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CIRCULAR 21/2009

Mexico, Federal District, September 3 of 2009.

TO CREDIT INSTITUTIONS, LIMITED SCOPE FINANCIAL CORPORATIONS, REGULATED AND NON REGULATED MULTIPLE PURPOSE FINANCIAL CORPORATIONS; POPULAR SAVINGS AND CREDIT ENTITIES; FINANCIAL ENTITIES ACTING AS TRUSTEES IN TRUSTS GRANTING CREDIT TO THE PUBLIC, AS WELL AS TO CORPORATIONS WHO REGULARLY GRANT CREDITS:

The Bank of México, on the grounds of Articles 28 of the Political Constitution of the United Mexican States, paragraph sixth and seventh; 24, 26 y 36 of the Law of the Bank of México; 8, 21 and 22 of the Transparency and Financial Services Arrangement Law, as well as 8o third and sixth paragraphs, 10, 14 in relation to 25 section II and 17 section I, which vest on the Bank of México powers to issue provisions through the Directorate General of Analysis of the Financial System and the Directorate of Central Bank Regulation respectively, as established in the Interior Regulations of the Bank of México, as well as single article of the Order for the Assignment of the Administrative Units of the Bank of Mexico, sections III and IV; taking into account the provisions of articles 5 and 6 of the Law for Transparency and Competition Fostering in Guaranteed

Credit, as well as 60 of the Regulations of the Federal Consumer Protection Law that refers to the Total Annual Cost (CAT); aiming to promote a sound development of the financial system, of protecting the interests of the public and of propitiating transparency and competition, considering that:

- i) The CAT has been useful in enabling the public to make comparisons on the cost of mortgage and consumer credits in general, providing the public with an additional element to select the most convenient financing, and
- ii) The benefits of the CAT may be increased if precisions are made in applicable regulations to facilitate its interpretation and promote more uniformity in the manner in which it presented in advertising, contracts and account statements, particularly in the case of credit cards.

Therefore, the issuance of the following provisions has been decided:

GENERAL PROVISIONS ESTABLISHING THE METHODOLOGY FOR THE CALCULATION, FORMULA, COMPONENTS AND PREMISES OF THE TOTAL ANNUAL COST (CAT)

1. Definitions

For purposes of brevity, it shall be understood, in singular or plural, as:

CAT: the total annual cost of financing expressed in annual percentage terms which, for purposes of information and comparison, incorporate the totality of the costs and expenses inherent in the Credits;

Client: the person who pretends **to contract** or who contracts a loan;

Fee: any charge, other than interests, which regardless of its denomination or character, is charged by an Entity, directly or indirectly, to a client;

Contract: the document through which the credit is instrumented, including adhesion contracts;

Credit: the credits, loans or financings, that Entities offer;

Credit Guaranteed for Housing: guaranteed credit in relation with housing, to which the Law for Transparency and Competition Fostering in Guaranteed Credit refers.

Entities: to: (i) credit institutions; (ii) limited purpose financial corporations; (iii) regulated and non regulated multiple purpose financial corporations; (iv) popular **savings and credit** entities; (v) financial entities acting as trustees in trusts **granting** credit to the public; (vi) corporations that regularly grant Credit to the public, and (vii) any other persons who habitually grant credit to the public, which according to provisions applicable to them, must calculate the CAT;

UDIS: investment units referred in the "Decree establishing the obligations that may be denominated in investment units and amending and adding several provisions of the Federal Tax Code and the Income Tax Law", published in the

Official Gazette of the Federation on April 1 of
1995.

2. Calculation and use of the CAT

Entities must calculate the CAT of the Credits referred in the following article, using the methodology, formula, components and premises described in these Provisions.

3. Types and amounts of Credits

The current Provisions shall be applicable to those Credits that Entities grant, either through a direct offer or through third parties, for amounts which are less than the equivalent of 900,000.00 UDIS, as well as to Credits Guaranteed for Housing for any amount.

Entities shall not be obliged to calculate the CAT of the Credits listed below:

- a) Credits Guaranteed for Housing granted by Entities to promoters, urban developers, builders and real estate developers, so that they build real estate for further marketing. The foregoing, shall also be applicable to the Credits granted by Entities to third parties or trusts, so that they may, in turn, grant Credits to such persons for the purposes indicated.
- b) Business or corporate credits, for any amount, that Entities subscribe with Clients to whom they have previously granted a Credit or a credit facility for an amount equal or superior to the equivalent of 900,000.00 UDIS;
- c) Financial leasing;

- d) Factoring;
- e) Discount, and
- f) Letters of credit on demand.

4. FORMULA AND COMPONENTS

4.1 Formula

The CAT is the numerical value of variable i , expressed in percentage terms that satisfies the following equation:

$$\sum_{j=1}^M \frac{A_j}{(1+i)^{t_j}} = \sum_{k=1}^N \frac{B_k}{(1+i)^{S_k}}$$

Where:

M = Total number of dispositions of Credit.

j = Consecutive number identifying each Credit disposition.

A_j = Amount of the j -th disposition of the Credit.

N = Total number of payments.

k = Consecutive number that identifies each payment.

B_k = Amount of the k -th payment.

t_j = Time interval, expressed in years and fractions of the year, that runs between the date when the Contract becomes effective and the date of the j -th Credit disposition.

S_k = Time interval, expressed in years and fractions of the year that runs between the date when the contract becomes effective and the date of the k-th payment.

The mathematical equation to calculate i may have, in some occasion, more than one solution. In these cases, the CAT shall be the positive value which is closest to zero.

4.2 Aspects to consider in determining the values of A_j and B_k

To determine the amount of each disposition of the Credit (A_j) the corresponding amount must be considered without including any ancillaries or deductions.

To determine the amount of each of the payments (B_k), the following concepts must also be included, if any:

- a) Payment of the principal;
- b) Ordinary interests;
- c) Fees for investigation, analysis, granting, opening, management and risk coverage (other than insurance primes mentioned in subsection d) hereafter), that the Client is obliged to pay as a condition to contract the Credit or during the term it is effective;
- d) The primes applicable for transactions concerning life, disability, unemployment, damages and theft insurances: (i) which Entities require from Clients as a condition to contract the Credit or during the time it is in force, and (ii) which purpose is to guarantee the partial or total payment of the Credit. Insurance transactions for damages in the automobile branch which the Client contracts with the

insurance of his choice and such contract is documented separately, are excepted from such primes;

- e) Any Fee or expense other than the foregoing, that the Client is obliged to pay directly or indirectly as a condition for the granting or managing the Credit.
- f) The difference between the price of the good or service if it is acquired through Credit and its price in cash. For these purposes, it shall be understood as price in cash the one that considers all the discounts, rebates or offers, for transactions which are settled through a single payment on the date when such good or service is purchased. Such difference shall only be included if the Client must pay for it, and
- g) Any discounts, rebates or any amount of money, that the Client must receive in case of complying with the payment conditions established in the Contract.

To determine the amount of Bk, the following items shall not be included:

- h) Any charges that must be paid both, by the individual that purchases in cash as well as by the one that purchases by credit, such as expenses of the notary, registry and transfer of title;
- i) The added value tax that, if any, corresponds to the Fees, primes, expenses and ordinary interests, mentioned in the foregoing subsections, and
- j) Tax deductions to which, if any, the Client would be entitled; nor any decreases in interest rates and Fees for events outside the Client's control.

The provisions (A_j) and payments (B_k) must be expressed in the same currency or accounting unit.

5. Premises to calculate the Total Annual Cost

5.1 General Premises

The following general premises shall be considered to calculate the CAT:

- a) The Client complies with his obligation in time. Therefore, any charges for payments in advance, late payments or default of the Client must not be considered.
- b) Concerning the elements used to determine the values of A_j and B_k which are referred to variable interest rates, accounting units or variable indexes, the value of the variable used as reference, in force on the date when the calculation is made, shall be applied and it shall be considered that such value does not change during the term the credit is in force.
- b) Entities must assess, at the moment of calculating the CAT, the values which are unknown from the concepts used to determine the amounts of A_j and B_k .
- c) Charges and Fees which payment dates are not establish in the Contract or that are made before the date the Contract is signed, shall be considered as made at the moment of such signature. Any dispositions that can be made without having set a certain date theretofor, shall be assumed as made by the Client when the Credit enters into force.
- d) When it is agreed in the Contracts that the elements used to determine A_j and B_k shall have variations during the term

the Credit it is in force, and their values are known from the time the Contract is signed, it shall be considered that the changes shall occur in the date agreed, and

- e) In Respect to exponents t_j and S_k in the calculation formula, it shall be considered that all the payments and/or disposition are made in uniform periods. For such purpose, it shall be considered that a year has: 2 semesters, 4 quarters, 12 months, 24 fortnights, 26 fourteenths, 36 tenths or 52 weeks. For Credits with one single payment at its due date, it shall be considered that the year has 360 days.

5.2 Premises for advertising and propaganda

To calculate the CAT of products which are going to be marketed for the first time, the Entities must apply an average interest rate to which pretends to grant the Credits for a specific product.

In the case of products that are already in the market, the Entities must apply the weighted average interest rate multiplied by the balance of the Credits granted, of the specific product, to debtors who are up to date in their payments.

5.3 Premises for the Contract

When applicable provisions establish that the CAT must be included in the Contract or in the front page of the Contract, such CAT must be calculated according to the specific characteristics of the Credit in the date when the Contract is signed.

5.4 Specific additional premises for revolving credit facilities or the ones related to credit cards.

5.4.1. Credit Facility

It shall be assumed that the Client disposes of the total amount of the Credit facility when it enters into force and that the amount available after each payment of the period in question is immediately used again.

5.4.2. Term when the credit expires

When there is no specification regarding the expiration date of the Credit; when it is automatically renewed, or it exceeds 3 years, it shall be assumed that the unpaid balance of the Credit shall be amortized at the end of the last period of the third year.

5.4.3. Parameters for revolving credit facilities associated to credit cards (amount of the credit facility, interest rate and minimal payment)

The CAT must be calculated for the uses indicated hereunder, considering for such purposes, besides the assumptions mentioned, the amount of the credit facility, the interest rate and the minimal payment, as follows:

5.4.3.1. Advertising and propaganda

i) Amount of the credit facility

Entities must classify their products, both the ones for general use and those for private use, in one of the following categories, depending on their characteristics and must consider the corresponding amount: a) classic type credit card or its equivalent: \$15,000.00; b) gold card type

or similar: \$35,000.00 and c)platinum type or equivalent card: \$65,000.00

ii) Interest Rate

The weighted average interest rate per [balances] of specific product, which must include the daily average balances of the revolving portion of the credit facility, as well as the balances of promotions, with or without interests.

Balances of Clients whose Credit does not earn interests are not included.

iii) Minimum payment

The percentage or the amount required by the Entity, in respect to the specific product, to comply in time and substance with the payment obligation.

5.4.3.2. Contract

i) Amount of the credit facility

The one that Entity has granted to the Client or in case of not counting with it, the one to be used is the one applicable to the credits referred in number 5.4.3.1., subsection i).

ii) Interest Rate

The one the Entity agreed with the Client.

iii) Minimum Payment

The percentage or amount required by the Entity in respect to the specific product to comply in time and substance with the corresponding payment obligation.

5.4.3.3. Account statement

i) Amount of the credit facility:

The one the Client has in effect at the corresponding closing date.

ii) Interest Rate:

The weighted average interest rate per [balance] of the Client's Credit in relation to the period in question, which must include the daily average [balance] of the revolving portion of the credit facility, as well as the [balances] of promotions, with or without interests.

Any revolving [balances] of the credit facility that do not earn interest in the period are weighted with an interest rate of 0%.

iii) Minimum payment:

The amount the Client is obliged to pay to comply in time and substance with the corresponding obligation.

5.5. Specific premises for Credits related to housing

In the case of the Credits Guaranteed for Housing or Credits related to housing that have support through subsidies from the government or from developing entities which are applied to amortize the Credit, such Credits must be considered as payments made by the Client. In this case, they shall be included, among others, the payments with the contribution from the employers to INFONAVIT (Fund for Housing of Workers), and with subsidies of the CONAVI.

Concerning the CAT used for advertising Credits Guaranteed for Housing, they must consider the average value corresponding to each classification rank for the type of housing disclosed by

the Federal Mortgage Corporation, SNC (a National Credit Corporation) and the conditions that Entities establish for term Credits, and the highest credit capacities which are closer to 15 years and to 80% respectively.

When after the granting a Credit, Entities must disclose the CAT applicable to the rest of the term of such Credit, they must calculate it using the formula, components, and premises set forth in these Provisions, considering the information in force at the moment of making the calculation, as well as the unpaid balance, the remaining term and payments to be amortized, without considering the payments that have already been made.

6. Total amount to be paid in credits other than revolving credit facilities

Entities must assess the Total Amount to Paid for the Credit, understanding as such the sum of all the payments that must be made for the principal, interests, Fees, insurances and any other expense in charge of the Client, considering for such purposes that each one of the Bk payments referred under the number 4.2. of these Provisions.

The foregoing, so that the aforesaid Total Amount to Paid is included in the front pages of the adhesion Contracts they provide to their Clients, according to the general provisions issued for such purpose by authorities of competent jurisdiction according to the provisions of the Transparency and Financial Services Arrangement Law.

7. Information to the Public of the CAT

In the information where, according to applicable provisions, the CAT must be included, there must:

- i) Appear one single value (they must be not referred to maximums or minimums) calculated as indicated in these Provisions.
- ii) It must be expressed in percentage terms rounded to one decimal.
- iii) It must include the words "Without VAT", immediately after the numerical value corresponding to the CAT, and
- iv) In advertising and propaganda, immediately after the word CAT it must include the word "AVERAGE".

Pre-approved or pre-qualified Credit offers or the ones which Entities make to certain persons must included the specific CAT for such offer.

In the case of credit cards, in any advertising and propaganda where it is mandatory to include the CAT, they must also included the weighted average interest rate per balance in annual terms and the annual Fee for the product, followed by the words "Without VAT".

Besides the foregoing, the CAT must be disclosed in the form and terms established by authorities of competent jurisdiction in applicable provisions.

8. Information to the Bank of México

The Bank of México may require from credit institution; limited purpose financial corporations, multiple purpose financial corporation, popular credit and savings entities, and financial entities acting as trustees in trusts that grant Credit to the public, within the twelve months after the date when the CAT is made public, the date when it was calculated it, as well as the information used for such calculations.

TRANSITORY PROVISIONS

FIRST. This Circular shall enter into force on November 17 of 2009. The foregoing, with the exception of the provision under number M.5.4.3.3, which shall enter into force on December 1 of 2009; for such purpose, the Entities must calculate the CAT that, as set forth in applicable provisions, they must incorporate into account statements according to the provisions in said section, concerning credit facilities which closing date is from January 1 of this year.

Notwithstanding the foregoing, Entities for whom it is not possible to calculate the CAT to be included in the account statements using the weighted average interest rate of the Client's Credit may, from December 1 of 2009 to March 31 of 2010, calculate this CAT considering the interest rate applicable to the revolving part of the credit facility of the Client in the corresponding term. (Added by Circular 27/2009)

SECOND. From the date this Circular enters into force, Circular 15/2007 and its amendments shall be repealed.