

BANK VAN DE NEDERLANDSE ANTILLEN

GOVERNMENT ORDINANCE OF THE 2ND
FEBRUARY 1994 regulating the SUPERVISION
of BANKING INSTITUTIONS

(1994 Govt. ORDINANCE on the SUPERVISION of BANKING and CREDIT INSTITUTIONS)

Willemstad, 1994

This is a certified true translation of the Dutch language original

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A 1994

NO. 4

OFFICIAL PROCLAMATIONS GAZETTE

Government Ordinance of the 2nd February 1994 regulating the Supervision of Banking and Credit Institutions (1994 Govt. Ordinance on the Supervision of Banking and Credit Institutions).

IN THE NAME OF THE QUEEN !

Whereas it is desirable to enact new regulations for the supervision of the banking and credit institutions, be it therefore enacted by the GOVERNOR of the Netherlands Antilles with the advice and consult of the Advisory Council and Parliament, as follows:

PART 1
Definitions

SECTION 1

1. For the purpose of this Government Ordinance and provisions based thereon:
 - a. " the Bank " means : the Bank of the Netherlands Antilles;
 - b. " Minister " means : the Minister of Finance;
 - c. " credit institution " : a corporation or institution whose business is to a considerable degree the providing of funds, demandable with immediate effect or on longer-term basis, whether or not in the form of savings or against the issue of one or various classes of debt claims (debentures), and the putting out of credit investments for own account;
 - d. " international credit institution " means : a credit institution which acquires funds from investments abroad, and to which exemption has been granted from sections 9 up to and including 16 of the Government Ordinance on the Foreign Exchange Traffic (Publ. Gaz. 1981, no. 67);
 - e. " representative organization " means: an incorporated association of credit institutions designated as such by the minister with the advice of the Bank ;
 - f. " participation " means : a direct or indirect interest of more than 5% of the subscribed share capital of a corporation or institution or the power to exercise, directly or indirectly, more than 5% of the voting rights in a corporation or institution or the power to exercise, directly or indirectly, a comparable control in a

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- corporation or institution;
- g. " the Court " : the Court of First Instance;
2. The Bank shall not be considered as a credit institution in the sense of this Government Ordinance;
3. It can be decided, by Government Decree providing for general measures, that a corporation or institution which comes under the definition set forth in the first paragraph subsection c, shall not be considered as a credit institution in the sense of this Government Ordinance if, in the opinion of the Minister, the interests which this Government Ordinance aims to protect, are already sufficiently protected otherwise or are not prejudiced.

PART II
The Licensing System

§ 1 The Licence (permit)

SECTION 2

1. No person or institution in the Netherlands Antilles is allowed to carry on the business of credit institution without prior licence (permit) from the Bank.
2. In the interest of the development and maintenance of a sound banking and credit system and also for the protection of the interest of creditors and future creditors of the credit institution, a licence (permit) as referred to in the first paragraph may be subjected to restrictions and stipulations.

SECTION 3

1. A corporation or institution intending to carry on the business of credit institution shall apply for a licence (permit) by registered letter addressed to the Bank.
2. The application shall not be regarded as such and shall not be considered by the Bank unless it contains the relevant data or unless the Bank, having applied its powers conferred by section 4, fifth subsection or section 5, obtains sufficient data for the decision to grant the licence with respect to:
- a. the initial capital of the corporation or institution;
 - b. the number, the identity and the antecedents of the persons who, in the Bank's opinion, determine the day-to-

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- day policy of the corporation or institution;
 - c. if applicable, the number, the identity and the antecedents of the members of the Board of Directors or the organ entrusted with the duties similar to those of the Board of Directors;
 - d. the identity, financial status and antecedents of those who exercise authority in the corporation or institution by means of voting rights derived from their number of shares, in the general meeting of shareholders or in a comparable manner;
 - e. the extent of the participations or comparable control of the persons, or corporations or institutions referred to in subsection 1;
 - f. the last three annual reports of the parent company which must contain a statement about the accuracy signed by a certified accountant or another expert with equal authority, whereby said statement shall contain no information other than that the financial statements give a true and fair view of the consolidated financial position of the corporation or institution.
 - g. a schedule of operations which the corporation or institution intends to undertake and also balance sheet forecasts and estimates of profits and losses for the first three financial years;
 - h. the envisioned accounting system including the financial accounting and internal control;
 - i. the Articles of Incorporation of the corporation or institution;
 - j. if applicable, the company structure of the group to which the corporation or institution belongs;
3. The Bank shall decide within 60 days after receipt of a complete application. The Bank shall without delay notify the applicant of the decision by registered letter. A rejection of the application shall state the grounds for refusal. A refusal can be appealed against within 30 days in conformity with the procedure set out in Part XI.

SECTION 4

- 1. The Bank shall grant a licence (permit):
 - a. unless the day-to-day policy of the corporation or institution is determined by fewer than two persons;
 - b. unless the corporation or institution, being a legal person, does not have a Board of Directors or an organ entrusted with duties similar to those of the Board of Directors, consisting of at least three members;
 - c. unless the corporation or institution does not have a minimum of own capital fixed by the Bank per register division;

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- d. unless the Bank is of the opinion that the competence of one or more person determining the day-to-day policy of the corporation or institution, is insufficient in connection with the conducting of the business of the corporation or institution in question;
 - e. unless the Bank is of the opinion, on account of the plans and the antecedents of one or more persons determining the day-to-day policy of the incorporation or institution, that the interest of the creditors or future creditors of the corporation or institution would be seriously jeopardized;
 - f. unless the Bank, in view of the plans or antecedents of one or more persons exercising a considerable measure of authority in the corporation or institution by means of voting rights derived from shares in the general meeting of shareholders or in a comparable manner, is of the opinion that there is or might be an undesirable influencing of the corporation or institution;
 - g. unless the statement referred to in section 3, second paragraph, sub f contains information different from the statement that the annual accounts give a true and fair view of the consolidated position of the institution;
 - h. unless the Bank, on the basis of the data referred to in section 3, second paragraph, subsections f, g or h, is of the opinion that the corporation or institution will not be able to realize its plans or to meet the requirements set on account of the supervision;
 - i. unless the Bank, on account of the object defined in the Articles of Incorporation, has reason to assume that the corporation or institution may develop activities lying outside its own sphere and therefore may pose a danger to a sound banking policy;
 - j. unless the corporation or institution is not a limited liability company or an incorporated association or - in case it concerns a foreign corporation or institution if it does not have a legal form which is comparable to these legal entities; or
 - k. unless the Articles of Incorporation do not conform to provisions concerning the shares and object definition contained in the general licensing regulations.
2. The Bank may decide that it is not necessary for the applying credit institution to meet one or more of the requirements set in the subsections a up to and including k of the first paragraph.
3. The Bank may decide not to grant the licence (permit) in case the Bank has reasons to assume that the corporation or institution has applied for the licence (permit) with the purpose of dodging the rules and regulations with respect to the supervision on banking and credit institutions in another

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- state or in case the structure of the group to which the credit institution belongs, is such that the Bank is not in a position to exercise a sufficiently adequate and effective supervision on the credit institution.
4. The Bank may decide not to grant the licence (permit) if the Bank is of the opinion that granting the licence could be contrary to the development and maintenance of a sound banking and credit system or be detrimental to the creditors or future creditors of the credit institutions.
 5. The Bank may decide not to grant the licence (permit) if the Bank is of the opinion that the Central Bank or the authority of the country of origin of the corporation or institution, which is responsible for the supervision of credit institutions, cannot exercise a sufficiently adequate and effective supervision on a consolidated basis.
 6. The Bank is authorized to ask every information from every corporation and institution which has applied for a licence (permit) as referred to in the first paragraph, which the Bank deems necessary for the verification of the accuracy and completeness of the information stated in the application as referred to in section 3, second paragraph, subsections a through j.

§ 2 The providing of information

SECTION 5

The corporation or institution applying for a licence (permit) is obliged to cooperate as much as possible with the Bank or the person making inquiries for the Bank and, if asked to do so, to provide copies of all accounts, records and other information that are deemed necessary by the Bank within the context of the licensing procedure.

SECTION 6

A credit institution to which a licence (permit) as referred to in section 2 has been granted, is under the obligation to observe the provisions in section 4, first paragraph, and also to the regulations attached to and restrictions imposed in granting the licence (permit).

SECTION 7

1. In case the decision of the Bank is deferred longer than 60

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days after receipt of the application referred to in section 3, first paragraph, or after the Bank has exercised its powers under section 4, sixth paragraph, or section 5, the corporation or institution can by registered letter file a complaint with the Bank against the failure to take a decision.

2. In case the Bank has not made a decision within 30 days after receipt of the complaint, the Bank shall be considered to have taken a negative decision, against which the corporation or institution can appeal within 30 days in conformity with the provisions set out in Part XI.
3. A decision to grant the licence shall be published in the official proclamations gazette of the government as soon as possible after the date of the licence.

SECTION 8

1. The Bank has the authority to ask all (every) information from every establishment of which the Bank, on the ground of facts and circumstances, suspects that it is a credit institution or carries on the business of a credit institution, which can reasonably be deemed to be necessary for the Bank to judge if the suspicion is well-founded. The Bank shall ask for said information by registered letter. The information asked by the Bank or its agent, shall be sent in writing to the Bank or its agent by those approached for information, within 30 days after receipt of the registered letter.
2. The Bank has the authority, in case, in the Bank's opinion, and in view of the effective protection of interests aimed at by this Government Ordinance, there are reasons to do so, without the prior written request as referred to in the first paragraph, or without written notice, to ask the necessary information from the person, corporation or institution.
3. The person, corporation or institution referred to in the first, respectively second paragraph, shall allow the Bank or its agent to satisfy itself basis of the accounts, records and other information carriers, of the accuracy and completeness of the information supplied by the person, corporation or institution, and shall render full cooperation; said person, corporation or institution shall allow the Bank to inspect all accounts, records and other information carriers and, if asked to do so, shall surrender copies thereof.
4. In case it turns out that a person, corporation or institution is carrying on the business of a credit institution without a

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licence (permit) from the Bank, that person, corporation or institution shall upon the orders of the Bank, without prejudice to the provisions of section 50, without delay, stop its business activities and shall, under the supervision of the Bank and to the extent that the Bank deems it possible, within the term specified by the Bank reverse the activity or activities carried out. However, upon the request of the corporation or institution concerned, the Bank can as yet grant a licence (permit) to carry on the business of a credit institution.

5. In case the corporation or institution is a company established under the laws of the Netherlands Antilles, the Bank shall be authorized, notwithstanding the provisions of section 41, to request the Judge of First Instance concerned to dissolve the company if the latter is continuing to carry on the business of a credit institution, after the Bank's order referred to in the fourth paragraph. Section 43, second paragraph up to and including the fifth paragraph of the Code of Commerce of the Netherlands Antilles shall be applicable mutatis mutandis.

§ 3 Cancellation of the licence (permit)

SECTION 9

1. A licence can be withdrawn (cancelled) by the Bank:
- a. in case, with respect to the credit institution, a circumstance occurs as referred to in section 4 first paragraph, subsections a through k;
 - b. in case the credit institution to which the licence has been granted has not actually started its business activities within a term specified by the Bank;
 - c. in case it is clear that the credit institution to which the licence has been granted, is no longer carrying on its business;
 - d. in case the credit institution has not within the terms specified by the Bank, obeyed or followed a warning or direction as referred to in section 10;
 - e. in case one or more of the restrictions imposed upon, respectively the conditions connected to the licence are violated;
 - f. in case the credit institution does not conform to the stipulations made by virtue of sections 19 and 21;
 - g. in case one of the provisions of this Government Ordinance is violated;
 - h. in case the credit institution does not have a statement regarding the accuracy and the truth of the annual

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- accounting, or in case said statement has a contents other than that the annual accounts present a true and fair view of the consolidated financial position of the credit institution and of the results of the financial year concerned;
- i. in case the credit institution to which a licence has been granted, has ceased to be a credit institution.
 2. A credit institution can request the Bank by registered letter to cancel the licence. The Bank shall decide upon that request within sixty days after its receipt.
 3. A decision to cancel a licence as referred to in the first paragraph, or the refusal to cancel the licence as referred to in the second paragraph, shall state the refusal for said decision and shall by bailiff's writ be served upon the credit institution concerned.
 4. The credit institution concerned may appeal against the decision to cancel (withdraw) or the refusal to cancel the licence as referred to in the third paragraph. The appeal must be lodged in conformity with the provisions of Part XI within thirty days after the serving of the bailiff's writ by which the decision to cancel or the refusal to cancel was announced.
 5. A decision to cancel a licence shall become irrevocable, as soon as the term for appeal referred to in the fourth paragraph has expired or as soon as the decision of the Board of Appeal for the Financial Sector referred to in section 49, first paragraph, has become final and conclusive. As soon as possible after it has become irrevocable the decision to cancel the licence shall be published in the official proclamations gazette of the government.
 6. A credit institution whose licence is cancelled or which has appealed against the decision to cancel the licence, as referred to in the fourth paragraph, is under the obligation, with due observance of the regulations laid down by or by virtue of this government ordinance, to wind up its activities as credit institution in accordance with conditions stipulated by the Bank and in conformity with a procedure stipulated by the Bank and within a term specified by the Bank. The Bank can thereby limit the authority of the credit institution to dispose of its assets (values) or forbid the credit institution to make use of such assets except with written authorization from the Bank. A credit institution which has appealed against the refusal of the Bank to cancel the institution's licence shall, pending the appeal, continue its business with due observance of the conditions laid down by or

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by virtue of this government ordinance.

SECTION 10

1. Notwithstanding the provisions of section 9, first paragraph, the Bank may send a warning or order to a credit institution to which a licence as referred to in section 2, first paragraph, has been granted:
 - a. if the credit institution no longer conforms to the provisions of section 4, first paragraph;
 - b. if the credit institution does not adhere to the restrictions or stipulations attached to the licence under section 2, second paragraph, or
 - c. if the credit institution does not meet the obligations imposed by or by virtue of sections 12 up to and including 16.
2. A warning or direction as referred to in the first paragraph shall substantiate the reasons and shall be sent by the Bank by registered letter addressed to the credit institution concerned, and shall take effect as soon as it has been received by the credit institution concerned.
3. The credit institution concerned is under the obligation within 30 days after receipt of the register letter referred to in the second paragraph, to obey the warning, respectively to follow the direction in a manner which is acceptable to the Bank.
4. The Bank can extend the term of 30 days mentioned in the third paragraph by not more than 60 days.
5. The credit institution can appeal against a warning or direction within 30 days after receipt. The appeal shall be filed in conformity with the provisions of Part XI and shall have no suspensive effect.

PART III
The Register

SECTION 11

1. There shall be a Register of credit institutions which shall be divided into two divisions as follows:
Division I - Credit Institutions

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Division II - International Credit Institutions

The Bank may divide the divisions into subdivisions for categories of credit institutions and international credit institutions to be distinguished by the Bank.

2. The Register shall be kept by the Bank.
3. The corporation or institution to which a licence has been granted by virtue of section 4, first paragraph, shall be entered into the Register by the Bank as of the same date on which the licence has been granted. There shall be no registration in more than one division or subdivision.
4. The registration of a credit institution whose licence has been withdrawn, shall be cancelled by the Bank.
5. A copy of the Register shall be available at the Bank's office for inspection by everybody free of charge.
6. In the months of January of each year the Bank shall publish a copy of the Register with the state of things existing on 1 December of the preceding year. The publication will be made in the official proclamations gazette of the government.

PART IV
Reporting

SECTION 12

1. Every credit institution is under the obligation, if asked to do so, to provide to the Bank all information that the Bank may deem to be necessary for the proper exercise of the supervision referred to in section 18.
2. Every person as referred to in section 3, second paragraph sub b, in the employ of a credit institution, of whom it can reasonably be assumed that he has information as referred to in the first paragraph, is under the obligation, also upon the termination of his employment with said credit institution, to supply said information to the Bank after having been asked to do so by a registered letter from the Bank.
3. The information and statements to be supplied to the Bank under this Government Ordinance, must be provided on time, in full, in accordance with the truth and in a non-deceptive manner.

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SECTION 13

1. Every credit institution is under the obligation to maintain and keep in this country the accounts, records and other data carriers relating to its accounting system.
2. A credit institution which is a branch establishment of a credit institution established abroad, is under the obligation to keep a separate accounting for its establishment in this country and to maintain the related accounts, records and other information carriers in this country.

SECTION 14

1. Every credit institution is under the obligation periodically within the term specified, to submit to the Bank the statements regarding the business operation.
2. The form in which the statements referred to in the first paragraph must be drawn up, the successive periods to which they are related and the terms within which they must be submitted, shall be determined by the Bank upon consultation with the representative organizations. The statements may differ for each division or subdivision of the Register.
3. In case the Bank deems it necessary in the interest of an efficient supervision, it can instruct the credit institution:
 - a. to submit to the Bank statements as referred to in the first paragraph, which are related to periods with a shorter interval or to shorter terms than those specified under the second paragraph;
 - b. to submit a statement from an external auditor relating to the statements referred to in the first paragraph.
4. The Bank can grant partial or full exemption to the credit institutions registered in a particular division or subdivision of the Register, from the provisions in the first and second paragraph. The Bank may attach stipulations and restrictions to the exemption.

SECTION 15

1. Every credit institution is under the obligation, annually within a term specified by the Bank, to submit to the Bank an annual report about the past financial year, containing at least a balance sheet and profit and loss account together with an explanatory statement. The form in which the report shall be presented will be determined by the Bank.

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2. A statement from an external auditor shall be added to the annual report referred to in the first paragraph.
3. Every credit institution is under the obligation to grant authorization to the external accountant who audits the annual report or the statements to be submitted to the Bank periodically:
 - a. upon consultation with the credit institution, without delay to send to the Bank a copy of the auditor's report, of the manager's reports and the correspondence directly relating to the auditor's statement accompanying the annual report or of the statements periodically presented to the Bank in accordance with section 14, first or third paragraph, subsection a, if and insofar as the Bank deems it necessary that an auditor's statement shall be added to said statements;
 - b. upon consultation with the credit institution without delay, to inform the Bank in writing about the circumstances that might jeopardize the issue of a statement of approval of the annual report, respectively, of the statements to be presented to the Bank; the external auditor shall send a copy to the credit institution of all the documents sent by him to the Bank;
 - c. in case such is deemed necessary by the Bank, to give an oral explanation of the documents referred to under a and b.
4. In case the external auditor, acting in pursuance of the provisions under the third paragraph, subsection c, gives an oral explanation of the documents referred to in said paragraph, subsection a or b, the Bank shall give the opportunity to the credit institution to be present during the interview with the external auditor.
5. The Bank can grant partial or full exemption from the provisions of the first paragraph to the credit institutions of certain divisions or subdivisions of the Register. The Bank can grant the exemption subject to certain conditions.

SECTION 16

1. The Bank can have a special investigation instituted as to the facts or developments concerning the administrative management or the financial status of a credit institution, in case the Bank deems that acquaintance with such facts or developments is necessary for the proper exercise of the supervision referred to in section 18. The credit institution or any third party where such an investigation is being carried out by or by order of the Bank, is under the obligation to

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cooperate.

2. Everybody is obliged, at the Bank's request to give the opportunity to the Bank or to those acting upon the Bank's instruction, to satisfy themselves, on the basis of accounts, records and other data carriers, of the completeness and accuracy of the information and statements to be provided to the Bank by virtue of this Government Ordinance. Everybody in whose establishment the Bank wishes to satisfy itself as to the completeness and accuracy of the information provided under this Government Ordinance, is under the obligation to cooperate in any such investigation instituted by or by order of the Bank.
3. In carrying out an investigation as referred to in the first or second paragraph, the Bank may seek assistance or have the investigation carried out in its entirety by an external auditor or other experts appointed by the Bank. The Bank may charge the costs involved for this investigation, in part or in whole, to the credit institution concerned.
4. In case an investigation as referred to in the second or third paragraph, or in case certain assignments within the context of such an investigation are commissioned by the Bank to an external auditor, the latter shall report his findings directly and in writing to the Bank, and upon obtaining approval from the Bank, he shall send a copy of his report to the credit institution concerned.
5. At the request of the Bank a credit institution shall be obliged to appoint a recognized expert who shall report directly to the Bank about the internal organization of the credit institution.

SECTION 17

The Bank is authorized to ask all information from every corporation or institution in which a credit institution is participating or from every corporation or institution which is participating in a credit institution, which the Bank deems necessary for the exercise of supervision on a consolidated basis.

PART IV

The scope of the supervision

& 1 General Provisions

SECTION 18

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1. The Bank exercises the supervision of the credit institutions for the implementation of the responsibility entrusted to it by Article 10 of the Central Bank Charter of 1985, and also in the interest of the liquidity and solvency of the credit institutions.
2. The Bank can decide that the article 19 and 20 shall in whole or in part not be applicable to international credit institutions.

& 2 Monetary supervision

SECTION 19

1. For the purpose of carrying out the duties imposed upon the Bank in Article 10 of the Central Bank Charter of 1985, the Bank may lay down general provisions for the credit institutions with respect to:
 - a. the minimum amount of funds maintained with the Bank in relation to other balance sheet components;
 - b. the amount of the assets or certain components of those assets, whether or not in relation to the liabilities or certain components of those liabilities.
2. General provisions as referred to in the first paragraph, shall not be stipulated without consultation with the representative organization concerned. The general provisions can be different for the respective categories of credit institutions.
3. The Bank may reserve the right in a general provision, in special cases, to grant full or partial exemption from said provision.
4. The Bank has the authority, in a general provision to fix a term within which must have been complied with and renew said term for all or for one or more credit institutions.
5. The general provisions as well as the amendments thereto shall be published by the Bank in the official proclamations gazette of the government and shall take effect on the day following the publication.

SECTION 20

1. In the event the Bank perceives signs of a development relating to the monetary situation or the balance of payment, which development, in the Bank's opinion jeopardizes or might jeopardize the adequate performance of the duties imposed upon

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the Bank in article 10 of the Central Bank Charter of 1985, the Bank shall enter into consultations with the relevant representative organization, with regard to the policy to be pursued by the categories of credit institutions concerned, in connection with said development.

2. In case the consultations lead to an agreement, within a term deemed acceptable by the Bank in connection with the nature of the development referred to in the first paragraph, between the Bank and the relevant representative organizations with respect to the policy to be pursued, but - in the Bank's opinion - there is no sufficient cooperation on the part of one or more of the individual credit institutions concerned, then the Bank shall have the authority to give directions to those individual credit institutions for their conduct of business. Said directions can only stipulate that the individual credit institutions concerned shall pursue the policy about which there is agreement between the Bank and the relevant representative organizations. Said directions and also the contents of the policy to be pursued shall be imparted by registered letter to the credit institutions concerned.
3. In case the consultations do not lead to an agreement, within a term deemed acceptable by the Bank in connection with the nature of the development referred to in the first paragraph, between the Bank and the relevant representative organizations, then the Bank shall have the authority to give general directions to the category of credit institutions concerned, with respect to their conduct of business. These directives must be approved by the Minister.
4. General directives as referred to in the third paragraph can be different for the various groups of credit institutions. Even if they have been amended prematurely, general directives as referred to in the third paragraph cannot be valid longer than at the most one year, after the day of their first publication in the official proclamations gazette of the government, without prejudice to the authority of the Bank, upon obtaining approval from the Minister, to renew the term of validity for one time by a term at the most equal to the original period of validity.
5. In a general directive as referred to in the third paragraph, the Bank may reserve the authority to change the directions given therein, within limits indicated in the directive.
6. In a general direction as referred to in the third paragraph, the Bank may reserve the authority, in special cases or under

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special circumstances, to grant full or partial exemption from the directive to one or more credit institutions.

7. The Bank has the authority in a general directive as referred to in the third paragraph, to stipulate a term within which that directive must have been complied with, and to extend said term for all or for one or more credit institutions.
8. General directives as referred to in the third paragraph and the amendments made thereto or the renewal thereof, shall be made known by the Bank in the official proclamations gazette of the Government, and shall enter into effect on the day following upon the date of publication.

& 3 Supervision pertaining to business economics aspects

SECTION 21

1. The Bank can give directives to credit institutions - whether or not on a consolidated basis - for their conduct of business in the interest of the solvency or the liquidity of said institutions.
2. The directives may be related to:
 - a. the minimum amount of their own capital (equity) relative to the credit risks or market risks;
 - b. the minimum amount of the liquid resources relative to the withdrawing (calling in) risks;
 - c. the prohibition, the restriction or the stipulating of conditions for risky activities or risky commitments within or outside the balance sheet format;
 - d. the scope of the consolidation;
 - e. the conduct of management with respect to the administrative accounting, including the financial accounting and the internal control.
3. The directives referred to in the second paragraph, subsections a, b and c shall be given or amended only after consultation with the representative organizations concerned. The directives may be different for the various categories of credit institutions.
4. The Bank may grant full or partial exemption to a credit institution from the directives referred to in the second paragraph, provided that, in the Bank's opinion, the solvency or liquidity as well as the accounting system are otherwise sufficiently guaranteed. The Bank may impose restrictions to the exemption or make it conditional to certain rules.

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5. The directives shall state clearly what must be understood by the terms (concepts) for which the directives are laid down.

SECTION 22

1. In the event the Bank finds that a credit institution is not complying with the directions given under section 21, or discerns other signs of a development that, in the Bank's opinion, jeopardizes or could jeopardize the liquidity or solvency of the institution, then the Bank shall by registered letter request the credit institution concerned to take the necessary measures or to pursue a particular policy with respect to specific points.
2. In case, in the Bank's opinion its request as referred to in the first paragraph has not or not adequately been complied with within the term specified by the Bank, then the Bank can by registered letter serve notice to the credit institution that, with effect from that date stipulated by the Bank, all or particular organs of the credit institution may only exercise their powers after approval by one or more persons appointed by the Bank and with due observance of the instructions of said persons. The notice shall take immediate effect and must be obeyed notwithstanding any provision to the contrary.
3. In case the Bank discerns signs of a development at a credit institution, which in the Bank's opinion is dangerous to the liquidity or solvency of the credit institution concerned and which necessitates immediate action, then, notwithstanding the provisions of the first paragraph, the Bank can immediately send a substantiated notice to the credit institution in the manner as described in the second paragraph; said notice shall take immediate effect after the Bank has given the credit institution, within a term specified by the Bank, the opportunity to give its opinion about the immediate execution.
4. With respect to the notice referred to in the second and third paragraph, the following shall be applicable:
 - a. the organs of the credit institution are under the obligation to give every cooperation to the persons appointed by the Bank;
 - b. the Bank may permit the relevant organization of the credit institution to perform certain activities without the approval referred to in the second paragraph;
 - c. the persons appointed by the Bank shall exercise their powers during a period not exceeding two years after the sending of the notice referred to in the second or third paragraph. The Bank has the authority to renew this

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period each time for one year at most. The Bank shall by registered letter notify the credit institution of any such renewal.

The renewal shall take immediate effect and must be complied with notwithstanding any contrary provision;

- d. the Bank may at any time replace its appointees by other persons;
 - e. with respect to damage arising from activities performed in violation of a notice as referred to in the second and third paragraph, the persons who have performed these activities as an organ of the credit institution, shall be individually liable towards the credit institution;
 - f. the Bank shall by registered letter notify the credit institution that the relevant organs of the credit institution can again exercise their powers without limitation, as soon as the Bank is of the opinion, that the solvency and liquidity of the credit institution are no longer in jeopardy.
5. Within thirty days after the date of the notice referred to in the second and third paragraph, or of a decision to extend the term referred to in the fourth paragraph, subsection C, the credit institution may file an appeal against the notice or the decision, such in conformity with the provisions of Part XI. The appeal shall have no suspensive effect.

& 4 Other provisions relating to the supervision

SECTION 23

1. It is prohibited for a credit institution, without approval obtained from the Bank:
 - a. to decrease its own assets by repayment of capital or distribution of reserves;
 - b. to maintain, to acquire, or to increase a participation in another corporation or institution;
 - c. to take over, in whole or for a substantial part, the assets and liabilities of another corporation or institution;
 - d. to enter into a merger with another corporation or institution;
 - e. to proceed to financial or corporate reorganisation;
 - f. to establish affiliates, branches, offices and funds by whatever designation;
 - g. to amend its Articles of Incorporation.

2. It is prohibited for everybody, without prior consent of the Bank,

