Bank established a new procedure for distributing the aforementioned amounts so that dollar sales take place during the four quarters subsequent to the calculation period rather than in just one, as was previously the case. No change was made to the procedure for determining the reserve amounts to be sold.

It was also established that during a given sale period, US dollar sales must amount to at least 2 million dollars, and if an amount below that is obtained after applying the formula, the number of days in the corresponding sale period will be lowered in order to fulfill the requirement.²

I.2 Provisions issued by Banco de México as financial system regulator

SECURITIES BUYING AND SELLING

Rules for banks were modified in order to clarify the scope of some provisions related to securities buying and selling, as follows:

- 1) Banks are authorized to undertake purchase and sale transactions with commercial debt and equity documents registered in the National Securities Registry (NSR) when acting on their own behalf;
- 2) Banks do not require the assistance of brokerage firms to conduct purchases and sales of buy or sell transactions involving Bank Securities and commercial documents registered in the NSR.
- 3) With respect to trades and their characteristics, transactions involving other commercial documents not registered in the NSR will adhere to the Law on Credit Institutions, the Securities Market Act as well as other applicable provisions, and
- 4) Institutions must inform S.D. Indeval, S.A. de C.V., Securities Deposit Institution (Indeval) about the purchase and sale transactions entered into with other financial entities and with Banco de México that are settled through Indeval the same day as they are conducted.

Likewise, when conducting such transactions foreign bank branches will be subject not only to Circular 2019/95, but to all other provisions issued by Banco de México as well.³

FOREIGN CURRENCY DEPOSITS

Given that there is currently only one clearing house for checks, which operates largely with the check truncation process, and given the appropriateness of establishing some provisions applicable to foreign currency debt transactions, "General rules to which banks must adhere when receiving demand deposits with or without a foreign currency checkbook" were modified along with regulations referring to such transactions contained in Circular 2019/95. The amendments eliminated the requirement that the backs of checkbooks used to issue checks from individual accounts indicate the areas where the checks can be cashed. The number of ways in which holders of such accounts can withdraw the corresponding funds was also increased.⁴

EARLY PAYMENT OF DOCUMENTARY CREDITS

In response to diverse petitions from banks, Banco de México modified its provisions to enable banks to pay in advance obligations resulting from irrevocable term documentary commercial credits, and when necessary, term acceptances drawn in relation to such letters of credit on the condition that the documents presented by the beneficiaries comply with the terms and conditions set forth in the letters of credit; payment is made at market prices and the beneficiary's consent is obtained in writing.

It is also established that the aforementioned early payment will not modify the obligations of the person requesting the letter of credit with the issuing institution.⁵

REPO TRANSACTIONS

The deadline for banks, brokerage firms, mutual funds and retirement mutual funds (SIEFORES) to comply with certain provisions contained in the "Rules to which banks, brokerage firms, mutual funds and retirement mutual funds must adhere in repo transactions" in relation to the master agreement, the creation of guarantees, establishing specific characteristics of the securities involved in the repo transactions in the respective confirmation or receipt, and reaching an agreement regarding the possibility of an early settlement of the transactions was extended from May 3, 2004 to September of the same year.⁶

Likewise the aforementioned Rules were modified as follows:

- 1) Only the securities mentioned in the Rules themselves may be the object of repo transactions;
- 2) When entering into repo transactions with foreign securities not registered in the National Securities Registry, banks must conduct said transactions through a brokerage firm in accordance with the Law on Credit Institutions and the Securities Market Act;
- 3) In exceptional cases Banco de México may authorize banks to undertake repo transactions with different characteristics or based on commercial documents other than those mentioned in the Rules;
- 4) It was clarified that the information Banks should send to Indeval when undertaking repo transactions should correspond only to transactions settled through Indeval and entered into with other Banks and Banco de México;⁷
- 5) It was established that mutual funds and SIEFORES are not included in the definition of Qualified and Institutional Investors provided for in said Circular;
- 6) It was established that Banks are empowered to grant guarantees under any of the master agreements through which they implement such transactions, and not only the master agreement approved jointly by the Mexican Banking Association (Asociación de Bancos de México, A.C.), the Mexican Association of Securities Intermediaries, (Asociación Mexicana de Intermediarios Bursátiles, A.C.) and the Association of International Financial Institutions (la Asociación de Instituciones Financieras Internacionales, A.C.), and
- 7) The obligation to sign the above-mentioned master agreement with Institutional Investors was extended until February 3rd, 2005 on the understanding that until signed Banks may not enter into repo transactions with private debt securities with such Investors.⁸

SECURITIES LENDING TRANSACTIONS

In order to continue the mechanism of regulation by topic rather than by intermediary, Banco de México issued the "Rules to which banks, brokerage firms, mutual funds and retirement funds must adhere with respect to securities lending transactions". Such Rules standardize the regime applicable to securities lending transactions that different banks regulated by the Central Bank can enter into; they update the regime and facilitate consultation by issuing a single body of rules containing all of the provisions related to securities lending it must issue.⁹

ELECTRONIC FUND TRANSFERS

In order to ensure the sound working of payment systems and encourage transactions using the Electronic Fund Transfer Service (TEF) operated by Cecoban, S.A. de C.V. (Cecoban), it was determined that as of March 8th, 2004, commercial banks may not return payment orders received through TEF because the type of recipient account contained in the order is "debit card" where clients with bank account deposits associated with such cards are concerned.¹⁰

Likewise, in order to facilitate the payment of loans by borrowers using checks issued by and fund transfers made by banks other than the lender, the Central Bank made it obligatory for commercial banks that grant loans to accept the aforementioned media for the payment of principal, interest, fees and expenses related to: a) credit cards, b) mortgage loans, c) car loans, and, d) individual loans, as long as the checks and fund transfers have sufficient funds. Furthermore, banks must inform clients how to pay their loans in account statements, agreements, their web pages or any other means of communication.

As a result of adjustments made to bank systems in order to achieve this, a timetable was established, including effective dates depending on the type of loan.¹¹

PAYMENT SYSTEMS

In order to i) foster the sound working of payment and securities settlement systems by changing the way in which liquidity is granted to system participants, and ii) ensure that regimes relative to the Single Account, the determination of credit limits and some other payment system parameters as well as bank guarantees in favor of the Central Bank are observed by all banks, Banco de México resolved to:

- 1) Modify the asset set accepted as a guarantee in diverse transactions with banks, notably by adding monetary regulation deposits and eliminating Special CETES, payment Instruments issued by the Bank Savings Protection Fund derived from the so-called "Portfolio Capitalization and Purchase Program", and IPAB payment instruments which, where appropriate, replace them;

- 2) Gradually eliminate banks' Single Account overdraft in relation to the settlement of securities transactions in the Sistema Interactivo para el Depósito de Valores (SIDV) de la S.D. Indeval, S.A. de C.V., Securities Deposit Institution, as well as the capacity to use it to grant loans to brokerage firms to settle their loan control account balance with Indeval;
- 3) Gradually eliminate the net amount of each bank's fund transfers from the Extended Use Electronic Payments System (SPEUA) to other systems, and
- 4) Establish a new mechanism for providing banks with liquidity so they can fulfill their payment systems obligations through the celebration of repo transactions with Banco de México. Using the same mechanism they may conduct repo transactions with brokerage firms using funds from repo transactions they have entered into with the Central Bank so that brokerage firms can fulfill their payment system obligations.¹²

Likewise, in order to further the modernization of Mexico's payment systems and bearing in mind the design and operation principles recommended by main international financial bodies that have been adopted by diverse countries which aim to make payment systems more secure, stable and efficient, Banco de México issued the Immediate Settlement Module rules of a new payment system called Interbank Electronic Payments System (SPEI).

1. The aim of the SPEI Immediate Settlement Module is to enable banks participating in the system to send payment orders and transfers electronically. Through payment orders participating banks may, either on their own behalf or on behalf of third parties, instruct the Module to pay a certain sum in local currency to the beneficiary mentioned in the order and undertake fund transfers from their single account to their Module account and vice-versa.
2. Payment order beneficiaries can be participating institution receivers, accountholders, participating institution issuers or any other person (counter payments). Also, payment orders or transfers for any amount can be sent.
3. In order to become a Module participant, interested banks must sign a contract with Banco de México through attorneys-in-fact with powers to exercise acts of ownership and assign people to act as operators in payment systems managed by Banco de México. Signing the contract implies that the bank agrees to submit to related provisions issued by the central bank.
4. In order to make this Module more efficient participating institutions that receive a request to process a payment order must send it to the Module ten minutes after receiving it and recipient institutions must credit the beneficiary, if appropriate, within the same timeframe. Likewise, when recipient institutions cannot make the funds that have been sent available to the beneficiaries they must be returned within twenty minutes following their reception. Likewise, participant institutions that receive returned funds must credit them within ten minutes of clients requesting their return.

It is also envisaged that participating banks that fail to comply with the

aforementioned timeframes must pay interest based on the number of minutes they delayed. Furthermore, based on petitions from banks, until November 19th, 2004, such timeframes amounted to thirty minutes.

5. It should be pointed out that article 6, section I of the Payment Systems Law states that payment system internal regulations should mention the moment the transfers they sent are deemed accepted, and so in the case of the SPEI Immediate Settlement Module it is indicated that this will occur when said Module sends a settlement notification to participating institutions stating that the payment orders and transfers have been performed and that the respective debits and credits to the Module's accounts have been made. No overdrafts are allowed or loans between participating institutions in the Module in question, and
6. In order to reinforce the security of information transmitted through said Module, the procedures that participating institutions must follow in order to have access and operate in it will be based on the Extended Security Infrastructure (IES), so all messages sent to the Module in question must be electronically signed.¹³

The Central Bank also modified diverse SPEUA provisions in order to: i) clarify that payment orders sent to the System will be considered accepted after passing all of the controls established in the provisions as well as in the system's Operating Manual, in accordance with the Payment Systems Law, and ii) allow banks to receive fund transfer orders through SPEUA to be met by other banks for the payment of loans and services provided by the recipient institution as long as the beneficiaries of such orders are issuer or recipient participating institutions, or clients that have a demand deposit account with them have granted them credit or provided them with a service.¹⁴

Finally, given its appropriateness, and at the request of both commercial banks and development banks, Banco de México decided to provide these banks with more liquidity by increasing: a) the daily overdraft limit they can incur through the Banco de México Accountholders Service System (SIAC-BANXICO); b) the Repo Module's operating limit for Providing the Banco de México Accountholders Service Payments System with Liquidity (SIAC-BANXICO RSP Module), and c) the additional limit for entering into repo transactions with brokerage firms through said Module.¹⁵

FEE REPORTS

In order to make fees and interbank quotas related to diverse services provided by commercial banks in payment systems more transparent, Banco de México established the following obligations for banks:

1. Maintain on their web pages and at branches, information related to the amount of the fees charged for services offered to the public in relation to the use of debit cards, credit cards, checks, and fund transfers;
2. Use the ATMs they operate to inform clients of the quotas and fees they must pay to use them and obtain their consent before continuing the transaction.

In relation to this, the words the ATM screen must display for transactions made at ATMs operated by banks other than the card issuer are transcribed with the indication that concerning transactions in which the ATM operator is the same as the card issuer, Banco de México should be informed in advance of the words that will be used. When the card issuer and the ATM operator are not the same bank, the issuer must break down the amount charged for the use of the ATM and the amount charged by the ATM operator in the client's account statement, and

3. Submit the format containing information on quotas and fees charged for diverse services related to payment systems to Banco de México along with any changes they plan to make to said quotas and fees before applying or divulging them. Thus banks may not charge fees or modify existing ones without first informing Banco de México as indicated.¹⁶

INFORMATION ABOUT MORTGAGE LOANS

In order to ensure the right elements for determining the components and calculation methodology of the Total Annual Cost (TAC) as well as encourage the dissemination of interest rates, fees, quotas, costs and other charges and expenses related to mortgage loans offered by commercial banks and limited purpose financial companies using mechanisms that give those interested access to information that facilitates the understanding, analysis and evaluation of such concepts, Banco de México made it compulsory for such institutions and companies to provide it with the respective information, and to encourage transparency it decided to publish a simulator on its web page for comparing the different mortgage loan options available to the general public.¹⁷

PROVISIONS THAT CENTRAL COUNTERPARTIES MUST ADHERE TO WHEN RECEIVING CREDITS AND LOANS FOR THEIR CORPORATE PURPOSE

Pursuant to article 89 bis 2 section VII of the Securities Market Act, which stipulates that central counterparties may take out loans in relation to their corporate purpose, in accordance with Banco de México provisions, and considering that taking out loans would enable central counterparties to facilitate the settlement process during daily operations by giving them enough cash to comply with their obligations, the Central Bank issued "Provisions central counterparties must adhere to when receiving loans for meeting their corporate purpose".

The provisions in question state that: i) central counterparties are free to agree on loan amounts and terms with banks; ii) the loans must be denominated in local currency; iii) when a loan agreement states that either party may terminate it after notifying the other, notification must be given at least 5 working days in advance; iv) central counterparties must send Banco de México any information it requests with respect to loans they receive, and v) central counterparties may receive loans under terms different to those provided for in said Provisions following authorization from Banco de México in writing.¹⁸

RULES THAT RETIREMENT MUTUAL FUNDS MUST ADHERE TO WHEN SECURING CREDIT LINES FOR SETTLING SECURITIES THEY BUY IN INTERNATIONAL MARKETS

The National Commission for Retirement Savings (CONSAR) sent a request to Banco de México asking it to issue regulations to enable SIEFORES to secure credit lines for settling securities acquired in international markets, in view of the fact that the CONSAR itself issued rules enabling such companies to invest in the aforementioned instruments.

As a result Banco de México issued the respective Rules authorizing SIEFORES to receive peso or foreign currency-denominated credit lines from entities that provide them with the custodian service for transactions in said markets, in accordance with "General Rules for the operation of notes and other securities acquired by Retirement Mutual Funds", issued by CONSAR.

SIEFORES must settle the credit lines they secure within 2 working days and may give cash and/or securities to ensure payment of the loans they are granted. Likewise, receiving loans in terms other than the established ones requires Banco de México's authorization at CONSAR's request.¹⁹

CREDIT CARD RULES

On August 4th, 2004, the Official Gazette published new "Rules commercial banks and limited purpose financial companies should adhere to when issuing and operating credit cards" in order to enhance transparency with respect to how credit cards work, improve cardholder protection mechanisms, and increase information clients are provided with in relation to the use of such cards. These rules came into effect on October 1st, 2004 with some exceptions:

The Rules established clearer provisions regarding the minimum content of new credit agreements, explanatory pamphlets and account statements as well as fee collection transparency. Likewise, a table was included about the dates on which banks must deem cardholder payments have been credited, depending on the means of payment used.

Furthermore, provisions related to interest rates and the exchange rate used to calculate the peso's parity against the US dollar in international transactions were updated. Conditions and assumptions were also established for credit card issuers to charge any uncovered debts related to the use of the card over time to any account the holder has opened with it.

Once effective, these rules replace the "Rules to which commercial banks must adhere when issuing and operating bank credit cards" with the exception of those referring to the account statement and the opening of a new loan current account, which will be repealed on November 30th, 2004 and November 30th, 2005, respectively.

RULES APPLICABLE TO CREDIT INFORMATION COMPANIES

As a result of amendments to the Credit Information Companies Law of January 2004, on June 8th of the same year Banco de Mexico published in the Official Gazette "Resolution modifying general rules that the operations and activities of credit information companies and their users must adhere to", as it was deemed appropriate to: i) issue provisions referring to the elimination of information on loans corresponding to individuals amounting to less than the equivalent of one thousand UDIS as well as: ii) adjust the regime applicable to information banks provide credit information companies with.

Regarding this, the aforementioned Resolution states that as of June 9th, 2004, credit information companies must eliminate information about the past due loans of individuals with an unpaid principal balance below the equivalent of one thousand UDIS from their data bases as long as forty-eight months have elapsed following the loan's closure; in other words, if for any reason collection rights related to the loan have ceased to exist, or the Funds have stopped receiving information about them. Loans that are 90 days or more overdue shall be deemed past due.

The rule obliging banks that send information to a credit information company to submit it to other Funds at the same time was repealed.

DERIVATIVE TRANSACTIONS

Considering that CONSAR issued a Circular 15-12 published in the Official Gazette on May 26th, 2004 contemplating the possibility of SIEFORES investing in instruments whose return is referenced to stock indexes as well as convenience of having SIEFORES only enter into derivative transactions with foreign financial entities whose debt has been properly rated, Banco de México modified its Circular 1/2002 containing "Rules that retirement mutual funds must adhere to when conducting derivative transactions" as follows:

- i) It was established that SIEFORES may only undertake future, option or swap transactions in OTC markets with foreign banks that are established in the countries of reference, and are authorized to act as financial entities by the competent authorities of such countries and whose debt is rated in the terms of Annex 1 of the Rules by at least two recognized international rating agencies. The definition of "reference countries" was included for this purpose, in other words, countries belonging to the Technical Committee of the International Organization of Securities Commissions and are part of the European Community, excluding Mexico;
- ii) Stock indexes authorized by CONSAR in provisions establishing the SIEFORES' investment regime were added as "underlying", and
- iii) SIEFORES may undertake option transactions on future transactions of any underlying security in the MexDer, Mercado Mexicano de Derivados, S.A. de C.V., as well as any other market authorized by Banco de México.²⁰

I.3 Provisions issued by Banco de México as Federal Government financial agent and the Bank Savings Protection Institute

SAVINGS PROTECTION BONDS AUCTION (BPAs)

In view of the convenience of reducing its accumulated liquid funds, reducing maturities during the second half of 2005, generating more liquidity in the Savings Protection Bonds (BPAs) market and replacing issuances of BPAs of shorter maturities with longer ones, the Bank Savings Protection Institute asked Banco de Mexico as financial agent to undertake a purchase auction of diverse BPA issuances on Wednesday 15th, 2004.

Consequently, Banco de México issued a Circular detailing the terms of the auction which include the following:

1. Only the BPAs of issuances mentioned in the official document will be bought.
2. The amount for auction will be \$10,000,000,000.00 (ten billion pesos, 00/100 M.N.). However, the IPAB may increase the amount by up to \$4,000,000,000.00 (four billion pesos, 00/100 M.N.);
3. Bidders need only be the entities;
4. It will be a multiple price auction and so the securities will be bought as of the best bid for the IPAB and at each bidder's requested price;
5. IPAB will only buy securities offered to it at a price below or equal to the maximum price established for each issue auctioned;
6. The bids should be submitted through the Primary-IPAB Module of the Banco de México Accountholders Service System;
7. The results will be announced ninety minutes after the deadline for the submission of the bids and settlement of the BPA buy/sell transactions will take place on December 16th, 2004, and
8. If for reasons attributable to the bidder the transaction cannot be settled on the set date, the IPAB will charge a conventional sanction equivalent to one per cent of the nominal amount of the non-compliance.²¹

CREDIT SUPPORT PROGRAMS

The Ministry of Finance and Public Credit (SHCP) sent two official documents to Banco de México in which: i) it complemented the operating rules of the credit support programs implemented by the Federal Government by including a new section establishing the terms for the repurchase of SPECIAL CETES corresponding to trusts in which the fiduciary has paid the total amount of the loan granted by the

Federal Government, and ii) it made a bid for the repurchase of SPECIAL CETES corresponding to trusts mentioned in the document.

Banco de México informed institutions of the respective documents.²²

RULES FOR SECURITY SEGREGATION AND RECONSTITUTION

As federal government financial agent, the Central Bank informed banks, brokerage firms, mutual funds and SIEFORES of the "Rules for the Segregation and Reconstitution of Securities" issued by the SHCP. The aim of the Rules is to enable securities market participants to separate interest payable and the principal of fixed rate Federal Government Development Bonds (Bonos) and Government Development Bonds denominated in Investment Units (Udibonos) so that the corresponding segregated coupons can be negotiated separately and public investors can be offered new investment alternatives. The rules also indicate the procedure for reconstituting the securities.

It should be mentioned that a term was established for the beginning of such transactions. as in order to perform secure and automated transactions changes had to be made to the systems of S.D. Indeval, S.A. de C.V., Securities Deposit Institution and the Central Bank itself.²³

I.4 Provisions issued by Banco de México jointly with other financial authorities

DERIVATIVE TRANSACTIONS

On May 14th, 2004, the "Resolution to modify Rules for mutual funds and trusts involved in the establishment and operation of an exchange listed futures and options market" issued jointly by the SHCP, CNBV and Banco de México was published in the Official Gazette. The aim of the Resolution was to include the regulation applicable to the listed futures and options market concept of "global accounts" to make the market more competitive vs. foreign derivative markets by facilitating the access of clients who would not otherwise be able to, or for whom it would be very expensive, thereby favoring conditions for the development of the derivatives market in Mexico.

In this regard the referred Rules state that "global account" refers to accounts managed by an operator or settlement partner whereby the transactions of one or several clients are recorded following individual and anonymous instructions. Foreign entities that operate in one of the markets recognized by the stock exchange are allowed to act as global account managers as long as they comply with regulations applicable to settlement partners or operators, among others. Operators that undertake transactions through global accounts should have capital amounting to at least one million Investment Units at all times.

The management of global accounts may only be done by operators, with the exception of individuals, and settlement partners with the prior authorization of the stock exchange and clearing house. Likewise, settlement partners or operators must notify the CNBV of the opening, and if appropriate, closure of global accounts.

The obligations of global account managers are established, including: a) the obligation to inform clients of the risks they incur by participating in global accounts; b) their internal accounting must include separate sub accounts per client; c) the identity of each client should be kept confidential, although the clearing house has the right to request information about a particular client for supervisory purposes; and d) inform clients of the transaction limit as of which the clearing house will be informed of their identify, the limit on the open position in the global account, and the limit of all net open positions by underlying asset they may have with a clearing house.

It is established that the clearing house will be the counterparty of each of the transactions of global clients. In any case, if a global account client ceases to deliver any amount corresponding to it, in order to prevent non-compliance by the global account itself, it must operate the security network established by the clearing house for this purpose in accordance with "Prudential provisions to which exchange listed future and options market participants must adhere.

The clearing house and the stock exchange may jointly end approvals for settlement partners and operators who acting as global account managers find themselves in any of situations provided for in the corresponding provisions.

RULES FOR THE REGULATION AND SIMPLIFICATION OF REQUESTS FOR ADDITIONAL INFORMATION FROM BANKS

On May 20th, 2004 the Official Gazette published "Rules for the regulation and simplification of requests for additional information from banks", issued jointly by the SHCP, the CNBV and Banco de México. These Rules were issued taking into account the Federal Government's objective of promoting a clear regulatory framework, healthy public finances, and strengthening a virtuous savings-investment cycle by applying measures that provide banks with legal certainty. The Rules also aim to strengthen the streamlining and simplification policy with respect to requests for additional information from banks so that they comply with them adequately, fully and in a timely manner.

The main provisions of the Rules follow:

a) The SHCP, the CNBV and Banco de México, may only request additional information from the entities they regulate or supervise in the cases specified in the Rules;

b) The Rules state that additional information means documents of an accounting, economic, financial, administrative, and legal nature that authorities are entitled to

request based on their attributes and powers besides information stipulated in laws and other applicable financial provisions;

c) Additional information requests must indicate the period covered, must have a reasonable basis, be signed by the civil servant empowered to do so, and stipulate return delivery requirements, including the deadline and medium;

d) Requisites for making additional information requests corresponding to periods of greater than six months are established, including that no requests may force banks to provide additional information for an indefinite period of time; and

e) Additional information provided by banks must meet the requisites established by the authorities, otherwise banks will be deemed to be non-compliant with this obligation.

GENERAL PROVISIONS APPLICABLE TO BROKERAGE HOUSE SECURITIES TRANSACTIONS

On July 28th, 2004, the Official Gazette published "Provisions applicable to brokerage house securities transactions" issued jointly by the CNBV and Banco de México, in order to update and condense the provisions that the said authorities had issued to regulate government securities transactions by brokerage firms as part of ongoing efforts to refine and simplify rules applicable to brokerage firms in accordance with the legal attributes conferred on them.

The provisions state that when conducting securities lending, repo and loan transactions related to any type of securities, they will adhere to the applicable provisions issued by Banco de México. Likewise brokerage houses must view instruments Banco de México indicates or regulates as such as government securities.

With respect to securities trading transactions other than those mentioned in the paragraph above, both on or off an exchange, the Circular established that brokerage houses must adjust to the applicable provisions issued by the CNBV and mentions some transitory provisions that were revoked after "General provisions applicable to brokerage houses" issued by said Commission and published in the Official Gazette on September 6th, 2004 came into force.

The Circular in question came into effect on February 3rd, 2005 along with the "Rules that Banks, Brokerage Firms, Mutual Funds and Retirement Mutual Funds " issued by Banco de México must adhere to.

II. AMENDMENTS TO FINANCIAL LAWS

FINANCIAL SERVICES TRANSPARENCY AND REGULATION LAW

On January 26th, 2004 the Financial Services Transparency and Regulation Law was published in the Official Gazette which came into force on July 24th of this year and aims to regulate service fees, interbank fees and other aspects of the provision of financial services in order to foster transparency and protect the interests of the public.

This law arose from the need to for greater transparency and elements that strengthen financial service provision competition by encouraging the granting of loans, the use of alternative payment media, the prohibition of unfair practices and a solid legal framework in the area of service and interbank fees.

The law is directed at financial institutions, banks and sofoles as well as commercial entities, such as companies engaged in the sale of non-financial goods and services that grant their clients credit.

In order to foster the healthy development of payments systems, the new law gives Banco de México more power to issue general provisions related to how financial entities charge service and interbank fees.

Financial entities must inform Banco de México each time they establish or change the fees charged for the payment services they offer in the form and terms indicated in the general provisions.

Certain provisions for charging fees for the use of credit and debit cards at ATMs are contemplated. Likewise, financial entities may not engage in "unfair practices" established in the Law.

Furthermore, financial entities must receive checks and fund transfers for crediting to a beneficiary's account as long as the funds are sufficient.

Likewise, the Central Bank will have the power to issue the general provisions concerning the requisites that contracts under which financial entities issue access media must fulfill as well as the account statements relative to them. The Law establishes that such account statements can be consulted through whatever electronic media financial entities establish and their clients prefer.

With respect to Clearing Houses, the new law grants Banco de México powers to issue general provisions related to how they work and operate.

In the event of non-compliance with or breach of said Law, the entities responsible for levying fines will be the CNBV in the case of financial entities or the Federal Consumer Protection Office in the case of commercial entities. The Central Bank is also granted powers to sanction acts that breach the provisions it issues by virtue of the powers the law confers on it.

AMENDMENTS TO THE LAW FOR THE REGULATION OF CREDIT INFORMATION COMPANIES

On January 23rd, 2004, the Official Gazette published the "Decree amending and adding diverse provisions to the Law for the regulation of credit information companies". The main amendments to this Law are described below.

The definition of Commercial Company is modified to include economic development trusts created by the Federal Government, States and the Federal District. The definition of Financial Entity was also changed to eliminate the economic development trusts created by the Federal Government.

It is established that no User may participate through any instrument whatsoever in more than 18% of the capital stock of a Credit Information Company (Company) or control it directly or indirectly, on the understanding that one person controls another, when such a person through any means has decision-making power in the shareholders' meetings, can appoint most of the members of the board, or has powers to make key decisions with respect to the company.

It is established that the Companies must provide the information and documents that Banco de Mexico and the CNBV so require in accordance with general provisions in order to comply with their roles.

Companies must keep individual records Users provide them with for a period of 84 months as of the date on which the event or act related to the client's credit situation occurs. After that period has elapsed information related to individuals generated prior to that period must be eliminated from the Information Company's database.

Companies must also eliminate information related to individual loans below the equivalent of 1,000 UDIS in accordance with general provisions issued by Banco de México.

Companies can provide information to users that buy or manage loan portfolios when the user that originally granted the loan has the client's authorization.

Any person other than the client that has access to credit reports or special credit reports must keep the information contained in them confidential and not use it for any purpose other than the authorized one. Anyone that uses the information for purposes other than the one authorized by the client must repair any damage that is caused.

Furthermore, clients may file complaints with the Consumer Protection Office against Users of Companies that are commercial companies, which will be processed in accordance with the procedures stipulated in the Federal Consumer Protection Law. Complaints against the Users of such Companies that are financial entities may also be filed with the National Commission for the Protection and Defense of Financial Service Users, which will be processed in accordance with the procedures set forth in the Law of the Protection and Defense of Financial Service Users.

It is established that Banco de México and CNBV powers for levying the

administrative penalties provided for in the Law will expire within a period of three years as of when the fine is levied. The period in question stops when the respective administrative procedure begins.

The CNBV may disqualify staff or employees of the Companies or financial entities that in any way breach the provisions related to financial secrecy from performing a job, position, post or office within the Mexican financial system for a period ranging from six months to ten years. Such persons must also repair any damage they may have caused. This precludes any applicable penalties under this Law or other legal regulations.

Situations in which the CNBV, Banco de México and the Federal Consumer Protection Office may sanction Companies, financial entities and commercial companies that are users of the Companies are also contemplated.

AMENDMENTS TO THE LAW ON CREDIT INSTITUTIONS; THE POPULAR SAVINGS AND LOANS LAW; THE RETIREMENT SYSTEMS SAVINGS LAW; THE FEDERAL LAW ON SURETY COMPANIES; THE GENERAL LAW ON MUTUAL INSURANCE INSTITUTIONS AND COMPANIES; THE SECURITIES MARKET ACT; THE LAW ON MUTUAL FUNDS AND THE GENERAL LAW CREDIT ORGANIZATIONS AND RELATED ACTIVITIES

Amendments and additions to diverse provisions of the aforementioned laws were published in the Official Gazette on January 28th, 2004 in order to implement measures to combat terrorism financing and money laundering.

The amendment adapts a series of similar provisions in other countries to local financial legislation in order to comply with special recommendations of FATF²⁴, as well as 1373 (2001) of the United Nations' Security Council.

As a result, the amendment includes the obligation of diverse financial entities to observe the rules issued by the SHCP aimed at establishing information and control mechanisms for detecting financial system acts, omissions or transactions that could aid or abet the commission of terrorist acts such as those mentioned in article 139 of the Federal Penal Code or cases referred to in 400 Bis of the same Code with respect to money laundering.

Through CNBV reports the amendments oblige banks to submit to the SHCP any acts, transactions and services undertaken by their clients that could be related to the aforementioned crimes as well as acts undertaken by staff directors, members of the board and employees that could pertain to such situations or breach the adequate application of SHCP rules. The amendment also contemplates the SHCP including guidelines in the provisions about the procedure and criteria banks should use in relation to adequate knowledge of clients and users; information that should be gathered to open accounts, conduct transactions or provide services, how this information should be safekept and the training staff should receive in order to adequately comply with the rules.

Banks and staff that fail to comply with the rules will be subject to fines equivalent to up to 100,000 days of the minimum wage in force in Mexico City.

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- ¹ Circular -Telefax 21/2004 directed at Mexican banks.
 - ² Circular 18/2003 Bis directed at Mexican banks.
 - ³ Circulars-Telefax 9/2004 y 10/2004 directed at commercial banks and development banks, respectively.
 - ⁴ Circular-Telefax 8/2004 directed at commercial banks and "Amendment of the general rules banks that receive foreign currency demand deposits with or without a checkbook must adhere to" published in the Official Gazette on May 25th, 2004.
 - ⁵ Circular-Telefax 17/2004 and 18/2004 directed at commercial banks and development banks, respectively.
 - ⁶ Circular 1/2003 Bis 1, directed at banks, brokerage firms, mutual funds and retirement mutual funds.
 - ⁷ Circular 1/2003 Bis 2, directed at banks, brokerage firms, mutual funds and retirement mutual funds..
 - ⁸ Circular 1/2003 Bis 3, directed at banks, brokerage firms, mutual funds and retirement mutual funds.
 - ⁹ Circulars 1/2004 and 1/2004 Bis, directed at banks, brokerage firms, mutual funds and retirement mutual funds.
 - ¹⁰ Circular - Telefax 4/2004, directed at commercial banks.
 - ¹¹ Circular - Telefax 26/2004, directed at commercial banks.
 - ¹² Circulars-Telefax 1/2004, 2/2004 and Circular 1/2004, directed at commercial banks, development banks and brokerage firms, respectively.
 - ¹³ Circulars-Telefax 11/2004 and 12/2004, directed at commercial banks and development banks, respectively.
 - ¹⁴ Circulars – Telefax 14/2004 and 15/2004, directed at commercial banks and development banks, respectively.
 - ¹⁵ Circulars-Telefax 22/2004 y 23/2004, directed at commercial banks and development banks, respectively.
 - ¹⁶ Circular-Telefax 13/2004, directed at commercial banks.
 - ¹⁷ Circular-Telefax 24/2004 and Circular 1/2004, directed at commercial banks and limited purpose financial companies, respectively.
 - ¹⁸ Provisions that central counterparties must adhere to when receiving loans for their corporate purpose, directed at the securities central counterparties issued on February 2nd, 2004.
 - ¹⁹ Circular 1/2004, directed at retirement mutual funds.
 - ²⁰ Circular 1/2002 Bis, directed at retirement mutual funds and published in the Official Gazette on August 6th, 2004.
 - ²¹ Circular 3/2004, directed at banks, brokerage firms, mutual funds and retirement mutual funds.
 - ²² Circulars-Telefax 19/2004 and 20/2004, directed at Mexican banks.
 - ²³ Circular 2/2004, directed at banks, brokerage firms, mutual funds and retirement mutual funds.
 - ²⁴ Financial Action Task Force against Money Laundering.