

## **LEGAL FRAMEWORK FOR SPECIALISED CREDIT INSTITUTIONS**

### **Royal Decree 692/1996 of 26 April 1996**

*(BOE 24 May)*

The purpose of this Royal Decree is to develop the legal arrangements for specialised credit institutions, the basic aspects of which were defined in the first additional provision of Law 3/1994, of 14 April, adapting Spanish legislation on credit institutions to the Second Council Directive on Banking Co-ordination and introducing other modifications relating to the financial system, and in the seventh additional provision of Royal Decree-law 212/1995, of 28 December, on urgent measures in budget, tax and financial matters which modified the same.

Specialised credit institutions ( establecimientos financieros de crédito) constitute a new class of financial institution that replace the different categories of credit institutions with a restricted scope of operations ( entidades de ámbito operativo limitado) created under Royal Decree 771/1989, of 23 June. From the legal framework governing the latter institutions the new entities conserve their status as credit institutions, but with two important changes regarding their financing possibilities, on the one hand, and their operating capacity, on the other.

Despite their status as credit institutions, specialised credit institutions are prohibited from receiving repayable funds from the public in the form of deposits, loans, temporary assignment of financial assets or other comparable instruments. This restriction makes it possible to release specialised credit institutions from the obligation to be covered by a deposit guarantee fund and justifies less demanding rules on the requirements for pursuing their activity in comparison with the conditions demanded of other credit institutions, and specifically of banks, while at the same time obliging them, as is logical, to seek alternative channels for their financing.

Specialised credit institutions are also released from the rigid delimitation imposed on their operating capacity under the regulations of credit institutions subject to a restricted scope of operations, marking a fundamental difference with the latter institutions. Consequently, specialised credit institutions may pursue one or more of the activities typical of credit institutions (lending, factoring, financial leasing, issuing and administering credit cards, and provision of guarantees and similar commitments).

In short, this Royal Decree, by virtue of the powers vested in the national government under section 7 of the first additional provision of Law 3/1994, establishes certain specific aspects of the regulation of specialised credit institutions as credit institutions characterised by their broad operating capacity and certain limitations on their possibilities for obtaining financing.

This instrument provides, first of all, for financial channels as alternatives to the

acceptance of repayable funds from the public, highlighted by the issue of securities subject to the Spanish Stock Market Act ( Ley del Mercado de Valores) and the possibility of securitising their assets according to the legal rules applicable to securitisation funds.

Second, the rules are laid down for creating specialised credit institutions, largely in conformity with the provisions of Royal Decree 1245/1995, of 14 July, on the creation of banks, cross-border activities and other issues relating to the legal framework for credit institutions. Having regard to the differences between specialised credit institutions and banks—mainly in relation to their financing structure—the requirements placed on the former for pursuing their activities are relaxed in comparison with those demanded of the latter. Thus, the new rules establish a minimum share capital below that required for the creation of banks and the minimum number of members of the board of directors of the entity is lowered.

Third, these rules take up the transformation of credit institutions with a restricted scope of operations into specialised credit institutions as the only means available to them for continuing to pursue their activity as from 1 January 1997, unless they choose to covert themselves into some other type of credit institution.

Lastly, this Royal Decree introduces into Spanish law governing credit institutions two new requirements aimed at reinforcing prudential supervision of financial institutions as laid down in Council Directive 95/26/EC, of 29 June, amending Directives 77/780/EEC and 89/646/EEC in the field of credit institutions, Directives 73/239/EEC and 92/49/EEC in the field of non-life insurance, Directives 79/267/EEC and 92/96/EEC in the field of life assurances, Directive 93/22/EEC in the field of investment firms and Directive 85/611/EEC in the field of undertakings for collective investment in transferable securities (Ucits) with a view to reinforcing prudential supervision, which modified the set of Community directives that establish the single market in banking, investment and insurance services.

In relation to the first, intended to avoid situations in which a credit institution opts for the law of one European Union Member State with the aim of eluding stricter prudential rules in force in another Member State in which it plans to pursue or pursues most of its activities, Community law requires that every financial institution must be authorised in the Member State in which it has its registered office, if the institution is a legal person, or that its head office be located in the Member State in which it is authorised, if it is not, at the same time as it establishes the obligation that the head office of a financial institution always be situated in its home Member State and that it actually operates there. Consequently, the requirement is introduced for pursuit of the business of credit institution in Spain that both the institution's registered office and its effective management and administration be located in Spanish territory.

Second, in order to avoid that financial institutions maintain certain close links with other natural and legal persons where those relationships, or the law applied to the persons with whom they are maintained, prevent the effective exercise of prudential supervision, Community law establishes as a condition for granting or maintaining authorisation the absence of links of such nature. This Royal Decree therefore introduces as an additional

requirement for the pursuit of the business of credit institution in Spain a new criterion for assessing the suitability of shareholders with significant holdings. According to the new rule, such shareholders may be considered not to fulfil the suitability requirement if the close links maintained by the institution, or that would be maintained in the case of an authorisation, with other natural or legal persons, or the law applicable to any of the same, prevent effective discharge of supervisory functions.

By virtue of the above, at the proposal of the Minister of Economy and Finance, with the agreement of the Council of State and upon prior deliberation by the Council of Ministers in its meeting of 26 April 1996, I provide:

## **CHAPTER I**

### **Definition and activities of specialised credit institutions**

#### **Article 1.** *Definition, activities and reservation of name*

1. Specialised credit institutions shall be considered credit institutions and their principal activity shall consist in the pursuit of one or more of the following businesses:

a) Lending, including consumer credit, mortgage credit and financing of commercial transactions.

b) Factoring, with or without recourse, and complementary activities such as investigation and classification of clienteles, accounting of debtors and, in general, any other activity intended to favour the administration, evaluation, security and financing of the accounts receivable assigned thereto that arise in domestic or international trade operations.

c) Financial leasing, including the following complementary activities:

1st. Maintenance and upkeep of the leased properties.

2nd. Grant of financing in relation to a present or future financial lease.

3rd. Intermediation in and management of financial leasing transactions.

4th. Non-financial leasing transactions, which may or may not be supplemented with a purchase option.

5th. Commercial reports and advisory services.

d) Issuing and administering credit cards.

e) Grant of guarantees and similar commitments.

2. As accessory activities, specialised credit institutions may carry on any other activities necessary for better pursuit of the principal activity.

3. The name “establecimiento financiero de crédito”, as well as its abbreviation “E.F.C.”, are reserved to these institutions, which shall be obliged to include them in their registered name.

## **Article 2. *Financing of specialised credit institutions***

1. Specialised credit institutions shall not receive repayable funds from the public in the form of deposits, loans, temporary assignment of financial assets or other similar means, for any use whatsoever. Consequently, they shall not be subject to the legislation on deposit guarantees.

2. For the purposes of the preceding paragraph, the following shall not be considered repayable funds from the public:

a) Financing granted by credit institutions.

b) Contribution of funds by entities belonging to their same group, within the meaning of group laid down in article 4 of Law 24/1988, of 28 July, on the Stock Market; or by shareholders of specialised credit institutions with holdings of five percent or more of the entity's capital.

c) Issues of securities subject to the Stock Market Act and the provisions implementing the same, provided such securities are issued with a maturity of more than one month.

d) Guarantees and other sureties intended to diminish the risk exposure incurred by clients in respect of operations within their registered corporate objects.

3. Specialised credit institutions may securitise their assets subject to the general legal provisions regulating securitisation funds.

## **CHAPTER II**

### **Legal rules on creation of specialised credit institutions**

## **Article 3. *Authorisation and registration of specialised credit institutions***

1. The Minister of Economy and Finance shall be responsible for authorising the creation of specialised credit institutions, upon prior report from the Bank of Spain and the Executive Service of the Commission for the Prevention of Money Laundering and

Monetary Offences on aspects of their competence. The authorisation shall specify the activities which the specialised credit institution may pursue according to the programme filed by the entity. (1)

2. The authorisation must be resolved upon within three months after receipt of the application in the Directorate General of the Treasury and Finance Policy, or after the required documents have been filed, and, in all events, not later than six months after receipt of the application. An application not resolved upon within this time limit may be considered refused. For the presumed refusal to have effect, a request must be filed for the certificate of presumed act referred to in article 44 of Law 30/1992, of 26 November, on the Legal Framework for Public Administrations and Common Administrative Procedure. (Ley de Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común).

3. Once the specialised credit institution has obtained authorisation and been incorporated and registered in the Companies Registry, before commencing operations it must be registered in the special register of specialised credit institutions that will be created in the Bank of Spain. Registrations in this special register, and cancellations of registrations, shall be published in the *Boletín Oficial del Estado* (Spanish Official State Gazette) and notified to the European Commission. The authorisation may be revoked if one year after its grant the specialised credit institution has not yet commenced its operations for reasons attributable to the promoters.

**Article 4.** *Authorisation of specialised credit institutions subject to control by foreign persons*

1. Creation of Spanish specialised credit institutions whose control, as defined in article 4 of Law 24/1988, of 28 July, on the Stock Market, will be held by foreign persons, is subject to the provisions laid down in that respect in this Royal Decree.

2. If the Spanish specialised credit institution will be controlled by a credit institution, an investment firm or an insurance or reinsurance undertaking authorised in another European Union Member State, by the parent undertaking of such an entity or by the same natural or legal persons who control a credit institution, an investment firm or an insurance or reinsurance undertaking authorised in another Member State, the Bank of Spain, prior to issuing the report referred to in article 3.1, shall consult with the authorities responsible for supervising the foreign credit institution, investment firm, or insurance or reinsurance undertaking.

Authorisations granted to the specialised credit institutions indicated in this part 2 of article 4 shall be notified by the Bank of Spain to the Commission of the European Union, and to the competent authorities of the other Member States, specifying the structure of the group to which the controlled entity belongs. (2)

3. If the Spanish specialised credit institution will be controlled by one or more persons, credit institutions or otherwise, with registered office or authorised in a non-

member country, the entity may be required to post a guarantee covering all activities it pursues. The authorisation may be refused, in addition to for the reasons provided in the foregoing articles, where Spain has been notified, in accordance with the terms of article 9 of the Second Council Directive on Banking Co-ordination of 15 December 1989, of a decision adopted by the Council of the European Union on finding that Community credit institutions do not receive in the said country treatment offering them the same competitive opportunities as given to its domestic credit institutions and that effective market access conditions are not fulfilled.

In this event, the Minister of Economy and Finance may likewise suspend the grant of the license or limit its effects.

Authorisations granted to the specialised credit institutions indicated in this part 3 of article 4 shall be notified by the Bank of Spain to the Commission of the European Union, specifying the structure of the group to which the controlled credit institution belongs.

**Article 5.** *Requirements for pursuing the business*

1. The following requirements must be met in order to obtain and maintain authorisation as a specialised credit institution:

a) The entity must be organised as a public limited company incorporated by the simultaneous foundation procedure for an unlimited duration.

b) It must have a minimum share capital of 850 million pesetas, fully paid up in cash and represented by registered shares.

c) The corporate objects must be restricted in the articles of association to the activities of a specialised credit institution.

d) The shareholders with significant holdings must be considered suitable, within the meaning of these terms under this article and article 7.

e) It must have a board of directors of not less than three members. All members of the board of the entity, and those of the board of directors of its parent undertaking, if any, shall be persons of commercial and professional good repute, and at least three members of each board must have sufficient expertise and experience for the discharge of their functions. The requirement of good repute and experience must also be met by the general managers or similar officers of the entity and of its parent undertaking, if any, as well as by the natural persons who represent legal persons that hold seats on the board.

Commercial and professional good repute exist in persons who have a personal history of respect for commercial and other laws regulating economic activity and businesses, as well as for good commercial, financial and banking practices. In all events, such good repute shall be understood to be lacking in persons who have a criminal record, in Spain or abroad, on account of wilful misconduct; persons disqualified from holding public office or positions of administration or management of financial institutions; and

persons disqualified under Law 22/2003, of 9 July, on insolvency, until the disqualification period established in the judgment classifying the bankruptcy has ended and undischarged bankrupts in bankruptcy proceedings prior to the entry into force of the above-mentioned law.

Sufficient expertise and experience for discharging their functions in specialised credit institutions is possessed by persons who have for a period of not less than two years performed senior management duties or functions of direction, control or advising financial institutions or similar responsibilities in other public or private entities of a dimension at least comparable to the entity whose creation is proposed. **(3)**

f) The entity must have sound administrative and accounting procedures and adequate internal control mechanisms that ensure sound and prudent management of the entity. In particular, the board of directors must establish adequate operating rules and procedures for facilitating that all its members may at all times comply with their obligations and assume the responsibilities incumbent upon them according to the regulatory and disciplinary provisions for specialised credit institutions, the Spanish Public Limited Companies Act , and other applicable provisions.

g) The registered office, and the head office, must be situated in Spain.

h) It shall have adequate internal control and communication procedures and bodies to anticipate and prevent the performance of transactions relating to money laundering in the terms laid down in articles 11 and 12 of the regulations of Law 19/1993, of 28 December, on measures to prevent money laundering, approved by Royal Decree 925/1995, of 9 June. **(4)**

2. Specialised credit institutions must at all times comply with the requirements provided in part 1 of this article and have own funds of 850 million pesetas, with own funds calculated without including the elements cited in article 20.1 subparagraphs g) and h) of Royal Decree 1343/1992, of 6 November. However:

a) Lack of commercial or professional good repute of directors or senior officers shall only produce revocation if the affected persons are not removed from office within one month after instructions to such effect are issued by the Bank of Spain. Supervening lack of good repute shall not be considered to arise merely due to the circumstance that while holding his office, a director or senior officer, is charged or tried for one of the crimes mentioned in 1.e) above.

b) Authorisation shall not be revoked for insufficient own funds according to this part 2 of article 5 if the own funds reach at least four-fifths of the minimum share capital and the deficiency does not last more than 12 months.

3. The Bank of Spain shall be responsible for creating and managing a register of senior officers of specialised credit institutions, in which there must compulsorily be registered the directors, general managers and similar officers of those entities. For purposes of registration in the register of senior officers, the directors, general managers or

similar officers must expressly declare in the document evidencing their acceptance of office that they meet the requirements of good repute and, where applicable, professionalism referred to by this article, and that they are not affected by any of the applicable restrictions or conflicts of interest.

The Bank of Spain shall also be responsible for creating and managing a register of directors and general managers of parent undertakings of Spanish specialised credit institutions, that that are not credit institutions, investment firms or insurance or reinsurance undertakings, in which the directors, managers and similar executives of such entities shall be entered. Entries shall be made in this register, following the same procedure as provided for in the previous paragraph. **(5)**

#### **Article 6. *Application requirements***

1. The application for authorisation to create a specialised credit institution shall be addressed to the Directorate General of the Treasury and Finance Policy ( Dirección General del Tesoro y Política Financiera) in duplicate, accompanied by the following documents:

a) Draft articles of association, accompanied by a certificate of registry clearance for the proposed registered name.

b) Programme of operations specifying the types of business envisaged, administrative and accounting procedures and internal control mechanisms, as well as the internal control and communication procedures and bodies established to anticipate and prevent money laundering. **(6)**

c) List of members who will incorporate the company, specifying their shareholdings. In the case of members organised as legal persons, holdings in their capital of five percent or more shall be indicated. For members who will have a significant holding, there shall also be submitted, if they are natural persons, information on their professional background and activity, and their net worth and financial situation, and, in the case of legal persons, the audit reports, where such exist, for the last two years, the composition of their management bodies, and the detailed structure of the group to which they belong, if applicable.

d) List of persons who will sit on the first board of directors and who will act as general managers or similar officers, with detailed information on the professional background and activities of all of them.

e) Evidence of having made a deposit in the Bank of Spain, in cash or government debt securities, equal to 20 percent of the minimum share capital stipulated in article 5.

2. In any case, the promoters may be required to provide all data, reports or background information considered appropriate for verifying fulfilment of the conditions and requirements laid down in this Royal Decree.



## **Article 7. *Application refusal***

1. The Minister of Economy and Finance shall refuse, in a reasoned resolution, the authorisation for creation of specialised credit institution if the requirements set forth in articles 5 and 6 above are not met and, in particular, if having regard to the need to guarantee sound and prudent management of the proposed entity, the suitability of the shareholders who would have a significant holding in that entity is not considered adequate. For these purposes:

a) A significant holding in a specialised credit institution shall be understood to be any holding which directly or indirectly reaches five percent of the capital or voting rights of the undertaking, or which, without reaching this threshold, allows the holder to exercise notable influence in the entity.

b) Suitability shall be assessed according to, amongst other factors, the following:

1<sup>st</sup>. The commercial and professional good repute of the shareholders, within the meaning of article 5.e). This good repute shall be presumed whenever the shareholders are government agencies or entities attached to government agencies.

2<sup>nd</sup>. The financial resources available to the shareholders for fulfilling the commitments undertaken.

3<sup>rd</sup>. Transparency in the structure of the group to which the entity may belong and, in general, the existence of serious difficulties for inspecting or obtaining required information on the pursuit of its businesses.

4<sup>th</sup>. The possibility of the entity being inappropriately exposed to the risk of the non-financial activities of its promoters, or, in the case of financial activities, where the stability or control of the entity may be affected by the high risk involved in those activities.

5<sup>th</sup>. The possibility of the effective discharge of the entity's supervision being prevented by the close links the entity maintains with other natural or legal persons, by the legal, regulatory or administrative provisions of the country to whose law any of those natural or legal persons is subject, or by problems relating to the application of those provisions.

For these purposes, close links shall be understood to exist when two or more natural or legal persons are linked by:

1<sup>st</sup>. Control, which shall mean the relationship defined in article 4 of Law 24/1988 on the Stock Market; or

2<sup>nd</sup>. Ownership, whether direct or indirect or by a control relationship, of twenty percent or more of the voting rights or capital of an undertaking or entity.

2. Where an application is refused, and without prejudice to such appeals as maybe brought against the resolution adopted, the Bank of Spain shall proceed to refund the deposit posted. The deposit shall likewise be refunded when an application is renounced by the applicant.

3. The deposit stipulated in article 6.1.e) shall be released once the company has been incorporated and registered in the special register maintained by the Bank of Spain, as well as when authorisation is revoked according to the provisions of article 57 bis of the Banking Regulation Law of 31 December 1946.

#### **Article 8.** *Alteration of the articles of association*

1. Alteration of the articles of association of specialised credit institutions shall be subject to the authorisation and registration procedure laid down in article 3, although the authorisation must be resolved upon within two months following receipt of the application at the Directorate General of the Treasury and Finance Policy or the date on which the required documents are received. Where this time limit expires with no resolution, the authorisation shall be considered granted. For the presumed grant of authorisation to have effect, a request must be filed for the certificate of presumed act referred to in article 44 of Law 30/1992, of 26 November, on the Legal Framework for Public Administrations and Common Administrative Procedure.

2. Alterations of articles of association involving the matters listed below shall not require prior authorisation, although they must be reported to the Bank of Spain not later than fifteen business days following adoption of the resolution to alter the articles:

- a) Change of the location of the registered office inside the national territory.
- b) Increase of the share capital.
- c) Verbatim incorporation into the articles of legal or regulatory provisions of a mandatory or prohibiting nature, or in compliance with court or administrative resolutions.
- d) Those other modifications with respect to which the Directorate General of the Treasury and Finance Policy, in reply to a prior query submitted for such purpose by the affected specialised credit institution, has considered the authorisation procedure unnecessary due to the negligible importance of the alterations.

3. If, after the report of modifications is received, the changes go beyond what is provided for in the above paragraph, the Bank of Spain shall so inform the interested parties within thirty days in order for them to revise the modifications or, where applicable, submit to the authorisation procedure of paragraph one of this article.

#### **Article 9.** *Expansion of activities*

When a specialised credit institution intends to expand its principal activities, it shall follow the same procedure as for alteration of its articles of association. The authorisation may be refused, in particular, if the entity does not meet the applicable solvency requirements or does not have adequate administrative and accounting procedures and internal control mechanisms for the new activities.

**Article 10. *Merger of specialised credit institutions***

1. The undertaking resulting from the merger of two or more financial credit entities may carry on the activities for which the merged entities were authorised.

2. The merger shall require authorisation from the Minister of Economy and Finance according to the procedure established in article 8, although the time limit for resolution shall be three months.

**First additional provision. *Amendment of laws***

1. The following articles of Royal Decree 1245/1995, of 14 July, on the creation of banks, cross-border activities and other issues relating to the legal framework for credit institutions are modified:

1<sup>st</sup>. A paragraph h) is added to article 2.1 with the following content.

{text incorporated into the Royal Decree}

2<sup>nd</sup>. A part 5 is added to article 4.1.b) with the following content.

{text incorporated into the Royal Decree}

3<sup>rd</sup>. The references to part 2 contained in the last paragraph of article 9.4 and in article 9.5 must be made to article 9.3.

4<sup>th</sup>. Paragraph a) of article 19.1 is amended henceforth to read as follows: {text incorporated into the Royal Decree}

2. The following modifications are introduced in Royal Decree 84/1993, of 22 January, approving the regulations implementing Law 13/1989, of 26 May, on credit co-operatives.

1<sup>st</sup>. A paragraph g) is added to article 2 with the following content:

{text incorporated into the Royal Decree}

2<sup>nd</sup>. A part 2 is added to article 5 with the following content:

{text incorporated into the Royal Decree}

3<sup>rd</sup>. The present part 2 of article 5 shall henceforth be enumerated as part 3.

3. The following modifications are introduced in Royal Decree 1838/1975, of 3 July, on the creation of savings banks and distribution of net profits of those entities:

1<sup>st</sup>. paragraph e) is added to article 2.1 with the following content:

{text incorporated into the Royal Decree}

2<sup>nd</sup>. A part 4 is added to article 2 with the following content:

{text incorporated into the Royal Decree}

**Second additional provision.** *Amendment of Royal Decree 685/1982 of 17 March.*

The following modifications are introduced in Royal Decree 685/1982, of 17 March, implementing certain aspects of Law 2/1981, of 25 March, on Regulation of the Mortgage Market:

1<sup>st</sup>. A new paragraph h) is added to article 2.1, worded as follows:

{text incorporated into the Royal Decree}

2<sup>nd</sup>. Article 43.2 is amended henceforth to read as follows:

{text incorporated into the Royal Decree}

**First transitional provision.** *Time limit for alteration of status of credit institutions and companies*

Mortgage lending companies ( sociedades de crédito hipotecario), finance institutions (entidades de financiación) and financial leasing companies ( sociedades de arrendamiento financiero) authorised at the effective date of this Royal Decree must alter their status to specialised credit institutions before 1 January 1997.

**Second transitional provision.** *Expansion of corporate objects*

1. The alteration of status shall not require administrative authorisation if it does not involve an expansion of the corporate objects of the new specialised credit institution with respect to the objects it had as a credit institution with a restricted scope of operations.

The corporate objects shall not be considered to be expanded when finance institutions that alter their status to specialised credit institutions adopt as their principal activity the businesses specified in paragraphs a), b), d) and e) of article 1 of this Royal Decree, when financial leasing companies adopt as their principal activity the business specified in paragraph c) of the same article, and when factoring entities adopt as their principal activity the business specified in paragraph b). In these cases, the entity shall be registered in the special register of the Bank of Spain after the amendment of the articles of association has been registered with the Companies Registry.

2. Where the alteration of status provided for in part 1 of this article is carried out and the resulting specialised credit institution has own funds of less than 850 million pesetas, after being adjusted with the deduction stipulated in article 5.2 of this Royal Decree, the following rules must be complied with for so long as this situation continues:

a) The entity shall not reduce its share capital, and its adjusted own funds may not drop below the highest level reached as from the alteration of status date, unless given interim authorisation from the Bank of Spain as a consequence of a financial reconstruction operation aimed at restoring its solvency.

b) The entity must raise its adjusted own funds to 850 million pesetas whenever there occur changes in its shareholder base that imply the existence of new controlling shareholders or control groups, within the meaning of article 4 of the Stock Market Act.

c) Where a merger is carried out between two or more entities whose adjusted own funds do not reach the stipulated minimum share capital, the core own funds of the resulting entity must reach, unless expressly authorised otherwise by the authority responsible for resolving on the merger, the minimum capital required for newly created institutions at the time the merger is registered in the Companies Registry.

3. Administrative authorisation shall be required where the alteration of status entails an expansion of the corporate objects. The authorisation shall not be granted if the entity does not meet the minimum own funds requirement for creating a specialised credit institution and the authorisation procedure shall conform to the procedure set out in article 8 of this Royal Decree for modification of the articles of association. Once the relevant change in the articles of association has been authorised and registered in the Companies Registry, the specialised credit institution shall be registered in the Bank of Spain. This rule shall also apply when the alteration of status is simultaneous to the merger of several credit institutions with a restricted scope of operation that belong to different categories.

**Third transitional provision.** *Alteration of status of credit institution*

Mortgage lending companies, finance institutions and financial leasing companies may only alter their status to another type of credit institutions subject to the procedure and in compliance with the requirements set forth in the legal provisions applicable to the same.

**Fourth transitional provision.** *Loss of status as financial institution*

Credit institutions with a restricted scope of operations whose legal status has not been transformed into specialised credit institutions or into any other type of credit institution by 1 January 1997 shall lose their status as financial institution, with expiry of their authorisation and ex officio cancellation of their registration in the Bank of Spain register. As from the said date, the affected undertaking shall not pursue any activities authorised to credit institutions or specialised credit institutions.

**Fifth transitional provision.** *Time limit for adapting applications for creation of credit institutions*

Promoters of proceedings for the creation of new credit institutions with restricted scope of operations that are currently pending authorisation shall have three months within which to adapt their applications to the provisions of this Royal Decree.

Where this time limit expires without the adaptation being made, the previous petitions of the promoters shall be considered to have been withdrawn and the deposits made with the Bank of Spain shall be refunded.

**Sixth transitional provision.** *Regulation of deposits of credit institutions*

1. At the effective date of this Royal Decree, finance institutions, financial leasing companies and mortgage lending companies shall not accept funds from the public in the form of deposits, loans, temporary assignments of financial assets or other similar instruments that are not subject to the regulatory and disciplinary provisions of the Stock Market Act with a maturity date beyond 1 January 1997; nor shall they modify existing term deposit contracts so as to renew or extend them beyond that date.

2. Without prejudice to the provisions of article 2 of this Royal Decree, term deposits held by finance institutions, financial leasing companies and mortgage leasing companies at the time of the alteration of their status to specialised credit institutions shall be maintained on a provisional basis until their termination, unless they are assigned or liquidated with the agreement of the owner of those deposits.

3. All deposits other than those provided for in paragraph 2 above which cannot be maintained by the financial entities according to article 2 of this Royal Decree shall be cancelled prior to 1 January 1997.

**Sole repealing provision.** *Repeal of legal provisions*

On 1 January 1997 the following shall be repealed:

a) Royal Decree 896/1977, of 28 March, on the legal framework for finance institutions.

b) The 14 February 1978 Order of the Minister of Economy and Finance on the legal framework for financial institutions.

c) The 13 May 1981 Order of the Minister of Economy and Finance on the legal framework for finance institutions specialised in factoring operations.

d) Paragraphs e) and g) of article 2.1, the second section of chapter I and article 43.3. of Royal Decree 685/1982 , of 17 March, implementing certain aspects of Law 2/1981, of 25 March, on Regulation of the Mortgage Market.

e) Royal Decree 771/1989, of 23 June, establishing the legal framework for credit institutions with a restricted scope of operations.

f) The 8 February 1991 Order implementing the sixth additional provision of Law 26/1988, of 29 July, on discipline and intervention of credit institutions.

**First final provision.** *Basic statutory status*

This Royal Decree is dictated under the provisions of subparagraphs 11 and 13 of article 149.1 of the Spanish Constitution.

**Second final provision.** *Powers of implementation and effective date*

1. The Minister of Economy and Finance is delegated powers to dictate the rules for implementing this Royal Decree.

2. This Royal Decree shall enter into force on the day following its publication in the *Boletín Oficial del Estado*.

- (1) Redrafted according to Royal Decree 54/2005, of 21 January, the first paragraph.*
- (2) Redrafted according to Royal Decree 1332/2005, of 11 November, the second paragraph.*
- (3) Redrafted according to Royal Decree 1332/2005, of 11 November, the letter e).*
- (4) Incorporated the letter h) by Royal Decree 54/2005, of 21 January.*
- (5) Incorporated the last subparagraph by Royal Decree 1332/2005, of 11 November.*
- (6) Redrafted according to Royal Decree 54/2005, of 21 January, the letter b).*