

## LAW OF CREDIT ORGANIZATIONS AND AUXILIARY ACTIVITIES

### SECTION FIVE Credit Auxiliary Activities

#### CHAPTER I On Regular and Professional Purchase and Sale of Currency

**Article 81.-** The authorization by the Secretariat of Finance and Public Credit shall be necessary in order to carry out regular and professional currency purchase, sale and exchange transactions with the public within the Mexican territory, including those made through fund wire transfers or transmissions, except in the cases provided for in this article and in article 81-A.

Such authorizations shall be granted or denied discretionally by said Secretariat, hearing the opinion of the Bank of Mexico and of the National Banking Commission and shall be non-transferable due to their nature.

The aforesaid authorizations as well as their amendments shall be published in the Official Gazette of the Federation.

Credit institutions and securities firms shall not require such authorization, and shall be subject to the applicable legal provisions in their transactions with currencies.

For purposes of this Law, currency transactions related to the rendering of services or the acquisition of currency through the sale of real estate, carried out by establishments located along the border strips and the special tax zones of the nation, and any other corporations whose normal activities involve carrying out transactions with foreigners, shall not be considered regular and professional activities.

**Article 81-A.-** The authorization referred to in the above Article shall not be necessary when only and exclusively the following transactions are carried out with foreign currency:

**I.** Purchase and sale of banknotes as well as minted pieces and common metals, of legal tender in the issuing country, up to a daily amount equivalent to and not to exceed, ten thousand dollars of the United States of America per client;

**II.** Purchase and sale of traveler's checks denominated in foreign currency, up to a daily amount equivalent to and not to exceed, ten thousand dollars of the United States of America per client;

**III.** Purchase and sale of metallic pieces minted in the shape of coins, up to a daily amount equivalent to and not to exceed, ten thousand dollars of the United States of America per client, and

**IV.** Purchase of instruments on demand, denominated and payable in foreign currency, against financial institutions up to a daily amount equivalent to and not to exceed ten thousand dollars of the United States of America per client. These documents may only be sold to credit institutions and foreign exchange firms.

**V.** (Repealed).

In the execution of the transactions set forth under sections I through IV above, the countervalue must be handed out upon their execution and they may only be settled in cash, traveler's checks or checks denominated in Mexican currency, and in no case shall this include any fund transfer or transmission.

**Article 82.-** Corporations which are granted the authorization referred to in Article 81 of this Law shall be named foreign exchange firms and shall be organized under the General Corporations Law and meet the following requirements:

I. Their corporate purpose shall be exclusively, the regular and professional execution of the following transactions:

a) Purchase or collection of instruments on demand denominated and payable in foreign currency, against financial institutions, without limitation per instrument;

b) Sale of instruments on demand and payable in foreign currency, issued by foreign exchange firms against domestic financial institutions, their branches and agencies abroad or foreign banks;

c) Purchase and sale of foreign currencies through transfer of funds over banks accounts;

d) The ones established in Article 81-A of this Law, and

e) Other transactions authorized by the Bank of Mexico under general provisions.

For purposes of the provisions set forth in this chapter, currencies shall be the ones mentioned in the first paragraph of Article 13 of the Bank of Mexico Organic Law.

II. The corporate bylaws shall provide that in the execution of its purpose, the corporation shall abide by the provisions of this Law and the other applicable provisions; and

III. (Repealed).

IV. (Repealed).

**Article 83.-** The applications for authorization to operate foreign exchange firms shall include the following:

I. Draft of the corporate bylaws of the relevant corporation, a list of the shareholders who shall integrate such corporation with the capital stock they will subscribe, as well as the documents deemed appropriate by the Secretariat of Finance and Public Credit to support its application;

II. (Repealed).

III. Evidence of deposit made in Mexican currency in the National Financial Institution (Development Bank) in favor of the Federal Treasury, in an amount equal to ten percent of the minimum capital stock required for its incorporation under this Law.

In the cases of revocation referred to in section I of Article 87 of this Law, the security deposit will be executed by applying the original amount of the deposit mentioned in the previous paragraph to the federal tax authorities. In the event that the authorization requested is denied, or if the interested parties withdraw from such action or any transactions are initiated under the terms of this Law, the principal sum and ancillaries of the aforementioned deposit will be refunded to the applicant.

**Article 84.-** Foreign exchange firms shall abide by the following terms:

I. They shall have exclusive premises for the execution of their operations;

II. When requested, they shall provide their position in currencies to the Secretariat of Finance and Public Credit or to the Bank of Mexico;

III. (Repealed).

IV. (Repealed).

V. Their transactions with currencies and fine metals shall abide by the applicable general provisions established by the Bank of Mexico to that effect, where the latter may determine the limits to transactions that the foreign exchange firms may carry out, based on their net worth.

Upon request from the Bank of Mexico, foreign exchange firms are required to report their positions in currencies to said bank, including fine metals, and to transfer to it, any assets thereof held by them which exceed the obligations they represent. Such transfer will be made at the price they were quoted in the foreign exchange market, on the date the Bank of Mexico issues the respective order, and

VI. They will provide to the National Banking Commission their account statements, financial information and any other items related to their line of business, in the terms and conditions set forth by said Commission through general rules, and they shall be subject to the provisions of Articles 52 and 53 of this Law.

**Article 84-A.-** The amount of paid-in capital and capital reserves of the foreign exchange firms shall be invested according to the terms and conditions set forth by the Secretariat of Finance and Public Credit through general rules, previously hearing the opinion of the Bank of Mexico and the National Banking Commission.

**Article 85.-** (Repealed).

**Article 86.-** Any advertising inside Mexican territory regarding the regular and professional purchase, sale and exchange of currencies, carried out by persons or corporations without the relevant authorizations under this Law or any other applicable provisions, is prohibited.

Foreign exchange firms shall have available in a place visible to the public, in the premises where they carry out their business transactions, a copy of the authorization communication granted to them by the Secretariat of Finance and Public Credit, and shall include the date and authorization number thereof, in all their publicity and advertising.

**Article 86 Bis.-** (Repealed).

**Article 86-A.-** Bank of Mexico may order a temporary suspension of the transactions of foreign exchange firms, whenever any market circumstances should so require it, and also in the event that any general provisions, issued by the Bank of Mexico, are infringed, as provided in section V of Article 84 of this Law.

**Article 87.-** The Secretariat of Finance and Public Credit, having previously heard the opinion of the Bank of Mexico and the National Banking Commission, and upon having previously held a hearing with the corporation involved, may declare the revocation of the authorization mentioned in this chapter, in the following cases:

I. If the relevant corporation does not submit the official transcript of the Articles of Incorporation referred to in Article 8, section XI of this Law, for its approval, within the four months immediately after the date when such authorization was granted, or if such corporation does not start operations within a three month term after the approval of the notarial deed of the Articles of

Incorporation, or if at the time when the corporation was organized, the capital set forth by the Secretariat of Finance and Public Credit, has not been subscribed and paid;

**II.** If the minimum paid-in capital set forth in this Law is not maintained, or otherwise, if its net worth were reduced to less than its minimum required capital, and it is not restored within the period established by the National Banking Commission according to Article 63 of this Law, or if it suspends or abandons its activities without having the authorization of the Secretariat of Finance and Public Credit.

**III.** If it engages in any transactions which contravene any of the provisions of this Law, or the provisions derived therefrom, as well as any policies established in respect to foreign exchange matter by the competent authorities, or in general, against sound currency exchange practices;

**IV.** (Repealed).

**V.** If the corporation is dissolved, wound up or bankrupt, unless its rehabilitation is determined in the bankruptcy proceedings and the National Banking Commission agrees to the continuation of the authorization;

**VI.** If the corporation does not engage in the activities or does not carry out the transactions for which it was authorized;

**VII.** If its managers have intervened in transactions that breach financial and currency exchange provisions; and

**VIII.** In any other cases set forth by the Law.

The declaration of revocation will be registered in the Public Registry of Commerce, upon the previous order by the Secretariat of Finance and Public Credit, and it will be published in the Official Gazette of the Federation. Such revocation will ban the corporation from carrying out its transactions, as of the date when it is served notice thereof and it shall enter into dissolution and liquidation proceedings. Dissolution and liquidation procedures shall be carried out according to the provisions of the General Corporations Law, or in case of bankruptcy, of the Bankruptcy and Suspension of Payments Law.

**Article 87-A.-** Foreign exchange firms are prohibited from:

**I.** Operating with their own stock, except in the cases provided for in the Securities Market Law;

**II.** (Repealed).

**III.** Receiving bank deposits in cash;

**IV.** Granting surety bonds, security interests or guarantees;

**V.** Acquiring real estate and furniture or equipment not intended for the offices or activities suitable for their corporate purpose;

**VI.** Engaging in any transactions for which they are not expressly authorized, and

**VII.** Executing transactions whereby their officers and employees, regular and alternate statutory auditors, whether or not in office; outside auditors of the foreign exchange firm; or first degree ancestors or descendents or spouses of the above persons, become or may become debtors, unless they correspond to fringe benefits granted in general.