

**TITLE 18-06-1997 LAW N° 08/99 OF 18/6/1999 RELATING TO REGULATIONS GOVERNING BANKS AND OTHER FINANCIAL INSTITUTIONS. (O.G. NO 13 OF 01/07/1999)**

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**TEXTE**

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**Chapter 1. GENERAL PROVISIONS**

**Article: 1**

This law applies to banks and other financial institutions carrying out their activities in the Republic of Rwanda, no matter their legal status, or wherever their headquarters or their main offices are located. It does not apply to the following institutions:

1. The National Bank of Rwanda, hereafter named «the Central Bank»>>;
2. .Insurance Companies; 3. Social Security bodies;
4. Companies engaged in non-banking operations relating to movable values, precious metals and intermediary activities;
5. Representations of International Financial Institutions;
6. Foreign public organizations of aid and cooperation whose activity in Rwanda authorized by treaties, agreements or conventions to which the Republic of Rwanda Party.

The Central Bank defines the conditions in which the provisions of this j are applied to postal cheque services and to saving and credit cooperative societies.

**Article: 2**

Are considered as banks those companies which, usually, receive funds the public and provide credit.

**Article: 3**

The funds received from the public are those which a person receives fro third party, notably in the form of deposits, materialized or not by stocks and shares, with bank having the right to use the funds on its own behalf but, with the duty to refund them.

However, the following are not considered as funds received from the public:

- a. funds received from partners under a collective name or from sleeping partners private company, from associates or shareholders holding more than one percent capital of a bank or financial institution as is fixed by the Central Bank;
- b. funds received from administrators, directors or managers;
- c. funds received as a set-off of loan bonds or of the capit issued or invested in public;
- d. funds received as retirement benefits or as a discount on public or private sec or in the form of loans or advances from banks or financial institutions;
- e. any other kind of funds defined by the Central Bank.

Are considered as credit operations notably the operations of providing loans rediscounting, credit acquisition, guarantee acceptance, hire purchase and lease-credit.

**Article: 4**

Banks may also carry out, in conditions defined by the Central Bank, any other operations related to their activity:

- a. management of payment instruments in all their forms;
- b. placements of deposits or other financial assets in all their forms;
- c. management and safe-keeping of financial securities;
- d. operations in precious metals;
- e. advise and assist in matters of management of title deeds, financial engineering and, in general, all services aimed at facilitating the creation or development of commercial enterprises ;
- f. middle man's operations, particularly as a commission-agent or broker;
- g. representation of a bank or financial institution.

**Article: 5**

The usual exercise of any of the operations described in articles 2 and 4 mentioned above, except those operations referred to under c, d, e and f of article 4, even if it does not justify the term of bank, confers on the concerned company the quality of a financial institution which is thus subject to the provisions of this law.

**Article: 6**

The Central Bank may classify banks and financial institutions in such a category as it determines, according to the activities for which they are approved. Financial institutions of a given category cannot carry out activities of another tegory without prior permission of the Central Bank.

**Article: 7**

Banks with Rwandan legal status may only be set up in the form of public companies. Banks with foreign legal status which exercise their banking activities in Rwanda through a branch or an agency must be set up in the form of public companies except by derogation granted by the Central Bank.

The legal form of public companies is not required for the saving and credit operatives which seek the Central Bank's approval. The Central Bank shall, through regulation, clarify the legal status for each o financial institution's categories.

The shares and stocks issued by companies which carry out the activities a bank or a financial institution must have a determined nominal value and bear nominate form.

**Chapter 2. APPROVAL**

**Article: 8**

Nobody can, without prior approval of the Central Bank, exercise the activities defined in articles 2 and 4.

Likewise, nobody can, without prior approval, use or take advantage of the quality of bank, of banker or financial institution, nor use, any language, the terms of bank, banker, banking or any other term evoking one of operations mentioned in articles 2 and 4, in his (her) denomination, his (her) company's logo or advertisement.

**Article: 9**

Applications for approval are addressed to the Central Bank for consideration. The latter defines the documents to be attached to the application for approval, as well as required technical means. It fixes the minimal conditions to be fulfilled by an enterprise order to obtain approval and publishes them in the Official Gazette of the Republic Rwanda.

The Central Bank obtain any complementary information about contributors of capital and, if need be, about their sureties, as well as about honorability and the competence of persons called to administer, direct or manage the or financial institution and its branches and agencies. To that effect, the bank may carry any investigation, be it in Rwanda or abroad, and makes sure of the licit origin of the capital contributed.

The Central Bank verify whether all the conditions for establishment organization and management required by laws and regulations in force are fulfilled. It ascertains that the legal form of the company is in conformity with the bank or financial institution's activity. The Central Bank examines, notably the activity programmed Applicant Company and the technical and financial means provided for implementation

The Central Bank examines also the opportunity to create a bank or an institution, taking into account, in particular, the urge for the smooth running of the system and protection of depositors and other creditors' interests.

**Article: 10**

No approval shall be granted as long as the capital amount or the endowment announced by the applicants, which must be equal or higher than the statutory capital, is not paid up entirely and deposited in a blocked account open in the Central Bank.

Though it is provided that the majority owner of the bank or the financial institution or the mother institution, of a branch or agency to be approved may be a foreign. Bank, prior agreement by the control authority in the country of origin is required.

**Article: 11**

The Central Bank pronounces itself on the application for approval and (notifies its decision within a time period not exceeding six months after constituting the fib which conforms with the requirements under article 9 above. In case of refusal of approval the Central Bank is bound, upon the applicant's request, to give reasons for its refusal.

In the case of approval, the Central Bank precises, inter alia, the name category, composition of the shareholding of the concerned bank or financial institution as well as the particular conditions of its activities.

The Central Bank establishes and updates the lists of all approved banks and financial institutions classified by categories and ensures its publication in the Official Gazette of the Republic of Rwanda.

**Article: 12**

Any proposal to change the data given when applying for approval of a bank or a financial institution must be communicated to the Central Bank, and in the case provided for by the above mentioned regulations, submitted to the authorization of Central Bank. Such must be adhered to particularly in the following operations:

- a. increase or decrease of the registered capital or of the endowment in capital;
- b. any important modification in the capital structure;
- c. any important change of activities;
- d. transfer of an important part of assets;
- e. amalgamation or absorption;
- f. any important change of persons called to administer, direct or manage the bank or financial institution and its branches or agencies.

The Central Bank enacts regulations relating to the above-mentioned points.

Any opening, transfer or closing of branches, agencies or offices are subject to a prior authorization by the Central Bank.

**Article: 14**

The applications for approval provided for in article 8 or the authorization provided for in article 6, 2, are subject to a fee, the amount of which is fixed by the Central Bank.

**Article: 15**

The withdrawal of approval is pronounced by the Central Bank, either request of the bank or the financial institution, or automatically when the concerned b financial institution:

- a. no longer fulfills the conditions on which the approval is subjected to ;
- b. has not used its approval within twelve months;
- c. has no longer exercised its activities for at least six consecutive months.

The withdrawal of approval may be pronounced by the Central Bank disciplinary measure provided for in article 43, al. 1.

The withdrawal of approval is made by erasure from the list of b financial institutions. The erasure is communicated to the public by the Central Bank; fees deriving from it are to be charged to the concerned bank or financial institution.

Any bank or financial institution the approval of which is withdrawn into liquidation in accordance with provisions in chapter X.

**Chapter 3. PROHIBITIONS**

**Article: 16**

Banks and financial institutions can not exercise, on their own behalf any one's account, fanning, industrial, commercial or capital activities or services other financial, except if those activities are necessary or accessory to the performance of the activity for which they obtained approval.

Banks are bound to communicate to the Central Bank any info relating to funds linked to illicit activities and to refuse the transfer or the manage such funds.

**Article: 17**

Banks and financial institutions are prohibited from selling their own shares or offering them as guarantee, except on the derogation granted by the Central Bank.

**Article: 18**

It is forbidden for banks and financial institutions to grant to persons who participate in their administration, direction, management, functioning or control of credits or guarantees for amounts exceeding a percentage of their own funds as enacted by the Central Bank.

Credits and guarantees granted to companies in which the above-mentioned persons exercise the functions of administration, direction or management or who hold more than a quarter of the registered capital are taken into account in the determination of amounts referred to in the preceding paragraph.

Whatever the amount, any loan or guarantee agreed upon by a bank or financial institution to its administrators, managers or to companies in which these persons exercise the functions of administration, direction or management or hold more than the quarter of registered capital addressed to the Central Bank or to the general Assembly of the concerned bank or financial institution must be mentioned by auditors in their reports.

It is also forbidden for banks or financial institutions to grant to persons participating in their administration, direction, management or control more favorable conditions than those granted to their other clients.

**Article: 19**

The management of a bank or a financial institution must be run by a person having the status of resident in accordance with the terms of exchange regulation.

**Article: 20**

No body can manage simultaneously:

- a. two banks ;
- b. a bank and a financial institution ;
- c. two financial institutions ;
- d. a bank, or a financial institution and any other company.

**Article: 21**

Nobody can, whatever the reason, exercise any activity in a bank or a finance institution if he has been convicted for infringement of this law.

Nobody can administer, direct, manage, commit or control a bank o financial institution or one of its branches or agencies if he has been, either in Rwanda abroad:

- a. declared personally to be in bankruptcy;
- b. involved as administrator, manager or shareholder in bank's or a financial institution' bankruptcy or of any other commercial company ;
- c. the administrators or leaders insolvent companies, debtors of a company in bankruptcy can also be considered being personally involved in this bankruptcy;
- d. convicted by sentence by due authority as author or accomplice in one o following offences:
  - 1. counterfeiting or falsification of bank notes or coins, public assets, bonds, coupons warrants or use of these counterfeited or falsified, as well as use of seals, stain punches or brands;
  - 2. forgery
  - 3. infringement to the legislations or regulation in matters of external trade and foreign exchange;
  - 4. corruption of public servant or misappropriation of public funds;
  - 5. theft, extortion, embezzlement, breach of trust, swindling or concealment;
  - 6. fictitious circulation of trade assets or infringement of provisions relating to bad cheques or any other means of payment;
  - 7. fraudulent declaration of bankruptcy or assimilated infringement ;
  - 8. fiscal fraud;
  - 9. crime

When the decision relating to one of the deeds referred to in this article definitely postponed or invalidated, the prohibition stops legitimately.

**Article: 22**

Every bank or financial institution must deposit and update at the Central Bank, files of persons exercising in its headquarters, the functions of administration, direction, management and control in its branches or agencies.

**Chapter 5. FINANCIAL AND ACCOUNTING PROVISIONS**

**Article: 23**

The capital effectively paid up the banks and financial institutions having their headquarters in Rwanda can not be lower than the minimum amount fixed by the Central Bank following the category in which they belong to, or to the amount declared to support their application for approval. Branches and agencies of banks and financial institutions with headquarters outside Rwanda must have, at every moment; an endowment in capital used in Rwanda. Which is not lower than either the minimum fixed by the Central Bank, or the one stated to support their application for approval. Financial institutions other than moral entities must have a

bank bail of an amount equivalent to the capital, or endowment in its minimum capital, as the case may be, to be fixed by the Central Bank.

**Article: 24**

Every increase of capital or endowment in capital decided by a bank or a financial institution must be paid up within the period approved by the Central Bank. Where an increase in capital or endowment is required by the Central Bank, it must be paid up within the period fixed by the Central Bank.

**Article: 25**

The mention of the capital paid up or of the endowment in capital issued must appear on all certificates, letters and other documents of the bank or financial institution.

**Article: 26**

Banks and financial institutions must keep their accounts in accordance with the accounting principles and rules as enacted by the Central Bank. Branches and agencies of banks and financial institutions the headquarters of which are abroad must keep separate counts from those of their headquarters.

Banks and financial institutions must close their accounts on 31<sup>st</sup> December of each year and communicate to the Central Bank the following documents, on the date fixed by it and, at the latest on 30<sup>th</sup> June of the following year:

a. their balance sheet and their off-balance sheet commitments;

b. their profit and loss account;

c. all other documents required by the Central Bank; d. all corrections and modifications subsequently made to those documents. The documents must be certified regularly and sincerely by the auditors of bank or financial institution.

Moreover, banks and financial institutions must, communicate to the Central Bank the minutes of their deliberations by the General Assembly relating to annual accounts within fifteen days after deliberations.

The Central Bank determines the conditions in which the balance sheets other banks or financial institutions accounts, as well as the corrections made to them published in the Official Gazette of the Republic of Rwanda. The costs of their publication are borne by the financial institution concerned.

**Article: 27**

The Bank may require from banks or financial institutions of the same group to communicate to it their consolidated accounts in accordance with the accounting provisions and other rules enacted by it.

**Article: 28**

Banks and financial institutions must, during their exercise, communicate their situations to the Central Bank according to the periodicity and the conditions it prescribes.

**Article: 29**

Banks and financial institutions must have a permanent structure for their internal controls.

**Chapter 6. DEPOSITS GUARANTEE FUND**

**Article: 30**

It is hereby created, deposits' guarantee fund hereafter called «the Fund » whose management is ensured by the Central Bank; the later defines the Fund's modalities of functioning to be implemented by the Board of Directors provided for in article 31.

**Article: 31**

The Fund will be made of:

a) contributions paid up by institutions referred to in article 2 of this law; as determined by the Board of Directors ;

b) loans granted to the Fund;

c) proceeds from investments made by the Fund;

d) any other funds it may receive.

The Fund is managed by a Board of Directors made of:

- a) the Central Bank representatives
- b) representatives of banks
- c) representatives of the Ministry of Finance

## **Chapter 7. REGULATIONS**

### **Article: 32**

In the exercise of powers conferred to it by its statutes, by this law or by any other legal provisions and in order, particularly, to preserve depositors' and other creditors' interests, the Central Bank is allowed to enact regulations, to issue instructions and take decisions which banks and financial institutions are bound to comply with. It determines modalities for their implementation.

Regulations enacted by the Central Bank may be different according to the various categories of banks and financial institutions and their legal status.

Instructions from the Central Bank are published in the Official Gazette of the Republic of Rwanda. They come into force on the date of their notification or on a further date as fixed by the Central Bank.

### **Article: 33**

In addition to the domains provided for in other articles of this law regulations referred to in the preceding article may particularly deal with:

- a. the proper funds which banks and financial institutions must constitute an various uses, notably in share participations ;
- b. prudential and management standards that banks and financial institutions particularly respect in order to guarantee their liquidity, their cash, the reduction cover of their own risks, as well as the balance of their financial structure;
- c. conditions in which banks and financial institutions can intervene on the mo market and foreign exchange market and those of their operations with the public well as rules of fair and sound competition;
- d. rates and modalities for obligatory reserves to be held at the Central Bank.

### **Article: 34**

The Central Bank is allowed to fix penalties which banks and financial institutions are subject to in case of non-compliance with the dispositions of its instructions and decisions. These sanctions are imposed either in place of, or in addition to san provided for in article 43. The amount corresponding to each penalty varies according to nature and the seriousness of the offence and in conformity with penalty charge provided in an instruction enacted by the Central Bank.

The sums representing the penalties are to be recovered in favor of the Central Bank by automatic debiting the concerned bank or financial institution's account in it's or in default, by garnishment after simple summons notified by a bailiff. No penalty s over five per cent of the minimum capital which the concerned bank or financial institution subject to in accordance with article 23.

## **Chapter 8. SUPERVISION**

### **Article: 35**

The Central Bank ascertains that the banks and financial institutions re regulatory and legal provisions, its own decisions as well as the rules of good professional behavior. It watches over the establishment by banks and financial institutions of conditions of management and internal control, assures itself about the equilibrium of financial situation and the safeguard of creditors' and depositors' interests. To that effect, it exercises control on the basis of documents and on inspection; both for banks and financial institutions as well as their branches.

### **Article: 36**

Banks and financial institutions are bound to communicate to the Central Bank every document, declaration, state of affaires in accordance with the formats and time limits it determines.

They must, furthermore provide it with all information, clarifications and justifications it may require.

If need be, and in the framework of its supervisory mission, the Central Bank can get from any other person any document or inquiry it requires from him or her.

**Article: 37**

The Central Bank can dispatch inspectors, both to banks and financial institutions as well as to their branches, in order to carry out any verification and control and get information, clarifications and justifications deemed necessary to the fulfillment of their mission.

Banks and financial institutions, as well as their branches, are bound to submit control of the Central Bank inspectors, their funds, bonds and other assets in their portfolio, as well as their books, minutes, receipts and other documents. The inspectors can demand to be given the original or copy of any document for the purpose of verifying it in the Central Bank offices. To that effect they will certify taking it.

**Article: 38**

The findings of control on the basis of documents and site inspections are communicated to the management of the inspected bank or financial institution which is bound to inform the Board of Directors about it. They can also be transmitted to the Auditors.

The Central Bank is authorized to publish, in whole or in part, the information to it by the banks and financial institutions. However, this publishing cannot relate to particular situation of a bank, a financial institution or an individual client, unless it is a communication by the Central Bank to banks or financial institutions on information relating to operations and difficulties in payment settlement.

**Article: 39**

Every bank or financial institution is bound to appoint at least one auditor and the Central Bank about it. The auditor or auditors appointed must obligatorily appear on the list approved by the Central Bank. The duration of the auditor's term is limited to three years. An auditor cannot have more than two successive terms in the same bank or financial institution. In case dismissal of an auditor, the bank or financial institution must immediately inform the Central Bank by indicating notably the reasons of the decision.

When a bank or a financial institution loses an auditor, a new auditor may be appointed within a period of three-months. If at the end of that period, the bank or financial institution will not have appointed an auditor in accordance with this article, Central Bank will proceed itself to make the appointment.

In all cases, the auditor's fees are borne by the bank or financial institution concerned.

**Article: 40**

Nobody can exercise the auditor's function in a bank or financial institution if:

- a. he is an agent of the Central Bank, of a bank or financial institution;
- b. he holds or acquires any interest in the concerned bank or financial institution, except as a depositor, or if he exercises there in any other function;
- c. he exercises any function other than that of auditor in a company where this bank or financial institution, its shareholders, administrators, leaders or managers, have a participation or holds a participation in this bank or financial institution.

**Article: 41**

The auditors of banks and financial institutions exercise their control accordance with standards generally accepted by their profession and in accordance instructions of the Central Bank.

They have notably the obligation to:

- a. notify the Central Bank with all due diligence, any fact liable to endanger interests of the bank or of the financial institution, of its depositors or other credit
- b. report any irregularity or violation of regulatory or legal provisions;
- c. transmit to the Central Bank, at least three weeks before the meeting of the Board of Directors is held to summon the General Assembly of shareholders, their report on the control they have carried out ; these reports are made in the forms accordance with the modalities fixed by the Central Bank.

**Article: 42**



In case of non compliance with the provisions of article 39 and subject penal or disciplinary actions, the Bank can apply to the concerned auditor the following penalties

- a. warning ;
- b. prohibition to carry on the control operations of the bank or the financial institution ;
- c. erasure for a three-year term from the list of auditors approved by the Central Bank ;
- d. definitive erasure.

**Article: 43**

Irregularities or infringements to this law, to regulations or decisions of the Central Bank and to the approval conditions stated against a bank or a financial institution will lead to the following disciplinary sanctions according to their seriousness:

- a. warning ; b. disapproval ;
- c. suspension of any assistance from the Central Bank ;
- d. prohibition to carry out some activities or any other limitations in the activity of a bank or financial institution ;
- e. withdrawal of the quality of approved intermediary ;
- f. withdrawal of approval.

Persons taking part in administration, direction or management of a bank or financial institution who are guilty of irregularities or infringements to paragraph 1 above, are liable to the following penalties:

- a. temporary suspension
- b. summary dismissal, with or without appointing a provisional administrator.

In case of contestation of sanctions provided for under paragraphs 1 and 2 above, the bank or financial institution or the concerned person can appeal to an ad hoc commission set up by the Minister who was Finance in his attributions.

**Article: 44**

The Bank may, when required by the situation of a given bank or financial institution requires, ask members of the Board of Directors, leaders, managers, shareholders y other owners of the bank or of the financial institution to propose, for approval, a truing plan particularly consisting of:

- a. Taking , within a determined period of time, all measures liable to re-establishes or reinforce its financial balance, notably by the constitution of funds and reserves, station of dividend distribution, increase of capital in cash as well as by any other financial support or guarantee ;
- b. Proceeding to necessary reorganization with the effect of reinforcing its methods and its management instruments.

The financial system as a whole or some of its components may be bound to accept to provide additional advances to allow the bank or financial institution to cope with its commitments particularly towards its depositors.

**Chapter 9. PROVISIONAL ADMINISTRATION AND CONTROL.**

**Article: 45**

The Central Bank can appoint for a six-month maximum term, a full time provisional controller to a bank or financial institution which:

- a. infringes the provisions of the law or regulations or which no longer fulfills the approval conditions ;
- b. impedes the mission of Bank inspectors or refuses to supply them with the required statements, situations and justifications ;

c. impedes the missions of internal or external auditors.

The provisional controller's appointment may also be decided, when justified by reasons of public interest.

The Central Bank can, at any time, put an end to the mission of the provisional controller.

**Article: 46**

The bank or financial institution is bound to:

a. put at the provisional controller's disposal all documents, information and justifications he requires, as well as all human and material means necessary for fulfilling his mission ;

b. inform about any decision relating to the administration, direction or management ;

c. take charge of his fees which are fixed by the Central Bank.

**Article: 47**

The provisional controller can propose any measure of recovery deemed necessary. He can suspend, for eight days maximum, the implementation of any decision of the bank or financial institution provided that he makes a report without delay to the Central bank which gives its position before the expiry of the time limit. The Central Bank's decision is not subject to any appeal.

At the end of his mission, the provisional controller must submit to the Central bank a report comprising the actions achieved, as well as his conclusions and recommendations.

**Article: 48**

The Central Bank can definitely dismiss administrators, directors or managers or suspend provisionally the exercise of their powers:

a. when there is an impediment to the provisional controller's mission or on recommendations of the latter ;

b. when the bank or financial institution's situation justifies it or in case of infringements to this law or to regulations enacted in implementation of this law.

*[Modified by law n° 08/2002 of 05/02/2002(O.G. special n° of 05/02/2002)]* The General Assembly or the Board of Directors, as the case may be, must in agreement with the Central Bank, take necessary measures for the continuation of the bank or financial institution activity. Otherwise, the Bank appoints, for a maximum of six month term, a provisional administrator whom all necessary powers for the administration and direction of the bank or financial institution are transferred to.

The provisional administrator's fees are fixed by the Central Bank and charged to the bank or financial institution.

The provisional administrator's appointment suspends the Board of Directors directors' powers or, if need be, of the managers. This appointment is published in the Official Gazette of the Republic of Rwanda and is immediately announced to the public by bank which has it posted in the form of notices in the headquarters offices, branch, agency and office of the concerned bank or financial institution.

The suspended or dismissed persons may appeal under the conditions provided Article 43, paragraph 3.

**Article: 49**

The provisional administrator may carry out all necessary or accessory acts the continuation of activities and maintenance of the bank or financial institution's patrimony. He may notably continue or interrupt operations, sue in a court of law, either as 'ff or defendant, conclude contracts of lease-management, appoint or dismiss responsible, appoint or sack the staff.

However, he may neither sell nor mortgage any bank or financial institution's building.

At the end of his mission, the provisional administrator has to submit to the Bank a report including, among others, recommendations showing clearly whether is a need to require or not, for approval, a recovery plan for the concerned bank or financial institution in accordance with article 44, or whether liquidation should be carried out. If his report is accepted, he obtains the quietus of the Central Bank. In that case his management cannot be subject to question.

**Chapter 10. LIQUIDATION**

**Article: 50**

Any bank or financial institution under liquidation must:

- a. inscribe, after the company's name, the words « in liquidation » and not act as a bank or a financial institution except with a clear mention that it is under liquidation ;
- b. immediately stop its operations except those strictly necessary for its liquidation ;
- c. put up in all its premises open to the public, a notice showing its being under liquidation either with the mention, of the Central Bank's authorization or the Court's judgment depending on the case.

During its liquidation, the bank or financial institution remains subject to the Central Bank's supervision. The latter receives copies of all documents and letters relating to its liquidation. The legal status of the bank or financial institution under liquidation remains unaltered till its closure.

**Article: 51**

Every voluntary liquidation of a bank or financial institution is subject to authorization of the Central Bank. This authorization is granted subject to the auditors certification that the bank or financial institution is capable of promptly and entire fulfilling all its obligations towards its depositors and other creditors, and that appointment of a liquidator and the liquidation plan be approved by the Central Bank. Latter shall respond within a two-month's period from the date the demand for authorization was received.

**Article: 52**

The bank or financial institution's liquidation plan drawn up by the liquidator includes notably:

- a. a detailed statement of assets and of any other possibility of mobilizing resources ;
- b. a detailed statement of liabilities precisng the amount of each debt, the seniority f debt and whether the debt is contested or not ;
- c. modalities and development of the liquidation process.

The liquidator publishes on weekly basis, within two consecutive weeks, widely read newspaper in Rwanda, and in any other appropriate way, a notice indicating places where the liquidation plan may be consulted.

**Article: 53**

Interested persons shall have a two-month period to make their observations or claims concerning the liquidation plan. These observations and claims are forwarded by the liquidator, together with his/her own comments, to any interested person through registered mail against acknowledgement receipt. After a further period of two months, the liquidator may carry out negotiations with depositors and any other creditors, individually or in committees, draw up an updated liquidation plan which becomes mandatory from the date of its final approval by the Central Bank.

In order to ensure that the bank or financial institution meets all its commitments, the Bank may condition its approval to any complementary guarantees it deems necessary. It may as well require that provisions be made in order to settle any post-liquidation fees such as the external auditor's remuneration as per article 56, para 4.

The final liquidation scheme shall be communicated to all interested parties as per article 52.

**Article: 54**

During liquidation, the Central Bank's prior authorization is required for the following operations:

- a. operations, other than collection of debts, involving any amount beyond the maximum fixed by the Central Bank ;
- b. total or partial surrender of any credit or other movable assets ;
- c. settling any debt incurred before going into liquidation ;
- c. dispossession or mortgaging of any building.

**Article: 55**

In every liquidation of a bank or financial institution the realization of all assets' and any eventual guarantees as per article 53, para 2, minus expenses linked to the liquidation shall be distributed to the various

categories of creditors as follows:

- a. guarantee holders up to the value of their guarantees;
- b. depositors ;
- c. the State ;
- d. other certified creditors.

As assets and securities are being realized, and each time one category of creditor wholly disinterested, the balance shall be issued in prorata to the next category of creditors.

However, as part of partial settlement of the claims of depositors, the Bank may authorize the liquidation to distribute a given maximum amount uniformly to each of them. On closing liquidation, funds and assets allocated to creditors but not collected shall be deposited by the liquidator with the Central Bank in the names of concerned parties whose rights are prescribed in accordance with Civil Law provisions.

An exception to this article's provisions are eventual compensations between debts and credits relating to one and same customer of the bank or financial institution.

**Article: 56**

On the Central Bank's decision, the liquidator's mission may at any time put to an end and, in such a case, the bank or financial institution under voluntary liquidation must proceed to effect his replacement in accordance with article 51.

At the end of his mission, of which duration shall not exceed one year, liquidator is to submit his report to the Central Bank for approval. This report shall clearly show, notably, whether the concerned bank or financial institution has entirely settled obligations.

Where assets and other means are inadequate to settle all the debts of the bank or financial institution, the Central Bank shall refer the matter to the Court which issues ruling as in the case of forced liquidation.

When necessary, the Central Bank can submit the liquidator's report transactions relating to liquidation, for verification by an external auditor whose fee is charged on the reserve fund as mentioned in article 53, para.2. The Bank approves the report by the liquidator, the latter obtains the quitus from the Central Bank which decides on the liquidation.

The liquidator hands over documents, books and registers of the bank or financial institution to the Central Bank which decides on their use.

**Article: 57**

The Bank may request the Court to order forced liquidation of a financial institution when

- a. implementation of the recovery plan mentioned in article 44 is unduly delayed or likely to prejudice depositors' or other creditors' interests ;
- b. upon proposal by the provisional administrator ;
- c. when the bank's or financial institution's situation so requires, for instance in the default of payments with no possibility of recovery.

**Article: 58**

Subject to the provisions of this chapter, forced liquidation of a bank or financial institution is bound by the bankruptcy law except where a preventive bankruptcy agreement is concerned. The duties of a curator are then taken over by a liquidator appointed by the court.

The Central Bank's advice is required at all levels of this procedure and before any decision is taken.

**Article: 59**

When the Court receives a request for forced liquidation, the Court clerk forwards this request through any appropriate means to shareholders, administrator managers, depositors and other creditors of the bank or financial institution and any other interested person. The Court makes a ruling within a maximum period of two months from the date the request was deposited.

Within a period of two months from court ruling on forced liquidation of bank or financial institution, the

liquidator forwards to the Court the liquidation plan for Approval as defined in article 52.

**Article: 60**

Interested persons have a period of two months to make their observation! And / or claims related to the liquidation plan. These observations and claims are forwarded b3 e liquidator together with his comments to every interested person through a registered mail against acknowledgement receipt. After a further period of two months, the liquidator draw up an updated liquidation plan which then becomes mandatory from the time of its fins approval by the court. The final liquidation plan is communicated to interested parties as provided for in article 52.

**Article: 61**

No operation can be carried out before the liquidation plan of the bank or the financial institution is endorsed by the Court.

In the course of liquidation, the order of the President of the Court is required for all operations mentioned under article 54.

**Article: 62**

The distribution of the proceeds of assets and of other eventual guarantees realized; less the expenses made in liquidation is done in accordance with provisions of article 55.

However, as part of a partial settlement of the claims of depositors and on proposal by the Central Bank, the Court may authorize the liquidator to distribute a given maximum amount uniformly to each of them.

**Article: 63**

Within a period of three months from the authorization by the Central Bank to proceed to voluntary liquidation or the judgment ordering forced liquidation, the liquidator shall inform each renter of safe custody on the day and hour when the safe will be opened unless the renting will have ceased. If the renter does not attend the opening, this cannot be done except in the presence of the Public Prosecutor's representative; the inventory of the contents is made and jointly signed by the said representative and the liquidator. The contents are deposited with the Central Bank on behalf of the interested persons whose rights are prescribed in accordance with Civil Law provisions.

**Article: 64**

The Court may authorize the liquidator to affix seals on properties of administrators and managers whose responsibility seems to be involved in accordance with article 65.

It may also, under the same conditions, authorize the liquidator to:

- a. seize and freeze or make restrictions on monies due to those persons as well as on movable or fixed assets belonging to them ;
- b. make objections in such forms and effects as are allowed by the Civil Law to those same persons exercising their rights to dispose of any fixed assets

**Article: 65**

When the liquidation of a bank or financial institution shows assets insufficiency, the Court can, on request of the liquidator or Public Prosecutor order that the bank's or financial institution's debts be settled, in whole or part, jointly or not, by all administrators or managers, active or dormant, covert or overt, with or without salary, against whom serious faults or infringements are proved to have contributed to the bank's or financial institution's default.

**Article: 66**

When persons referred to in article 65 do. not pay the bank or financial institution's liabilities as charged onto them by the Court, the latter may extend the forced liquidation procedure to their own properties if it is proved that, under cover of the bank or financial institution concealing their deeds, they carried out operations in their own interests or disposed of public property as their own.

**Article: 67**

Forced liquidation is pronounced by Court after distribution of the remainder and approval of the liquidator's accounts.

**Chapter 11. PENAL PROVISIONS**

**Article: 68**

Without prejudice to other sanctions and penalties, the Court, following the Central Bank's advice, may inflict

on anyone who will infringe the provisions of this law or the instructions issued by the Central Bank in execution of this law, the penalties provided for in this chapter.

**Article: 69**

Shall be liable to a prison sentence of six months or three years and to a fine of 0,000,000 to 100,000,000 Frw or to only one of these penalties, any person who, acting on s own behalf or on a third party's behalf, will go against the provisions of articles 8, 12, 20, 21 or 77. The same penalties will be imposed on all persons who will have had recourse to lying or tendentious advertisements prejudicial to the banking or financial activity.

**Article: 70**

Shall be liable to a prison sentence of three months to two years and to a fine of 10,000,000 to 60,000,000 Frw or to only one of these penalties, any person who, acting on s own behalf or being an administrator, director, manager or accountant of a bank or Financial institution, will have contravened provisions of chapter V or of articles 22, 36, 37 paragraph 2 or article 46.

Shall be imposed the same penalties on every person shown in the above paragraph who will have obstructed the internal or external auditor's mission.

**Article: 71**

Shall be liable to a prison sentences of one month to one year and to a fine of ,000,000 to 10,000,000 Frw or to only one of those penalties any person who, being a member of administration, direction, management or control of a bank or financial institution, will have broken provisions of chapters III or VII or of article 41.

**Article: 72**

The court may order that the judgment be published in whole or in parts in newspapers, indicating and ordering that it be posted in places it determines. Fees thereof all be charged to the sentenced person and shall not exceed the amount of the fine inflicted.

**Article: 73**

Notwithstanding the penal, disciplinary and other sanctions inflicted conditions defined by this law, the Central Bank may sue the perpetrator of any other infringement prejudicable to the banking or financial activity.

**Article: 74**

Infringements to this law or any other offence prejudicial to banking financial activity are stated by criminal investigation department officers as well as by t central Bank's agents with the capacity of a judicial police officer for this purpose.

Suing is exercised either spontaneously or upon the Central Bank's request. In both cases the Central Bank's advice is required at all levels of procedure and before decision is taken.

**Article: 75**

Subject to articles 68 to 71, for each infringement to this law as well as for any other infringement prejudicable to the banking or financial activity, the bank has the power impose a fine from 100,000 to five percent of the minimum capital which the bank financial establishment is subjected to. Payment of the fine ends the lawsuit.

**Article: 76**

Penal actions referred to in this chapter are prescriptible over five years.

**Chapter 12. MISCELLANEOUS PROVISIONS.**

**Article: 77**

When, within a period of five years, the owner of funds or assets in form deposits, loans or others, has made any operations of deposit, withdrawal, cashing or other, has in any way been in relation with his bank or financial institution, those funds or e to be handed over to the Central Bank against a receipt. This remittance relieves the financial institution of any further responsibility over such funds or assets. At least one fore the lapse of such period, the bank or financial institution informs the owner, thro registered mail against acknowledgement receipt and sent to his last known address, about tent to remit the said funds or assets to the Central Bank. When the funds or assets are locked up in the bank 's or financial institution safe, the notification referred to in the above paragraph may be as soon as the rented safe's period expires. One year following the notice, the safe is opened and the inventory of contents deposited is taken according to the conditions provided for under article 63.

**Article: 78**

Banks or financial institutions specified by the Central Bank must open deposit account for any person who

requests so. They may however limit their services relating to opening such an account only to deposits in cash or cheque, cash withdrawals transfers.

Banks and financial institutions are duty bound to check the lawful origin funds they receive from their customers.

**Article: 79**

For operations of exchange and external trade including, among other domiciliation of related titles and opening of letters of credit, banks and financial institution must obtain prior authorization of the Central Bank as approved intermediaries.

**Article: 80**

Only in exceptional circumstances, the Central Bank may suspend activities of all banks and financial institutions or some of their operations. Such a suspension shall not exceed six calendar days and shall be renewed only once.

**Chapter 13. TRANSITIONAL AND FINAL PROVISIONS**

**Article: 81**

Banks and financial institutions shall conform their statutes with the provisions of this law and those of the Central Bank's instructions within six months following their coming into force. After this period the bank will draw up a list of banks financial institutions which will have complied with those provisions. Banks and financial institutions found on that list will be reputed as having been approved as provided for in article 8. The others will have to apply for approval with e following month following the publication date of the list referred to in the preceding paragraph, short of which they will have to stop their operations and enter into liquidation.

**Article: 82**

The Decree-law n° 07/81 of 28 April 1981 bearing regulations of financial institutions, as well as all other previous provisions contrary to this law are hereby abrogated.

**Article: 83**

This law enters into force on the day of its publication in the Official Gaz of the Republic of Rwanda.

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