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LEGAL FRAMEWORK FOR SPECIALISED LENDING INSTITUTIONS. Royal Decree 692/1996 of 26 April 1996 (BOE of 24 May 1996) [1]

The purpose of this Royal Decree is to develop the legal arrangements for specialised lending 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 lending 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 lending 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 lending 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 lending 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 lending 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 lending institutions as credit institutions characterised by their broad operating capacity and certain limitations on their possibilities for obtaining financing.

[1] It should be borne in mind that until the specific legislation is enacted, specialised lending institutions shall be subject to the legal framework applicable to them prior to the entry into force of Royal Decree-Law 14/2013 of 29 November 2013, continuing to be considered, for those effects, a credit institution, pursuant to the second transitional provision of that Royal Decree-Law.

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 lending 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 lending 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 lending 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 lending institutions

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

1. Specialised lending institutions shall be considered credit institutions and theirprincipal 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 lending 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 lending institutions*

1. Specialised lending institutions shall not receive repayable funds from the public inthe 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 beconsidered 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 lending 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 lending institutions may securitise their assets subject to the general legalprovisions regulating securitisation funds.

CHAPTER II

Legal rules on creation of specialised lending institutions

Article 3. *Authorisation and registration of specialised lending institutions*

1. It is for the Banco de España to authorise the creation of specialised lending institutions, further to a report from the Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences, acting within its remit. That authorisation shall specify the activities that the specialised lending institution may pursue, in accordance with the programme submitted.

The Banco de España shall inform the General Secretariat of the Treasury and Financial Policy of the initiation of the authorisation procedure, indicating the essential elements of the case to be processed, and the conclusion thereof.

2. The request for authorisation must be settled within three months of its receipt by the Banco de España, or of completion of the necessary documentation, and in any event within six months of its receipt. Any requests not settled by that time may be understood to have been refused. **(1)**

3. Once the specialised lending institution has obtained authorisation and beenincorporated and registered in the Mercantile Register, before commencing

operations it must be registered in the special register of specialised lending institutions that will be created in the Banco de España. 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 withdrawn if one year after it is granted the specialised lending institution has not commenced its operations for reasons attributable to the promoters.

Article 4. *Authorisation of specialised lending institutions controlled by foreign persons*

1. The creation of Spanish specialised lending institutions whose control, as defined in Article 4 of Securities Market Law 24/1988 of 28 July 1988, will be exercised by foreign persons, is subject to the provisions laid down in that respect in this Royal Decree.

2. If the Spanish specialised lending institution is to be controlled by a credit institution, investment firm or 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 that control a credit institution, investment firm or insurance or reinsurance undertaking authorised in another Member State, the Banco de España, 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 lending institutions indicated in this part 2 of article 4 shall be notified by the Banco de España 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. In the event that control of a Spanish specialised lending institution is to be exercised by one or more persons, whether or not credit institutions, domiciled or authorised in a non-European Union country, a guarantee may be required to be provided to cover all the activities of that institution. **(3)**

Article 5. *Requirements for pursuit of the business* **(4)**

1. The following shall be necessary requirements for obtaining and maintaining authorisation as a specialised lending institution:

a) The institution shall be a public limited company, organised by the simultaneous formation method for an indefinite period.

b) It shall have minimum share capital of €5 million, fully paid-in, in cash, and represented by registered shares.

c) The corporate purpose shall be confined, in the articles of association, to the activities pertaining to a specialised lending institution.

d) Shareholders holding qualifying holdings must be deemed suitable, in accordance with the provisions of this Article and Article 7.

e) The institution shall have a board of directors with no fewer than three members. All the members of the board of directors, and of the board of directors of its parent institution, where applicable, shall have commercial and professional integrity, suitable knowledge and experience to perform their duties, and a readiness to ensure sound governance. The foregoing requirements of good repute, knowledge and experience shall likewise apply for managing directors or similar officers, and for persons responsible for internal control functions and other key positions in the day-to-day running of the business of the institution and its parent, as required by the Banco de España.

f) It shall have an appropriate organisational, administrative and accounting structure and appropriate internal control procedures ensuring the sound and prudent management of the institution. In particular, the board of directors shall establish appropriate operating and procedural rules to ensure that all board members are able to comply at all times with their obligations and assume their responsibilities in accordance with the regulatory and disciplinary rules for specialised lending institutions, Royal Legislative Decree 1/2010 of 2 July 2010 approving the consolidated text of the Limited Companies Law, and other applicable provisions.

g) The institution shall have its registered office, and its effective management and administration, in Spain.

h) It shall have appropriate procedures and bodies for internal control and communication to forestall and prevent operations related to money laundering, under the terms established in Articles 11 and 12 of the implementing Regulations of Law 19/1993 of 28 December 1993 on certain measures to prevent money laundering, approved by Royal Decree 925/1995 of 9 June 1995.

2. Commercial and professional integrity is attributed to persons who have shown personal, commercial and professional conduct that casts no doubt on their ability to pursue sound and prudent management of the institution.

To assess integrity, all available information must be considered, including:

a) The track record of officers in their relations with the regulatory and supervisory authorities; the reasons for any dismissals from previous positions or offices; their track record in terms of personal solvency and fulfilment of obligations; their achievements in the exercise of their responsibilities; their professional conduct; or if they have been barred from holding office under Insolvency Law 22/2003 of 9 July 2003, unless the period of disqualification set in the judgment assessing insolvency has expired, and undischarged bankrupt traders or non-traders in insolvency proceedings prior to the entry into force of that Law.

b) Any conviction for crimes or misdemeanours or penalties for administrative infringements, considering:

1. the intentional or imprudent nature of the crime, misdemeanour or administrative infringement;

2. whether the conviction or penalty is final;

3. the severity of the conviction or penalty imposed;

4. the definition of the events that caused the conviction or penalty, especially whether they were crimes against property, money laundering, crimes against the social and economic order or crimes against the tax or social security authorities, or whether they entailed infringement of the rules regulating the pursuit of banking, insurance or securities market business, or consumer protection;

5. whether the events that caused the conviction or penalty were for their own benefit or to the detriment of third parties, management of which or whose business management had been entrusted to them, and where applicable, the significance of the events that caused the conviction or penalty in respect of the duties assigned or to be assigned to the officer in question in the institution;

6. whether the criminal acts or administrative infringements are time-barred or criminal liability may be extinguished;

7. whether there were extenuating circumstances and their subsequent conduct since the crime or infringement was committed;

8. whether there are repeated convictions or penalties for crimes, misdemeanours or infringements.

For the purposes of this assessment, the Banco de España may establish a committee of independent experts to inform the assessment reports in cases where there are convictions for crimes or misdemeanours.

c) The existence of any significant well-founded criminal or administrative investigations relating to any of the events described in subparagraph (b)(4) above. The mere fact that, in the performance of their duties, a director, general manager or similar officer or other employee responsible for internal control functions or holding a key position in the general running of the business of the institution are subject to such investigations shall not be considered a lack of integrity.

In the event that, in the performance of their duties, the person assessed were found to be in any of the circumstances envisaged above, and these were considered relevant for the assessment of their integrity, the credit institution shall inform the Banco de España within a maximum of fifteen business days.

Any members of the board of directors, managing directors or similar officers or other employees responsible for internal control functions or who hold key positions in the day-to-day running of the business of the institution who find themselves in any of the circumstances envisaged in this paragraph must immediately inform their institution.

3. Members of the board of directors, managing directors or similar officers and other employees responsible for internal control functions or who hold key positions in the day-to-day running of the business of the institution must have suitable knowledge and experience.

Persons who have the appropriate skills level and profile, in particular in banking and financial services, and practical experience from their previous positions over sufficient periods of time, are deemed to possess suitable knowledge and experience to perform their duties in specialised lending institutions. For this purpose, both knowledge acquired in an academic environment and experience gained from the professional performance in other entities or companies of similar duties to those that are to be performed shall be taken into account.

In the assessment of practical and professional experience, special attention shall be paid to the nature and complexity of the positions held, the competences and decision-making powers held and the responsibilities assumed, and also the number of persons in their charge, the financial industry technical know-how acquired and the risks managed.

In any event, the experience criterion shall be applied assessing the nature, scale and complexity of the activity of each financial institution and the specific duties and responsibilities of the position to which the person assessed is assigned.

In addition, the members of the board of directors shall have sufficient professional experience, collectively, in the governance of credit institutions to ensure that the board has the effective capacity to make independent, autonomous decisions for the benefit of the institution.

4. The members of the board of directors shall have the capacity to exercise good governance of the institution. In order to assess that capacity, the following shall be considered:

a) The presence of potential conflicts of interest leading to undue influence of third parties, arising from:

1. former or current positions held in the same institution or in other public or private organisations;

2. personal, professional or economic relationships with other members of the institution's board of directors, or that of its parent or subsidiaries;

3. personal, professional or economic relationships with shareholders controlling the institution, its parent or subsidiaries.

b) The ability to dedicate sufficient time to their duties.

In the event that, during the performance of their duties, any directors were to find themselves in circumstances that could mar their ability to exercise good governance of the institution, the credit institution shall inform the Banco de España within a maximum of fifteen business days.

5. Specialised lending institutions shall have, proportionate to the nature, scale and complexity of their activity, appropriate units and internal procedures for selection and ongoing assessment of their board members, general managers or similar officers and persons responsible for internal control functions or who hold key positions in the day-to-day running of the financial business pursuant to the provisions of this Article.

In addition, specialised lending institutions shall identify the key positions for the day-to-day running of their activity, keeping for the Banco de España an updated list of the individuals performing such functions, the assessment of suitability made by the institution and the attendant substantiating documentation.

6. Appointments of new board members, general managers or similar officers shall be communicated in advance to the Banco de España. If this is not possible, the aforesaid communication must be made no later than fifteen business days from the date of the appointment.

7. The suitability of members of the board of directors, of managing directors or similar officers and of the persons responsible for internal control functions or who hold key positions in the day-to-day running of the financial activity shall comply with the criteria as to integrity, experience and good governance established in this Royal Decree and shall be assessed by:

a) The institution, or where appropriate the promoters of the institution, when a request is submitted to the Banco de España for authorisation to pursue the banking business, when new appointments are made, and whenever circumstances arise that advise a re-assessment of suitability, by application of the procedures envisaged in paragraph 5. If the assessment is unfavourable, the institution shall refrain from appointing the person concerned, or in the case of persons already holding positions, shall take the necessary measures to remedy the deficiencies identified, and where necessary to suspend or dismiss the person concerned.

b) The Banco de España, when authorising the creation of a specialised lending institution, following receipt of the communication of new appointments, and also when there are well-founded grounds to believe that a re-assessment of suitability is needed of acting members. For this purpose, the Banco de España shall notify its assessment of suitability within a period of no more than two months from the date of the communication referred to in paragraph 6 above. If no notification is given within this period, the assessment shall be deemed to be favourable.

8. Any non-compliance with the requirements specified in paragraphs 2, 3 and 4 shall be reported to the Banco de España no later than fifteen business days from when they become known.

9. Specialised lending institutions shall comply at all times with the requirements set out in paragraph 1 above. To that effect, the Banco de España:

a) May withdraw the authorisation, by way of exception, owing to the non-suitability of a shareholder, pursuant to Article 62 of Law 26/1988 of 29 July 1998 on Law 26/1988 of 29 July 1988 on discipline and intervention of credit institutions.

b) Shall demand that the director or managing director or similar officers be suspended or dismissed, or that the deficiencies identified, where it is a question of lack of integrity, knowledge and experience or of the ability to exercise good governance, be remedied.

In the event that the institution fails to enforce those requirements in the period indicated by the Banco de España, it shall order the suspension or dismissal of the person concerned, in accordance with the procedure provided for in Law 26/1988 of 29 July 1998.

10. The Banco de España shall create and manage a Register of Senior Officers of specialised lending institutions, where it shall be mandatory to record all directors, managing directors and similar officers. For the purposes of recording in this Register of Senior Officers, directors, managing directors and similar officers shall communicate their appointment no later than fifteen business days from their acceptance of that appointment, including all personal and professional details established in general by the Banco de España, and expressly declare, in the document accrediting their acceptance of the appointment, that they comply with the requirements as to integrity and, where appropriate, to professional standing and readiness to exercise good governance of the institution referred to in this Article, and that they are not subject to any restrictions or incompatibilities established in the regulations that may apply.

The Banco de España shall likewise create and manage a register of directors and managing directors of parent institutions, that are not credit institutions, investment firms or insurance or reinsurance undertakings of Spanish specialised lending institutions, where it shall be mandatory to record all directors, managing directors and similar officers. For the purposes of recording in this register, the same procedure as that described in the previous paragraph shall be followed.

Article 6. *Application requirements*

1. Requests for authorisation for the creation of specialised lending institutions shall be addressed to the Banco de España in duplicate and accompanied by the following documents: **(5)**

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

b) Programme of business specifying the types of business envisaged, the administrative and accounting organization, the internal control procedures and the internal control and communication procedures and bodies to be established to forestall and prevent money laundering. **(6)**

c) List of members who will incorporate the company, specifying their shareholdings. Members that are legal persons shall indicate any holdings of more than five percent of their capital. Members who are to have a significant holding shall also submit information on their professional background and activity and their financial situation, in the case of natural persons, and their annual accounts and management report, with the relevant audit reports, if any, for the last two years, along with details of the composition of their management bodies and the detailed structure of any group to which they belong, in the case of legal persons

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

e) Evidence of having made a deposit at the Banco de España, in cash or government debt securities, equivalent to 20 per cent of the minimum share capital stipulated in Article 5.

2. In any event, the promoters may be required to provide all data, reports orbackground information considered appropriate to verify fulfilment of the conditions and requirements laid down in this Royal Decree.

Article 7. *Application refusal*

1. The Minister for Economic Affairs and Finance shall, by means of a reasoned decision, refuse authorisation to set up a specialised lending institution when the requirements of Articles 5 and 6 above are not met and, especially when, having regard to the need to ensure healthy and prudent management of the planned institution, the shareholders who are to have a qualifying holding therein, or a holding such that the percentage of voting rights or capital held is greater than or equal to five per cent, are not deemed suitable. For these purposes:

a) A qualifying holding shall be understood in accordance with the terms of Article 56 of Law 26/1988 of 29 July 1988 on discipline and intervention of credit institutions. **(7)**

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

1. The commercial and professional integrity of the shareholders, within the meaning of Article 5 (e). This integrity shall be presumed to exist in the case of shareholders that are general government agencies or subsidiary bodies.

2. The financial resources available to the shareholders to meet the commitments assumed.

3. Transparency in the structure of the group to which the institution belongs, if any, and, in general, serious difficulties for inspection or obtaining of the necessary information on the pursuit of its business.

4. The possibility of the institution being inappropriately exposed to the risk of the non-financial activities of its promoters or, in the case of financial activities, of the stability or control of the institution being affected by the high risk of those activities.

5. The possibility of the effective exercise of the supervision being hindered by the close links between the institution and other natural or legal persons, the legal, regulatory or administrative provisions of the country to whose law any of those natural or legal persons are subject, or 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 Control, as defined in Article 4 of Securities Market Law 24/1988; or

2 Ownership, whether direct or indirect, or control of twenty per cent 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 may be brought against the resolution adopted, the Banco de España shall proceed to refund the deposit posted. The deposit shall likewise be refunded when an application is withdrawn 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 of the Banco de España, and when authorisation is withdrawn pursuant to the provisions of Article 57 bis of the Banking Law of 31 December 1946.

Article 8. *Amendments to the articles of association*

1. Amendments to the articles of association of specialised lending institutions shall be subject to the procedure for authorisation and registration established in Article 3, although the request for authorisation must be settled within two months of its receipt by the Banco de España or when the documentation required is complete, at which point the amendments may be deemed to be approved. **(8)**

2. Amendments to articles of association involving the matters listed below shallnot require prior authorisation, although they must be reported to the Banco de España no later than fifteen business days following adoption of the relevant resolution:

a) Change of the location of the registered office within Spain.

b) Increase in share capital.

c) Verbatim incorporation into the articles of association of legal or regulatory provisions of a mandatory or prohibitive nature, or to comply with court or administrative decisions.

d) Any other amendments in respect of which the Banco de España, in response to a previous request made to that effect by the specialised lending institution concerned, has considered that the authorisation process is not necessary, in light of the minor importance of the amendment. **(8)**

3. If, when the report of the amendments is received, the changes go beyond what is provided for in the above subparagraph, the Banco de España shall inform the interested parties within thirty days, in order that they review the amendments or, where appropriate, set in motion the authorisation procedure envisaged in paragraph 1.

Article 9. *Expansion of activities*

When a specialised lending 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 lending institutions*

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

2. The merger shall require authorisation from the Minister of Economy andFinance 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 creationof banks, cross-border activities and other issues relating to the legal framework for credit institutions are modified:

1 st. A paragraph h) is added to article 2.1 with the following

content. {text incorporated into the Royal Decree}

2 nd. A part 5 is added to article 4.1.b) with the following

content. {text incorporated into the Royal Decree}

3 rd. 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 th. 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 22January , approving the regulations implementing Law 13/1989, of 26 May, on credit co-operatives.

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

{text incorporated into the Royal Decree}

2 nd . A part 2 is added to article 5 with the following content:

{text incorporated into the Royal Decree}

3 rd. 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 3July, on the creation of savings banks and distribution of net profits of those entities:

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

{text incorporated into the Royal Decree}

2 nd. 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 st. A new paragraph h) is added to article 2.1, worded as follows:

{text incorporated into the Royal Decree}

2 nd. 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 lending institutions before 1 January 1997.

Second transitional provision. *Expansion of corporate objects*

1. The alteration of status shall not require administrative authorisation if it doesnot involve an expansion of the corporate objects of the new specialised lending 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 lending 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 Banco de España 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 carriedout and the resulting specialised lending 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 Banco de España 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 their 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 statusentails 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 lending 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 lending institution shall be registered in the Banco de España. 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 lending 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 Banco de España register. As from the said date, the affected undertaking shall not pursue any activities authorised to credit institutions or specialised lending 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 Banco de España shall be refunded.

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

1. At the effective date of this Royal Decree, finance institutions, financialleasing 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, termdeposits held by finance institutions, financial leasing companies and mortgage leasing companies at the time of the alteration of their status to specialised lending 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 cannotbe 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 Law2/1981, 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 rulesfor 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) *Paragraphs 1 and 2 as drafted in Article 3 of Royal Decree 256/2013 of 12 April 2013.*

(2) *Redrafted according to Royal Decree 54/2005, of 21 January, the first paragraph.*

(3) *Paragraph 3 as drafted in Article 2 of Royal Decree 1817/2009 of 27 November 2009.*

(4) *As drafted in Article 3 of Royal Decree 256/2013 of 12 April 2013.*

(5) *The first subparagraph of paragraph 1 as drafted in Article 3 of Royal Decree 256/2013 of 12 April 2013.*

(6) *Redrafted according to Royal Decree 54/2005, of 21 January, the letter b).*

(7) *The first subparagraph and paragraph 1(a) as drafted in Article 2 of Royal Decree 1817/2009 of 27 November 2009.*

(8) *Paragraph 1 and subparagraph 2(d) as drafted in Article 3 of Royal Decree 256/2013 of 12 April 2013.*