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DE INSTITUCIONES FINANCIERAS

OCIF

GOBIERNO DE PUERTO RICO

DRAFT

REGULATIONS OF THE BANKING LAW

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REGULATIONS OF THE BANKING LAW

CHAPTER I INTRODUCTION

SECTION 1.1. SHORT TITLE

This Regulation shall be known as the "Banking Law Regulations".

SECTION 1.2. LEGAL BASIS

These Regulations are promulgated by virtue of the authority vested in the Office of the Commissioner of Financial Institutions, (hereinafter referred to as "OCIF"), by the following laws:

- a. Act No. 4 of 11 October 1985, as amended, known as the "Office of the Commissioner of Financial Institutions Act" ("Act No. 4");
- b. Section 28 (b) of Act No. 55 of May 12, 1933, as amended, known as the "Banking Act" ("Act No. 55");
- c. Article 28 of Act No. 88 of June 21, 1966, as amended, known as the "Puerto Rico Cooperative Bank Act" ("Act No. 88");
- d. Article 3 of Act No. 40 of 23 April 1928, as amended, known as the "Trust Companies Act" ("Act No. 40"); and
- e. Act No. 38 of June 30, 2017, as amended, known as the "Uniform Administrative Procedure Act of the Government of Puerto Rico" ("Act No. 38-2017").

SECTION 1.3. PURPOSE

These Regulations are intended to supplement and clarify the provisions of Act No. 55. The rules and procedures that will govern corporations engaged in the banking business that carry out such business in Puerto Rico in accordance with the provisions of Act No. 55 are established. In addition, these Regulations clarify the provisions of Act No. 55 that apply to the Cooperative Bank of Puerto Rico under Act No. 88 and to the Puerto Rico trust companies organized under Act No. 40 that engage in banking business.

In line with the above, the OCIF certifies that the approval and implementation of this Regulation does not have any additional fiscal impact for the OCIF, or for the public in general. An analysis of the cost-benefit of the Regulation shows that its adoption is a requirement imposed by law and does not imply greater costs for the treasury, nor for the citizenry.

SECTION 1.4. SCOPE AND APPLICABILITY

The provisions of these Regulations shall apply to corporations engaged in the banking business that carry out such business in Puerto Rico in accordance with the provisions of Act No. 55, to the Cooperative Bank of Puerto Rico pursuant to Act No. 88 in accordance with the provisions of Act No. 55 applicable to it, and Puerto Rico's trust companies organized under Act No. 40 that engage in banking business.

SECTION 1.5. WORDS AND TERMS

When interpreting the provisions of these Regulations, except where expressly stated, or the context clearly indicates otherwise, words conjugated in the present tense shall be understood to include the future; words used in their masculine form will include the feminine; and words in the singular will include the plural and vice versa.

SECTION 1.6. DEFINITIONS

For the purposes of these Regulations, the following terms shall have the meanings set forth below:

- a. **Bank** - a corporation organized and authorized to operate under the provisions of Act No. 55.
- b. **Bank(s)** - the use of the word "bank" shall mean either a Bank or a Foreign Bank. The term "banks" shall refer indistinctly to Banks or Foreign Banks or both.
- c. **Foreign Bank** - a corporation or entity organized under the laws of another territory or state, or of the United States, or of a foreign country, incorporated for the purpose of engaging in banking business and maintaining a Bank and doing business in the place of its incorporation and authorized to operate in Puerto Rico in accordance with the provisions of Act No. 55.
- d. **Commissioner** - the Commissioner of Financial Institutions.
- e. **FDIC** - Federal Deposit Insurance Corporation.
- f. **Board of Directors** – refers to the governing body of a Bank known as the Board of Directors. In the case of Foreign Banks, means the highest-ranking official in Puerto Rico duly authorized to carry out the management indicated in these Regulations.
- g. **Capital Obligations** - an instrument evidencing a long-term debt of a specified amount

of money with a maturity of not less than five (5) years, issued by a Bank to meet a need for working capital, which shall be subordinated in rights to the obligations to depositors and other creditors of the Bank.

- h. **OCIF** – the Office of the Commissioner of Financial Institutions.
- i. **Office** - (i) that premises in which only certain administrative activities related to the operation of the Bank or Foreign Bank are carried out; (ii) the premises where the Main Office of the Bank or Foreign Bank is located. Banking operations shall not be carried out in the offices except those that are incidental to the administrative function of said Office.
- j. **Main Office** - the place where the administrative and operational policies of the Bank or Foreign Bank are established.
- k. **Branch** - any kind of facility established by a bank in which banking operations are carried out such as: receiving deposits, issuing or paying checks, establishing accounts and lending money. The Service Units or Offices shall not constitute Branches for the purposes of these Regulations.
- l. **Service Unit** - (i) that service unit of a Bank in which only certain banking operations are carried out. The following banking operations may not be carried out simultaneously in these Service Units, at any time: establishing accounts of any kind and lending money; (ii) an electronic machine, ATM machine or drive-in facility installed outside the Branch premises that allows the customer to carry out certain banking operations.
- m. **Investment Securities** - marketable obligations, in the form of bonds, promissory notes, non-mortgage-secured bonds ("debentures") or mortgage-secured bonds or promissory notes, which are also considered as Investment Securities permitted to national Banks by the Comptroller of the Currency or its successor agency. This term does not include investments of a predominantly speculative nature.
- n. **Government Securities** - means those securities listed in Section 14(e)(1) of Act No. 55.
- o. **Gramm-Leach-Bliley Act** - Refers to the federal law entitled "Gramm-Leach-Bliley Act" signed by the President of the United States of America on November 12, 1999 and

numbered P.L.106-102. The phrase "Gramm-Leach-Bliley Act" also includes any federal law passed to amend or replace it.

CHAPTER II ORGANIZING A BANK IN PUERTO RICO

SECTION 2.1. PURPOSE AND SCOPE OF THE CHAPTER

In addition to the provisions of Section 4 of Act No. 55 and as authorized by that Section, this Chapter establishes the procedure for payment to the Commissioner for the purpose of covering the expenses that the Commissioner may incur in the investigation of an application to organize a Bank in Puerto Rico.

SECTION 2.2. RESEARCH EXPENSES

The expenses incurred by the Commissioner in connection with the investigation provided for in Section 4 of Act No. 55 shall be borne by the applicants. In those cases in which the Commissioner estimates that such expenses will exceed the amount of twenty-five thousand dollars (\$25,000.00), he will notify the applicant. The Commissioner will claim such investigation expenses from you by submitting a request for reimbursement.

SECTION 2.3. COMPLIANCE WITH LEGAL REQUIREMENTS

Before commencing operations in Puerto Rico, each Bank shall certify to the Commissioner its compliance with all applicable law and regulation requirements for such commencement of operations.

SECTION 2.4. ISSUANCE OF LICENSE

The Bank shall pay the costs of investigation in accordance with Section 2.2 of this Chapter before obtaining a licence to commence operations.

CHAPTER III CAPITAL OBLIGATIONS

SECTION 3.1. PURPOSE AND SCOPE OF THE CHAPTER

This Chapter shall govern the procedure for the issuance of Capital Obligations by any Bank operating in Puerto Rico under Act No. 55 and by the Cooperative Bank, under Act No. 88.

For the purposes of this Chapter, the term "Bank" includes the Cooperative Bank, created under Act No. 88.

SECTION 3.2. POWER TO ISSUE CAPITAL BONDS

With the prior authorization of the Commissioner, the Cooperative Bank and any Bank operating in Puerto Rico under Act No. 55 may issue Capital Obligations.

SECTION 3.3. APPLICATION TO ISSUE CAPITAL OBLIGATIONS

Each Bank shall submit to the Commissioner an application to issue capital bonds. The application must be signed by an authorized officer by resolution of the Board of Directors of the Bank.

The request to issue Capital Debentures must be accompanied by:

1. A draft of the proposed Capital obligation.
2. A pro-forma statement of position covering at least three (3) years, reflecting changes in the Bank's accounts as a result of the issuance of Capital Obligations.
3. Copy of the resolution of the Board of Directors of the Bank authorizing the issuance of the Capital Debentures.
4. A descriptive table of the redemption fund amortization set forth in Section 3.8 of this Chapter.
5. Copy of the Bank's last audited financial statement.
6. The Commissioner may request any additional information he deems necessary.

SECTION 3.4. RESEARCH

Upon receipt of a request to issue Capital Debentures in the manner established by this Chapter, the Commissioner shall conduct all such investigations as he deems necessary to determine whether the requested issuance should be authorized. If the result of such investigations is satisfactory, the Commissioner shall grant the corresponding authorization. Such authorization shall be conditional on the Bank delivering to the Commissioner a copy of the Capital Obligations and the contract entered into with the buyers.

SECTION 3.5. CONFIDENTIALITY

- a. Investigations, findings, conclusions and recommendations made by the Commissioner or its agents in connection with any request to issue Capital Obligations

shall be considered of a privileged and confidential nature and may not be disclosed except to the requesting Bank.

- b. The Commissioner shall consider any request for confidential treatment of all information submitted by the Bank when the Bank so indicates in a statement setting out the reasons why such information should be considered confidential. The Commissioner reserves the right to make his or her own determination as to what information is confidential in light of the laws governing access to and disclosure of public information.

SECTION 3.6. REASONS FOR DENYING AN APPLICATION TO ISSUE CAPITAL DEBENTURES

The Commissioner may deny an application for the issuance of Capital Debentures for any of the following reasons:

- a) If, based on the financial information submitted, the Bank cannot demonstrate that it will have the necessary cash flow to meet the principal and interest payments of the Capital Obligations, as they mature.
- (b) If, in the opinion of the Commissioner, the Bank is in non-compliance with Act No. 55 or other applicable law, as the case may be, or with any order issued by the Commissioner.

SECTION 3.7. LIMITATIONS

- a. No Bank shall issue Capital Debentures without first obtaining the authorization of the Commissioner.
- b. The Capital Obligations shall be subordinated in law to the obligations to depositors and other creditors of the Bank.
- c. No Bank may issue Capital Debentures in an amount exceeding one hundred percent (100%) of the paid-in capital in shares, reserve fund and undistributed earnings, unless the Commissioner, in its discretion, authorizes a greater amount.
- d. No Bank may issue Capital Obligations with a maturity period of less than five (5) years.
- e. No Bank may issue Capital Debentures convertible into its own common stock without first obtaining the authorization of the Commissioner.
- f. The balance of the redemption fund referred to in this Chapter may be used to

increase the capital in shares or the reserve fund or returned to profits without distribution, with the prior authorization of the Commissioner, after the total amount of such Capital Obligations has been satisfied.

- g. No Bank may acquire its own Capital Obligations as an investment of its funds in trust. Nor may they be part of its investment portfolio or accepted as collateral of any kind.
- h. Capital Debentures shall be considered as part of capital under Sections 8 and 9 of Act No. 55 or Article 4 of Act No. 88.

SECTION 3.8. REDEMPTION PLAN

The Bank will create a Capital Obligations redemption fund, nourishing it with its profits. This fund will increase annually by an amount equivalent to the numerical ratio resulting from dividing the principal amount of the Capital Obligations by the number of years of the maturity period. The Commissioner may authorize any other method for the establishment of such redemption fund.

SECTION 3.9. GENERAL POWERS OF THE COMMISSIONER

The Commissioner may order the suspension of the payment of principal or interest, or both, on Capital Obligations, when due or sooner, when such payment, if made, would reduce the total amount of the stock capital account, reserve fund or when in the opinion of the Commissioner such payment would affect the financial condition of the Bank, jeopardize the interests of depositors or the general public. This condition shall form part of the contract with the purchasers of the Capital Debentures and shall also be included in the text of the Capital Debentures.

CHAPTER IV PURCHASE, SALE, POSSESSION AND HOLDING OF INVESTMENT SECURITIES

SECTION 4.1. PURPOSE AND SCOPE OF THE CHAPTER

This Chapter shall be applicable to the purchase, sale, possession and holding of Investment Securities by the Banks and the Cooperative Bank, which shall be included in the definition of the term "Bank".

SECTION 4.2. INVESTMENT POLICY

Every Bank shall have an investment policy which must be approved by its Board of Directors.

In the case of Foreign Banks, this policy will be approved by its highest-ranking official in Puerto Rico. The investment policy of any Bank shall be reviewed at least annually by the Board of Directors or when there are changes in the circumstances or needs of the Bank that warrant such review. In the case of Foreign Banks, such review shall be carried out by their highest-ranking official in Puerto Rico.

The primary purpose of a Bank's investment policy is to provide guidelines for maintaining an investment portfolio which, together with other assets, provides interest income and sufficient liquidity to ensure a reasonable degree of flexibility in a Bank's operations.

The directors of a Bank and, where appropriate, the highest-ranking official in Puerto Rico of a Foreign Bank, may not delegate decisions on investment policy, so a statement of the philosophy of the purposes of the investment portfolio will not suffice. All investment policies of a Bank shall be in writing and shall provide parameters on the Quality, Maturity, Diversification, Concentration, Sensitivity to Fluctuations in Interest Rates, Marketability and Income of securities and other financial commitments, whether or not they appear in the Bank's statement of position. The investment policy must include maximum amounts.

SECTION 4.3. PURCHASE OF INVESTMENT SECURITIES

- a. Evidence of the debtor's ability to comply.

A Bank may purchase an Investment Security for itself when, following its prudent banking judgment, it determines that there is adequate evidence to conclude that the debtor is capable of fulfilling its commitments with respect to the security, including the requirements for the payment of interest and charges on the debt and that the security can be sold reasonably promptly at a price reasonably corresponding to its fair value.

- b. Securities determined to be eligible by the Commissioner.

A Bank may purchase any other Investment Security that the Commissioner determines to be eligible and so indicates by an order issued to that effect.

SECTION 4.4. HOLDING INVESTMENT SECURITIES

- a. Obligations of any debtor.

A Bank shall not at any time hold Investment Securities of a single debtor for a

security, including loans, guarantees, or any other credit facility approved by the Bank to such debtor, in excess of the maximum amount that may be lent to the debtor under the provisions of Section 17 of Act No. 55 and Chapter VIII of these Regulations. For this purpose, the value of the investment will be determined on the basis of its book value. This limitation shall not affect the power of Banks to buy and sell, without restriction, Government Securities.

b. Definition of debtor

The term "debtor," as used in this Chapter, includes a person, firm, partnership, or corporation. Any partnership or corporation and its affiliates shall be deemed to be the same person, partnership, or corporation when:

- (1) A corporation owns more than fifty percent (50%) of the total capital of another corporation or corporations, or fifty percent (50%) of its voting shares.
- (2) A partnership owns more than fifty percent (50%) of the total stock capital of a corporation or corporations, or when it owns more than fifty percent (50%) of the voting shares of that corporation.
- (3) A natural person owns more than fifty percent (50%) of the stock capital of a corporation or corporations, or more than fifty percent (50%) of the voting shares.
- (4) A natural person owns more than fifty percent (50%) of the total capital of a company or companies.

SECTION 4.5. PRUDENT BANKING JUDGMENT; REQUIRED INFORMATION

- a. Each Bank shall maintain in its files credit information adequate to demonstrate that it has exercised prudent bank judgment in making the determinations and conducting the transactions described in Section 4.3 of this Chapter.
- b. The aforementioned information must be maintained:
 - (1) In the case of securities purchased by the Bank for its own portfolio, as long as such securities are held in the portfolio;
 - (2) In the case of securities subscribed by the Bank, during the life of the security;
 - (3) The information required under this Section may be maintained in any system that permits such information to be disclosed and copied in a form that is readily read.

SECTION 4.6. CONVERTIBLE SECURITIES

The purchase of securities convertible into shares at the option of the issuer is prohibited.

SECTION 4.7. EXCEPTIONS

The restrictions and limitations of this Chapter shall not apply to securities acquired by means of the execution of collateral, or acquired in good faith by settlement in the case of a doubtful claim or to avoid a loss in connection with a debt previously incurred. This Chapter shall not affect the power of Banks to buy and sell Government Securities without restriction.

CHAPTER V AUTHORIZATION, CHANGE OF LOCATION OR CLOSURE BRANCHES, SERVICE UNITS AND OFFICES FROM FOREIGN BANKS OR BANKS

SECTION 5.1. SCOPE AND APPLICATION

This Chapter governs the procedure that every Bank operating or establishing itself in Puerto Rico must follow for the establishment, change of location or closure of Branches, Service Units and Offices.

SECTION 5.2. GENERAL REQUIREMENTS IN THE APPLICATION TO ESTABLISH BRANCHES

Any application for the establishment of a Branch shall be submitted to the Commissioner in writing on such form as the Commissioner may prescribe. The application shall contain the information required by the Commissioner on such form and must be certified by an authorized officer that it complies with the requirements of applicable laws.

The Bank shall accompany the application with a certification signed by an authorized officer of the Bank to the effect that the investment in fixed assets related to the proposed new Branch will not cause a violation of the limitation on investment in fixed assets provided for in Law No. 55.

SECTION 5.3. EDUCATION FEES AND ANNUAL FEE

Any application to establish a Bank Branch shall be accompanied by the payment of five hundred dollars (\$500) for study fees and five hundred dollars (\$500) for annual license fee.

SECTION 5.4. APPLICATION TO ESTABLISH A BRANCH OF A FOREIGN BANK THAT HAS NOT PREVIOUSLY OPERATED IN PUERTO RICO

Any application to establish a Branch filed by a Foreign Bank that has not previously operated in Puerto Rico shall be processed under the provisions of Chapter II of these Regulations,

which govern the procedures for the organization of a Bank in Puerto Rico.

SECTION 5.5. PERIOD FOR APPROVING OR DENYING AN APPLICATION TO ESTABLISH A BRANCH OFFICE

Any application to establish a Branch shall be approved or denied by the Commissioner within the time prescribed by Rule No. 6 of the Regulations for Establishing Standards of Procedure for the Issuance of Licenses, Franchises and Permits, issued by the Commissioner on December 20, 1989, as amended or as may be approved to replace it.

SECTION 5.6. TRANSFER OF BRANCHES

- a. No Bank shall transfer the location of one or more of its Branches without giving prior notice of such transfer to the Commissioner at least thirty (30) days prior to the date on which the Branch shall commence operations at the new location. If no objection is received from the Commissioner to such transfer, within twenty (20) days after the filing of the notification of transfer, it shall be deemed authorized.
- b. The notification of the transfer of location of any Branch will be signed by the president or official authorized to carry out these procedures by the Bank. Regarding the transfer of branches and the requirement to present a resolution of the Board of Directors, it is clarified that when submitting the request duly signed by the Authorized Officer, it is understood to be in compliance with the requirements established by the Commissioner.
- c. The Bank shall accompany the notification with a certification signed by an authorized officer to the effect that the investment in fixed assets related to the proposed transfer of the Branch will not cause a violation of the limitation on investment in fixed assets provided for in Act No. 55.
- d. The Bank shall submit any other information required by the Commissioner relating to the proposed transfer of a Branch.

SECTION 5.7. BRANCH CLOSURE OR CONSOLIDATION

- a. Each Bank shall notify the Commissioner of its intention to close or consolidate Branches. It shall be understood that there is no objection on the part of the Commissioner to the proposed closure or consolidation if the Commissioner does not so state within twenty (20) days after the filing of the notification referred to in this

section.

- b. Provisions established from time to time by the FDIC or its successor entity for notice or other procedures for the closure or consolidation of Branches are hereby incorporated and made a part of this Chapter.
- c. Other than as provided in subsection (a), no Bank shall close or consolidate a Branch without first certifying in writing to the Commissioner that it has complied with the notification requirements established for such purposes from time to time by the FDIC or its successor entity.

SECTION 5.8. TEMPORARY CLOSURE FOR MAINTENANCE, REPAIRS OR EMERGENCY MEASURES

- a. Each Bank shall notify the Commissioner of its intention to close any branch for scheduled and temporary renovation, maintenance or remodeling that shall extend for a period of more than twenty (20) days.
- b. In these cases, the Bank is responsible for placing a notice visible to the public notifying its customers of the period during which the branch will be closed for this purpose and the nearest branches and services. To the extent that the safe deposit box service is available in said branch, it is essential to communicate by mail to the persons who have contracted said service at least twenty (20) days prior to the scheduled temporary closure.
- c. The Bank shall notify the Commissioner thirty (30) days prior to its intention to temporarily close any branch. If no objection is received from the Commissioner to this scheduled temporary closure, within thirty (30) days of the notification, it shall be deemed authorized.
- d. An unscheduled, temporary or unexpected interruption of services shall be any closure for less than twenty (20) days arising from an event beyond the control of the Bank and/or an emergency that has arisen and requires the Bank to take measures to ensure the safety of its customers and/or the structural integrity of the branch. Any closure extending beyond this period requires notice to all customers and the Commissioner by digital and/or alternate methods within thirty-six (36) hours of the occurrence of the event.
- e. When the closure is related to information security issues (e.g., cybersecurity), the

Bank must report within thirty-six (36) hours according to applicable federal regulations. The Bank must establish protocols for these events in advance.

SECTION 5.9. ESTABLISHMENT OF SERVICE UNITS AND OFFICES

A Bank may establish Service Units and Offices subject to its notification to the Commissioner of the establishment of such Service Unit or Office. The establishment of a Service Unit or Office subject to such notification shall be deemed approved if the Commissioner does not object within thirty (30) calendar days following the date of receipt of the Bank's notice.

Any notification to establish a Service Unit or Office of a Bank shall be submitted in writing and signed by an officer duly authorized to carry out these procedures.

SECTION 5.10. SPECIAL RULES FOR THE OPERATION OF SERVICE UNITS

- a. Banks may share the use and operating costs of the electronic machine(s) with other financial institutions.
- b. The establishment of new electronic machines in locations or facilities outside the premises of the Branches, together with the transactions processed by the Branches, shall be reported quarterly to the Commissioner together with the Bank's Quarterly Reports.
- c. Any change in location or new transactions to be performed on the electronic machine(s) shall be notified to the Commissioner on a quarterly basis along with the Bank's Quarterly Reports.
- d. The Bank may discontinue the operations of the Service Unit when it deems it appropriate and shall report so in the quarterly report. After discontinuing the operations of a Service Unit, the Bank may not reopen it, unless it submits a new notice to the Commissioner pursuant to this Chapter.

SECTION 5.11. NOTIFICATION FOR THE ESTABLISHMENT OR RELOCATION OF OFFICES

Any notification for the establishment or relocation of an Office shall contain the information required in the forms prescribed for that purpose by the Commissioner. The foregoing shall not apply in those cases in which the Office is established or relocated within the same building or premises already occupied by the Bank.

SECTION 5.12. PERIOD TO START OPERATIONS IN BRANCHES

Each Branch shall commence operations within three hundred and sixty-five (365) days from the date on which the Commissioner approves its establishment. If, for any justified reason, the Bank is unable to begin operating the Branch within the period established herein, it may request from the Commissioner an extension for the commencement of such operations. Such request must specify the term of the requested extension.

SECTION 5.13. ANNUAL VALIDATION OF LICENSES; QUOTAS

On or before January 10 of each year, each Bank shall obtain from the Commissioner the validation of the license for its Main Office and the licenses for each Branch, including Mobile Branches, upon payment of an annual fee of one thousand dollars (\$1,000.00) for the Main Office and five hundred dollars (\$500.00) for each Branch.

CHAPTER VI FIDUCIARY FUNCTIONS OF BANKS IN PUERTO RICO

SECTION 6.1. PURPOSE AND SCOPE OF THE CHAPTER

This Chapter shall govern the functions, operations, and Fiduciary Activities carried out by the Banks operating in Puerto Rico and the Cooperative Bank under Act No. 55 and Act No. 88, respectively. For purposes of this Chapter, the term "Bank" includes the Cooperative Bank.

SECTION 6.2. DEFINITIONS

For purposes of this Chapter, the following terms have the meanings set forth below:

- a. **Fiduciary Activity** – when the Bank acts in one of the following capacities:
 - (i) Fiduciary;
 - (ii) Executor,
 - (iii) Administrator,
 - (iv) Registrar of bonds and shares,
 - (v) Transfer agent,
 - (vi) Guardian or guardian,
 - (vii) Assignee,
 - (viii) Receiver,
 - (ix) Custodian,
 - (x) In your fiduciary capacity, as permitted by sections 201, 202, 211, and 217 of the Gramm-Leach Bliley Act without having to register as a broker, dealer, or

investment adviser, or

(xi) In any other similar fiduciary capacity as the Commissioner may determine from time to time, under the provisions of Section 14(j) of Act No. 55.

- b. **Trust Department Assets** - those assets over which the Trust Department has title and may be freely invested or managed for the benefit of the Trust Department. Assets of the Trust Department shall not be considered those assets that are managed and/or safeguarded by the Trust Department, or over which the Trust Department has possession, control or title, in the performance of its fiduciary function, but which do not belong to it, and whose administration benefits a third party. The fact that the Trust Department accrues fees for the administration of assets will not convert such assets into Trust Department Assets for purposes of Section 28(r) of Act No. 55.
- c. **Trust Department** - the group of officers of a Bank who have been appointed by the Board of Directors to perform the Bank's fiduciary responsibilities.
- d. **Investment Discretion** – with respect to an account, means the authority, exclusive or shared, regardless of whether or not such authority is exercised, to determine the securities or other assets that are bought or sold in the name of the investment account. Both the Bank that delegates its authority over investments in an account and the Bank that receives delegated authority over investments in that account enjoys Investment Discretion.
- e. **Trust Instrument** - the document by which the trust is constituted and which sets out the terms and conditions under which the Bank is to carry out its fiduciary functions in relation to the trust.
- f. **Trust Officer(s)** - the officer or officers of a Bank who have been assigned by the Board of Directors to perform the fiduciary responsibilities of the Bank.
- g. **Fidelity Insurance** - insurance contract that provides indemnity in the event that the person whose acts are insured incurs in fraud, dishonesty, errors or omissions or is contrary to fiduciary duties.

SECTION 6.3. AUTHORIZATION AND APPLICATION

- a. Subject to the limitations set forth in Act No. 55 and these Regulations, any Bank may carry out the Fiduciary Activities authorized by Section 14(j) of said Act No. 55 and defined in this Chapter, which may be carried out in a Trust Department. The

Cooperative Bank may carry out the Fiduciary Activities authorized by Article 11(k) of Act No. 88 and defined in this Chapter, subject to the limitations set forth in said Act and in these Regulations.

- b. No Bank shall exercise the powers referred to in subsection (a) of this Section unless:
 - 1. Has requested and received approval from the Commissioner to act as trustee by organizing a Trust Department within its corporate structure;
 - 2. Have evidenced to the Commissioner that the Bank's insurance, obtained pursuant to Section 36(a) of Act No. 55, adequately extends, among other risks, to the errors and omissions of the officers and employees of the Trust Department and the other risks that, under the concept of Fidelity Insurance, are specified in Section 6.2(g) of this Chapter.
 - 3. Has posted a bond to ensure the Commissioner's faithful performance of its obligations in carrying out its Fiduciary Activities with a custodian selected by the Bank and duly approved by the Commissioner. In the case of the Cooperative Bank, said bond will be for ten thousand dollars (\$10,000.00). In the case of banks operating in Puerto Rico under the provisions of Act No. 55, the bond shall be one hundred thousand dollars (\$100,000.00); and
 - 4. Has appointed a competent officer to take charge of the Trust Department and administer its activities. Such appointment shall be made by resolution of the Board of Directors of the Bank or by the approval of the highest-ranking official in the branches of the foreign banks in Puerto Rico and shall include a list and definition of the duties of the designated official.

SECTION 6.4. MATTERS TO BE CONSIDERED IN RELATION TO AN APPLICATION

In considering a request by a Bank to engage in Fiduciary Activities, the Commissioner shall consider the following matters:

- a. Whether the Bank has sufficient capital and reserves to engage in Fiduciary Activities;
- b. The Bank's financial condition, including whether its capital and reserves are adequate;
- c. The general character and reputation of the Bank's management;

- d. The nature of the oversight to be given to the Fiduciary Activities, including the qualifications, experience, and reputation of the alleged officers of the Trust Department;
- e. Any other fact and circumstance that the Commissioner deems appropriate.

SECTION 6.5. EXERCISE OF FIDUCIARY POWERS

The Fiduciary Activities of any Bank shall be under the direction of its Board of Directors. In the case of Foreign Banks, their Fiduciary Activities will be under the direction of the highest-ranking official of their Branches in Puerto Rico.

SECTION 6.6. FIDELITY INSURANCE

- a. The Board of Directors of any Bank shall have the duty to verify that all officers of the Trust Department, Trust Officers, employees and any person who handles assets of Trusts established in the Bank pursuant to this Chapter, are covered by Fidelity Insurance from a company authorized by the Insurance Commissioner of Puerto Rico to issue such policies.
- b. The minimum amounts of coverage for Fidelity Insurance shall be sufficient, in accordance with the prudent banking judgment of the members of the Board of Directors and taking into account the particular circumstances of the Fiduciary Activities of each Bank, to provide adequate compensation in the event that the person whose acts are insured incurs, among others, in fraud, dishonesty, errors or omissions or acts contrary to their fiduciary duties.
- c. The Commissioner may require that the coverage of the Fidelity Insurance be increased when, in his opinion, he considers that the amount in force is insufficient to provide adequate protection.

SECTION 6.7. BAIL

- a. The bond required in Section 6.3(b)(3) of this Chapter shall consist of bonds or debt certificates of the Government of Puerto Rico, of the public corporations and instrumentalities of the Government of Puerto Rico and of the Government of the United States of America, with their market value or their par value, whichever is lower. The aforementioned values may be recorded in physical form or in the form of book entries, provided that in the latter case it is clearly identified that they are

deposited in favor of the Commissioner as a bond in accordance with this Chapter.

- b. The custodian of the bond shall maintain, in the name of the Commissioner, the custody of the securities consigned as a bond. Such values may be replaced from time to time by other values of the same category, by written request addressed to the Commissioner. Any bank may withdraw any amount of its securities consigned as a guarantee in excess of the required amount. Upon receipt of a written request for the withdrawal or replacement of securities and satisfactory evidence in support thereof, the Commissioner may authorize the requested withdrawal or replacement.
- c. The depositing bank of the securities shall receive as a guarantee the interest accrued on the securities so deposited.
- d. It shall be the responsibility of the depositing bank of such securities to pay to the custodian the costs, if any, of the services of safeguarding the bond consigned in the name of the Commissioner.
- e. It shall be the responsibility of the Bank to keep securities deposited at all times in the amount of the bond required in this Chapter. In the event that at any time the amount of the securities deposited is less than the amount of the required bond or they have been impaired, the Bank shall immediately deposit additional securities that satisfy the amount of the bond required by these Regulations.

SECTION 6.8. INSTITUTIONAL POLICIES AND PROCEDURES

A Bank that conducts Fiduciary Activities in accordance with the provisions of this Chapter shall adopt and observe such institutional policies and written procedures as are appropriate to keep its Fiduciary Activities in compliance with the legal provisions applicable thereto. Among other relevant aspects, such policies and procedures must provide for:

- a. Practices for the selection of runners;
- b. Procedures to prevent Trust Officers and employees of the Trust Department from using relevant internal information ("material inside information") in connection with any decision or recommendation to buy or sell any security;
- c. Procedures to avoid self-dealing or for self-gain and conflicts of interest;
- d. Selection and retention of legal or financial advisors who are readily available to

advise the Bank, its Trust Officers and employees on fiduciary matters;

- e. Investment of funds held in fiduciary capacity, including short-term investments and the management of trust funds awaiting investment or distribution.

SECTION 6.9. INVESTMENT OF FUNDS AND FUNDS PENDING INVESTMENT OR DISTRIBUTION

- a. Rule. In the case of a trust account over which a Bank has Discretion to Invest or discretion to distribute its funds, the Bank shall not permit funds pending investment or distribution to remain uninvested or undistributed beyond such reasonable period as is necessary for the proper administration of the account and consistent with applicable law and the applicable Trust Instrument. In the event that the Trustee holds funds pending distribution or investment in a trust account in which the Trustee has Discretion to Invest, the Bank shall obtain for such funds the highest rate of return available in the market or the rate of return that, in the opinion of the Trustee, is most convenient for the beneficiary of the funds. Assets received under a trust agreement by a Bank's Trust Department shall be invested in accordance with the provisions of the Trust Instrument and applicable law.
- b. While the funds are pending investment or distribution, the Bank's Trust Department may deposit them, subject to immediate withdrawal, in its bank deposit unit or in any other Bank. Such funds may not be deposited in the Bank itself unless the Bank has granted the Department of Trust collateral depositor as a guarantee for the security of such deposit consisting of:
 - 1. Obligations of the United States of America, or other obligations fully guaranteed by the United States of America in respect of principal and interest;
 - 2. Obligations of the Government of Puerto Rico, its agencies, instrumentalities, and political subdivisions, which are fully guaranteed by the Government of Puerto Rico;
 - 3. Investment Securities of easy negotiability;
 - 4. Other securities, with the prior authorization of the Commissioner.
- d. The market value or par value, whichever is lower, of the securities deposited

pursuant to subsection (c) of this section shall at all times be equal to or greater than the amount of the funds so deposited in trust. Collateral will not be required up to the amount in which such funds are insured by the FDIC.

SECTION 6.10. SECURITIES REGISTRATION

- a. Except where the Trust Instrument or court order contains a provision to the contrary, where the Trust Department of a Bank is acting by court order or by means of a Trust Instrument, any securities held by the Trust Department of a Bank in a fiduciary capacity may be registered in its name or that of its designee ("nominee").
- b. The Trust Department shall be responsible for the custody and protection against loss of the shares or other securities so recorded. Evidence shall be maintained in the electronic files of the Department of Trust that clearly demonstrates to whom the beneficial interest in each security belongs.
- c. The Trust Department shall keep such securities separate from the rest of the Bank's assets.

SECTION 6.11. FUNCTIONS OF THE TRUST DEPARTMENT

The Bank's Trust Department may act as if it were a private person, such as executor, administrator, custodian, assignee, receiver, depository, receiver or in any other fiduciary or representative capacity for any legal purpose; may act as a transfer agent or registrar of shares and corporate securities; may buy and sell securities in the name and for the benefit of its clients and may accept and execute any trust authorized by any law in force in Puerto Rico or in any state of the United States. The Trust Department shall invest the assets received in trust in securities acceptable to prudent persons of sound judgment and investment knowledge, who wish to obtain a reasonable income from their investment and the preservation of their capital, to ensure the fulfillment of the purpose of the trust.

SECTION 6.12. CONFIDENTIALITY

No information relating to the existence, status, management or administration of any trust entrusted to a bank shall be disclosed to any person, except where such disclosure:

- a. Was authorized by the Trust Instrument;
- b. In the opinion of an official of the Trust Department, it is necessary for the proper

administration of the Trust;

- c. It is required by a court order issued by a Court of Justice with competent jurisdiction;
- d. An interested party is required to appear at the execution of the Trust Instrument;
- e. Is made to the Commissioner or an examiner of the Commissioner, or of the applicable federal agency, in the exercise of his functions;
- f. It is required by any applicable law.

SECTION 6.13. TESTS

- a. The Commissioner shall examine the operations of the Trust Department in relation to its functions in accordance with applicable law and to such extent as the Commissioner deems necessary and desirable. The Trust Department shall be responsible for enforcing the Commissioner's recommendations and for transmitting to the Board of Directors of the Bank the reports received from the supervisory authority.
- b. The Trust Department shall reimburse the Commissioner for the amount of reasonable costs incurred by the Commissioner in such examination. Expenses to be reimbursed shall be computed on the basis of a sum of five hundred dollars (\$500.00) for each day or fraction thereof, for each examiner participating in each examination, plus reasonable costs incurred. Such payment shall be made by check issued in favor of the Secretary of the Treasury, no later than thirty (30) days following the date of invoice.

SECTION 6.14. REPORTS

- a. The Trust Department of a Bank shall submit to the Commissioner such periodic reports as may be requested in order to properly perform its supervisory function.
- b. The Trust Department will maintain its own books and records that reflect in sufficient detail all of its activities.

SECTION 6.15. ASSET SEPARATION AND COLLECTIVE INVESTMENT

- a. Assets received by the Trust Department will be kept separate from the rest of the Bank's assets. The assets corresponding to each trust will be kept separate from each other for accounting purposes. Such assets may not be used by the Bank in its banking

operations except to the extent that the funds in trust are deposited in its bank deposit unit in accordance with the provisions of this Chapter.

- b. The custody of the assets received by the Bank in trust shall be entrusted to two or more officers or employees of the Trust Department.
- c. Except as otherwise provided in the Trust Instrument, Banks may invest funds received by the Trust Department collectively. In the investment of funds collectively, the Banks shall follow the rules established from time to time by the Commissioner.
- d. The operations of the Trust Department corresponding to Individual Retirement Accounts, as defined in Section 1081.02 of Act No. 1 of January 31, 2011, as amended, known as the "Internal Revenue Code for a New Puerto Rico", shall be governed in the first instance by Regulation No. 5766 to Regulate the Administration and Other Aspects of Individual Retirement Accounts, approved by the Ministry of Finance and the Commissioner on March 11, 1998. If there is any conflict between the provisions of this Chapter and the provisions of Regulation 5766 or its substitutes, Regulation 5766, as the case may be, or its substitutes, shall prevail.

SECTION 6.16. REVOCATION OR WITHDRAWAL OF FIDUCIARY POWERS

When any Bank wishes to discontinue the exercise of its functions or Fiduciary Activities, it shall file evidence satisfactory to the Commissioner of the fulfillment and discharge of all the obligations it has incurred or has assumed or has been imposed on it in the exercise of such functions. The Commissioner shall notify the petitioner in writing of his determination. If the request is granted, the Commissioner will revoke the certificate of authorization to exercise fiduciary functions in Puerto Rico. The Commissioner may order the return to the Bank of all securities consigned in the name of the Commissioner to ensure compliance with fiduciary obligations incurred by the Bank or imposed by law, in which case he shall specify the date of such return.

CHAPTER VII LEGAL RESERVE

SECTION 7.1. SCOPE AND APPLICATION

This Chapter establishes the Legal Reserve that must be maintained by every Bank doing business in Puerto Rico. It also provides for the Report that these Banks will have to submit

on their Legal Reserve.

SECTION 7.2. LEGAL RESERVE REQUIRED

- a. Every Bank shall always maintain a reserve for the payment of deposits in said Bank, which shall be called the "Legal Reserve".
- b. The Legal Reserve of any Bank doing business in Puerto Rico shall consist of a minimum amount equivalent to twenty percent (20%) of its obligations payable on demand, except for deposits of the Commonwealth of Puerto Rico, its municipalities and public corporations, of instrumentalities of the Commonwealth of Puerto Rico or of the Government of the United States of America guaranteed with effective collateral. as ordered by the Secretary of Finance.
- c. When, in the opinion of the Commissioner, circumstances so require, the Commissioner may, in its discretion, increase the Legal Reserve to no more than thirty percent (30%) of the total obligations of the Bank, as set forth in Section 7.2(b) of this Chapter. The Commissioner's order increasing the minimum of the Legal Reserve shall not be effective until thirty (30) days after it is issued.

SECTION 7.3. SUMMARY OF THE LEGAL RESERVE

Each Bank shall prepare a Summary of the Legal Reserve certified by an official of the Bank duly authorized to do so, which shall record the daily calculation of the Legal Reserve maintained by said Bank and the average of the Legal Reserve maintained during each week.

In the Summary of the Legal Reserve, the amounts corresponding to the following lines must be segregated and specified:

- a. Legal currency of the United States of America;
- b. Checks payable to banks or trust companies located anywhere on the island of Puerto Rico, to be presented for collection during the day following receipt;
- c. Money deposited in other banks or depository institutions that are subject to immediate collection;
- d. Funds lent by the Bank to any Federal Reserve Bank that are subject to an obligation to be repaid to the Bank on or before the close of the next business day ("overnight funds");

- e. Purchase of securities purchased under agreement to resell that are subject to the obligation to be repaid to the Bank on or before the close of the next business day;
- f. Those other assets that, by means of a circular letter to that effect, the Commissioner determines are part of the Legal Reserve.

SECTION 7.4. OTHER ASSETS ELIGIBLE FOR THE LEGAL RESERVE

In addition to those listed in Section 16 of Act No. 55, the following assets or securities may be considered as part of the Banks' Legal Reserve:

- a. Acceptable bonds, as defined below, issued by Farm Credit Banks, organized under the federal Farm Credit Act of 1971, 12 U.S.C. 2001, *et seq.*; provided that such Banks are subject to the regulations of the Farm Credit Administration.
- b. Acceptable bonds, as defined below, issued by Federal Home Loan Banks, organized under the Federal Home Loan Bank Act of 1972, 12 U.S.C. 1421, *et seq.*; provided that such Banks are subject to regulation by the Federal Housing Finance Board.
- c. Acceptable debentures or securities issued by the U.S. Treasury, in the form of payment instruments, promissory notes, and bonds, including U.S. Treasury securities, including bills, notes, and bonds.
- d. Fully guaranteed U.S. agencies securities, including, but not limited to, obligations of the Government National Mortgage Association ("GNMA") or those obligations that are fully insured by the GNMA.

SECTION 7.5. DEFINITION OF "ACCEPTABLE OBLIGATIONS OR VALUES"

Only those obligations or securities listed in the previous Section that meet each and every one of the following requirements will be considered as "acceptable obligations":

- a. Such debentures or securities shall be payable on the same day or may be settled on or before the next business day ("overnight funds" and/or "T+1").
- b. The issuing entity will be classified by the credit rating agencies as the safest credit in the short and long term. Specifically, such debentures or securities must be classified within the four highest classification categories of the aforementioned Credit Rating Agencies. If a security or obligation has more than one classification assigned, the most conservative classification (i.e., the lowest) will be taken into account.

- c. The Bank shall have sufficient ownership or rights over the obligations or securities that make up the Legal Reserve so that they may serve as part of the Legal Reserve.
- d. The obligations or securities that make up the Legal Reserve may not be subject to regulatory or any other restrictions that prevent their immediate liquidation.

SECTION 7.6. FREQUENCY OF THE REPORT ON THE LEGAL RESERVE

The Summary of the Legal Reserve required by the provisions of this Chapter shall be submitted to the Commissioner on a monthly basis by means of a Report on the Legal Reserve including the last day of the last week of each month. The Report on the Legal Reserve shall be submitted in the form provided by the Commissioner during the first five (5) calendar days of the week following the last week of the previous month. Such report may be submitted by electronic means and/or any other method duly approved by the OCIF.

SECTION 7.7. DEFICIENCIES IN THE LEGAL RESERVE

In those cases in which the Bank closes a week with a Legal Reserve lower than that required by this Chapter, the Bank shall correct the deficiency immediately and inform the Commissioner by letter within the first three (3) calendar days of the following week. It will also include the Summary of the Legal Reserve for that week.

SECTION 7.8. SPECIAL PROVISIONS FOR COMBINED ACCOUNTS

- a. For purposes of this Section, the phrase "Combined Account" means that account, personal or business, through which the Bank provides the depositor with the option of combining on-demand deposit services in the Checking Section along with savings and a line of credit, under one account. In such account, the Bank contractually reserves the right to require the depositor to give prior written notice, not less than seven (7) days in advance to withdraw funds deposited in the Investment Section. Typically, in these Combined Accounts, excess amounts deposited in the Checking Section are automatically transferred to the Investment Section. The Bank may pay interest on the balance deposited in the Investment Section of these accounts.
- b. Banks offering such Combined Accounts shall not be subject to the requirement to establish an additional Legal Reserve on funds deposited in the Investment Section of the accounts, provided that the funds deposited in such Investment Section are managed and handled by the Bank as deposits payable within three (3) days or more.

- c. Banks shall adopt the necessary mechanisms to prevent the handling of funds in the Investment Section of Combined Accounts from being used to evade the Legal Reserve requirements set forth in this Chapter.

CHAPTER VIII BORROWING LIMITS

SECTION 8.1. PURPOSE AND SCOPE OF THE CHAPTER

The purpose of this Chapter is to protect the financial safety and soundness of Banks by preventing excessive lending to the same person, or to related persons who are financially interdependent. This Chapter shall govern the capital components of a Bank that serve as the basis for calculating the limits of the amounts that Banks may lend to the same person, firm, partnership or corporation.

For purposes of this Chapter, the terms "loans" and "guarantees" used in Section 17 of Act 55 shall include any other credit facility approved by the Bank to a debtor, as defined in Section 17. On the other hand, the term paid-in capital in common and preferred shares and the reserve fund means the capital of the Bank for purposes of Tier 1 and Tier 2 under federal rules.

SECTION 8.2. ADDITIONAL CAPITAL COMPONENTS FOR BORROWER LIMIT PURPOSES

In addition to the percentages of paid-in capital in common and preferred stock and the reserve fund, already enumerated in Section 17 of Act No. 55, a Bank's borrowing limit shall consist of the following components:

- a. Fifteen percent (15%) of fifty percent (50%) of the undistributed profits of a Bank. In the case of loans or discounts secured by collateral that are worth at least twenty-five percent (25%) more than the amount of the loan and, in the case of discounting bills of exchange, the capital of the Bank shall consist, in addition to the provisions of Section 17 of Act No. 55, of thirty-three and one-third percent (33-1/3%) of fifty percent (50%) of the undistributed profits of the Bank.
- b. The Commissioner may authorize, in its sole discretion, an increase in a Bank's borrowing limit, including on the basis for computation set forth in Subsection (1) of this Section 8.2, up to one hundred percent (100%) of its undistributed profits.
- c. Those other components that the Commissioner determines from time to time by

order or Circular Letter for that purpose.

When the undistributed profit item has a negative balance, it shall be reduced from the reserve fund and if any negative balance remains, it shall be reduced from the paid-in capital before applying the formulas established by this Section.

SECTION 8.3. BANKS THAT MAY USE THE ADDITIONAL CAPITAL COMPONENTS FOR BORROWER LIMIT PURPOSES

In order to use the additional capital components designated in Section 8.2 of this Chapter, the Bank must also meet the following requirements:

- a. Have obtained a rating of "1" or "2" in the last independent examination conducted by the OCIF or the last joint examination conducted with another banking supervisory agency or in the last examination conducted by the corresponding federal agency; and
- b. Have a "well-capitalized" rating in accordance with FDIC provisions governing a Bank's equity ratio.

With the prior authorization of the Commissioner, Banks that have obtained a rating of "3" in the last independent examination conducted by the OCIF or the last joint examination conducted with another banking supervisory agency or in the last examination conducted by the corresponding federal agency, may use the additional capital components designated in Section 8.2 of this Chapter, provided that the classification of the liquidity, assets and capital component is not less than 2 in the last independent examination conducted by the OCIF or the last joint examination conducted with another banking supervisory agency or in the last examination conducted by the corresponding federal agency

SECTION 8.4. CALCULATION FOR THE BORROWER LIMIT

It will only be necessary to include in the calculation of the borrower limit the corresponding obligations for the concept of guarantee, when the guarantee is a factor considered for financing purposes as a primary source of repayment of the facility.

In cases where it is appropriate to consider loans that are already in the portfolio for debt coverage purposes, this calculation must be made based on the appraised value at the time of origination of that loan or the most recent value that the Bank has available as part of the management of its portfolio.

In the case of transactions between affiliated Banks, the Commissioner's prior authorization will be required only to the extent that the covered transactions exceed what is permitted by sections 23A and 23B of the Federal Reserve Act, as amended.

All provisions of Section 17 of Act No. 55 apply equally to limited liability companies, providing that for purposes of section (g), the applicable threshold for consolidation is activated in the same manner when fifty percent (50%) of the voting capital of another partnership, corporation, corporation, limited liability company or other type of legal entity.

CHAPTER IX REPORT ON LOANS TO DIRECTORS, MAIN SHAREHOLDERS AND EXECUTIVE OFFICERS OF A BANK

SECTION 9.1. SCOPE AND APPLICATION

This Chapter provides for the report that banks must submit on loans to their directors, main shareholders and executive officers.

SECTION 9.2. DEFINITIONS

For purposes of this Chapter, the terms and their definitions, as used in Regulation "O" of the Federal Reserve Board, entitled "Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks (Regulation O)," 12 C.F.R., 215.1 *et seq.*, or any regulations adopted to replace it, are incorporated.

SECTION 9.3. REPORT

Each Bank shall submit to the Commissioner a report certified by a duly authorized officer of the Bank, stating any loans or discounts to directors, major shareholders, and executive officers pursuant to subsections (k), (l), (m), and (n) of Section 17 of Act 55.

The information to be submitted shall be the same in content, as regards loans to their directors, major shareholders and executive officers, as that of the similar report required of the Banks pursuant to the aforementioned Regulation "O" of the Federal Reserve Board. It is provided, however, that the information on loans with correspondent banks required by Regulation "O" may be omitted from the reports required by this Chapter.

SECTION 9.4. REPORT FREQUENCY

The report required by this Chapter must be submitted quarterly together with the "Call Report" that the Banks submit to the OCIF.

CHAPTER X
PERIODS FOR EXAMINATIONS OF BANKS AND FOREIGN BANKS

SECTION 10.1. SCOPE AND APPLICATION

This Chapter establishes the period within which all banks doing business in Puerto Rico will be examined by the OCIF.

SECTION 10.2. PERIOD FOR THE EXAMINATION OF A FOREIGN BANK OR BANK

Generally, every bank will be subject to annual OCIF inspection. The Commissioner may conduct such examination personally or through the staff of his Office or persons appointed by the Commissioner, who shall be known as examiners. Notwithstanding the foregoing, when he considers that the public interest is in no way affected, the Commissioner may extend the interval between the examinations of a Bank to a period that in no case shall exceed once every two years.

Every branch or office of a foreign bank shall be subject to inspection by the Commissioner, who shall, personally or through persons appointed by the Commissioner, examine such foreign bank at least once every five years. In the years included in such five-year interval, each Foreign Bank and any Branch or Office of a Foreign Bank shall furnish, or arrange for the supply, to the Commissioner of a copy of any examination report or investigation report of any other supervisory agency of financial institutions with concurrent jurisdiction over such Foreign Bank or Branch or office of a Foreign Bank.

CHAPTER XI
EXAMINATION RIGHTS

SECTION 11.1. SCOPE AND APPLICATION

This Chapter sets out the amount of a Bank's examination fees.

SECTION 11.2. EXAMINATION RIGHTS

Each Bank, Foreign Bank, Branch or Office of a Bank shall be charged as a fee of examination the sum of two dollars (\$2.00) for every ten thousand dollars (\$10,000.00) of the resources or fraction of the resources or assets, including the total assets of the Trust Department examined of such Bank, Foreign Bank, Branch or Office of the Bank, excluding from such

resources or assets any cleared account or control account.

SECTION 11.3. REPORT OF THE RESULTS OF THE REVIEW

The Commissioner shall deliver to each Bank, Branch or Office of the Bank, a report indicating the results of the examination carried out, accompanied by the invoice for the examination fees established in Section 11.2 of this Chapter.

CHAPTER XII MINIMUM SECURITY MEASURES IN BANKING OPERATIONS AND FACILITIES WHERE THE SAME ARE CARRIED OUT

SECTION 12.1. SCOPE AND APPLICATION

This Chapter sets out the minimum security requirements with which all banks, including the Cooperative Bank governed by Act No. 88, shall be obliged to comply with their physical facilities and banking operations. It is also required that each Bank adopt such additional security procedures as are reasonable to discourage the commission of robberies, burglaries, thefts, fraud and other crimes, as well as to facilitate the identification, arrest and prosecution of those who commit such acts.

SECTION 12.2. SPECIAL DEFINITIONS

For purposes of this Chapter, the following terms have the meanings set forth below:

- a. "Minimum Security Requirements" means the rules, procedures and mechanisms that by provision of this Chapter must be established and installed in each Banking Unit.
- b. "Banking Unit" means the Main Office, Branches, Service Units and Offices of a Bank, as such terms are defined in these Regulations.
- c. "Banking Facilities" – the premises where the Banking Units of a Bank are located.
- d. "Security Officer" means a person whose designation is provided for by this Chapter.

SECTION 12.3. RESPONSIBILITY OF THE BOARD OF DIRECTORS

It shall be the responsibility of the Board of Directors of each Bank to ensure that the provisions contained in this Chapter are complied with and to ensure that a written Security

Program is adopted for the Banking Units and Facilities.

SECTION 12.4. DESIGNATION OF SECURITY OFFICER

Each Bank shall appoint a Security Officer. Such appointment shall be approved by the Board of Directors. The Security Officer shall prepare and administer the Security Program referred to in Section 12.3 of this Chapter. It will be approved by the Board of Directors.

SECTION 12.5. CONTENT OF THE SAFETY PROGRAM

The Security Program shall:

1. Establish those procedures for the opening and closing of their businesses in the Banking Facilities that are adequate for the greater safety of people while the Banking Facilities are in operation. In addition, such program must contain the procedure to be observed to safeguard cash, negotiable instruments and other securities at all times.
2. Establish procedures to facilitate the identification of individuals who commit crimes against the Bank, as well as to protect the evidence necessary for the identification and conviction of such individuals. Such procedures may include, but are not limited to:
 - a. Any suitable means of keeping a record of any robbery, escalation, or theft committed against the Bank;
 - b. Maintain a camera that records activities at the Banking Facilities;
 - c. Use of identification devices, such as banknotes with pre-registered serial numbers, or chemical or electronic devices.
3. Provide for the initial and periodic training of employees in accordance with the provisions of this Chapter.
4. Provide for the selection, testing, operation, and maintenance of the appropriate safety devices listed in Section 12.6 of this Chapter.

SECTION 12.6. SAFETY DEVICES

All banks shall have, as minimum measures, the following security devices:

- a. Any suitable means of safeguarding cash, negotiable instruments and other securities. It can be a vault, safe or any other secure space or artifact.
- b. A system to illuminate the area around the vault during the night hours, if it is visible

from outside the Banking Facilities.

- c. An alarm system or other appropriate means of notifying the nearest concerned authorities of attempted or attempted theft or escalation.
- d. Locks resistant to being unlocked, on exterior doors and on windows that can be opened.
- e. Such other systems and devices as the Security Officer deems appropriate, taking into consideration the following:
 - 1. The incidence of crime in the area where the Banking Facilities are located.
 - 2. The amount of cash and other valuables exposed to theft, escalation, or theft.
 - 3. The distance from the Banking Facilities to the nearest police station.
 - 4. The cost of security systems and devices.
 - 5. Other existing security devices and systems in the Banking Facilities.
 - 6. The physical and structural characteristics of the Banking Facilities.

SECTION 12.7. REPORT TO THE BOARD OF DIRECTORS

At least annually or as frequently as the Board of Directors may determine, the Security Officer shall report to the full Board of Directors. This report shall include a list of the crimes perpetrated against the Bank, damage to persons, material losses, effectiveness of security procedures and arrangements, information on the arrest and prosecution of the perpetrators of such crimes, and any other information that may be of interest to the Board of Directors.

SECTION 12.8. TRAINING PROGRAM

Each Bank shall maintain a periodic training program for officers and employees. It will emphasize the behavior that they must observe during and after a robbery. Such training shall highlight those measures that must be put into practice to prevent tragedies, reasonably reduce losses and achieve the arrest and conviction of offenders.

The necessary documentation must be prepared whenever such training is offered. It shall be retained by the Bank and shall be available for examination by any official with legal authority to do so.

SECTION 12.9. DOCUMENTATION RETENTION

The Security Officer shall ensure that documentation of any offence committed against the institution is retained for a period of years equivalent to the statute of limitations for the

offence. It must be available to be provided to the authorities concerned for investigative purposes or for any relevant reference.

SECTION 12.10. REPORT OF CRIMES AGAINST THE BANK

Each Bank shall submit to the Commissioner quarterly, no later than the 15th day of the month following the end of each quarter, a report which shall include information on acts of robbery, theft, fraud, escalation, assault, attack against any of its Banking Units or other crimes. In the event that a Bank has not suffered crimes, it shall notify the Commissioner within the period prescribed by this Chapter.

SECTION 12.11. SPECIAL REPORTS

The Bank shall submit any other reports that the Commissioner may require in accordance with the provisions of these Regulations.

SECTION 12.12. CONFIDENTIALITY

All investigations, statements, conclusions and recommendations made or received by the Commissioner or his agents in relation to any security measure or mechanism or the Physical Facilities of any Bank, shall be considered confidential.

SECTION 12.13. GENERAL POWERS OF THE COMMISSIONER

The Commissioner or his authorized representatives shall have access to each Banking Facility to verify that it complies with the minimum security requirements established by this Chapter.

Where the Commissioner determines that the security measures or procedures used by a Bank do not comply with the requirements of this Chapter or that the requirements of this Chapter must be varied due to the particular circumstances of a Banking Unit, he may require the Bank to take the necessary steps to correct the situation.

CHAPTER XIII TO REGULATE THE IMPOSITION OF CHARGES BANK TRANSACTIONS DRAWN AGAINST NON-SUFFICIENT FUNDS

SECTION 13.1. SCOPE AND APPLICATION

This Chapter shall govern the imposition of fees for Transactions Paid in Overdraft, or Transactions Returned for Insufficient Funds, as such terms are defined below, by any Bank

operating in Puerto Rico, or that may be established in the future.

SECTION 13.2. SPECIAL DEFINITIONS

For purposes of this Chapter, the following terms have the meanings set forth below:

- a. Transaction – any check, ACH transaction, funds transfer, online banking transaction, wire transfer, debit card purchase, payment, charge, any other money order for an amount that can be subtracted from the balance of a deposit account, or any other method used to draw against an account.
- b. Insufficient Funds – when a deposit account has no available balance, or the balance is not sufficient, to satisfy the payment of a Transaction.
- c. Returned Transaction – when a Bank returns unpaid a Transaction drawn on a deposit account with insufficient funds.
- d. Overdraft Paid Transaction - when a Bank pays a Transaction drawn on a deposit account with insufficient funds.
- e. Overdraft – a balance by which a deposit account exceeds the funds deposited into it.
- f. Unavailable Funds - when the drawer does not have funds deposited in the Bank to draw against them.
- g. Overdraft - when a depositor draws and the Bank pays a check against a checking account, the amount of which exceeds the funds deposited in it.

SECTION 13.3. LIMITATIONS

No Bank may, in connection with the payment, acceptance, or return of a Transaction drawn on a Deposit Account with Insufficient Funds, impose a fee, duty, penalty, commission, or other charge except the maximum charge set forth in Section 13.6 of this Chapter.

SECTION 13.4. EXCEPTION

Nothing in Section 13.3 prevents the Bank from taking, receiving, reserving or charging interest, in accordance with the provisions of the Regulations issued by the Financial Board for the Overdraft balance resulting from an Overdraft Paid Transaction.

SECTION 13.5. CUSTOMER ACCOMMODATION OR CONVENIENCE

The Bank may, as a convenience to its customers, pay, accept or return a Transaction drawn on a deposit account with insufficient funds without charging a fee, or by charging a fee less than those set forth in Section 13.6.

SECTION 13.6. MAXIMUM CHARGES

A Bank may impose a fee not to exceed fifteen dollars (\$15.00) in connection with a Returned Transaction or an Overdraft Paid Transaction. In the event that the Bank has a policy not to charge a fee for Returned Transactions, then it may impose a maximum fee for each Overdraft Paid Transaction that will not exceed forty dollars (\$40.00).

CHAPTER XIV DESTRUCTION OF BOOKS; FILES AND DOCUMENTS

SECTION 14.1. SCOPE AND APPLICATION

This Chapter establishes the method for the destruction of books, files and documents regardless of the medium in which they have been created and/or stored, whether paper, in electronic or photographic format, originals or reproductions created in place of such (hereinafter, the "documents"), of any Bank, Branches and Offices (hereinafter, "Bank"), pursuant to Section 34 of Act 55, as amended. The same is provided in this Chapter with respect to the Cooperative Bank in accordance with the provisions of Article 20(b) of Law No. 88, as amended. For purposes of this Chapter, the term "Bank" includes the Cooperative Bank.

SECTION 14.2. DOCUMENT DESTRUCTION

Each Bank shall adopt a document retention and destruction policy (the "Policy") subject to the provisions of Section 3 of this Chapter, Section 34 of Act No. 55, and applicable local or federal regulations.

Upon expiration of the retention period provided for such documents in Section 34, any Bank may proceed to destroy documents in compliance with applicable local and federal regulations and its Policy.

SECTION 14.3. PROCEDURE FOR THE DESTRUCTION OF DOCUMENTS

Every Bank shall maintain procedures, systems and operational processes for the destruction of documents that ensure the following:

- a. That the destruction of documents is carried out in accordance with the policy of retention and destruction of documents adopted by the Bank.
- b. That the destruction of documents be stopped in the event that the Office of the Commissioner of Financial Institutions submits written notice to the Bank requesting the preservation of certain documents, which must be identified in such notification;

- c. That the destruction of documents be stopped in the event that the Bank is notified of a lawsuit or claim, administrative or judicial order or injunction that prevents the destruction of certain documents in accordance with applicable local and federal regulations.
- d. That the destruction of the documents be carried out permanently in such a way as to prevent the subsequent use of said documents.

The aforementioned procedures will be subject to inspection by the OCIF examiners.

SECTION 14.4. REGISTRATION AND CERTIFICATION OF DOCUMENT DESTRUCTION

It shall be the duty of the Bank to keep a Destruction Register per calendar year in which a general description of the documents destroyed shall be recorded. The Destruction Register may be kept in an electronic medium and it must be available for inspection by the OCIF.

The Destruction Record shall be retained by the Bank for a period of not less than five (5) years from December 31 of the year to which it corresponds.

Provided that, no later than January 31 of each year, an official of the Bank shall certify that the Annual Register corresponding to the previous year contains the required information on all documents that were destroyed during the year, which complied with the retention period established by the Policy, as well as the applicable local and federal regulations. Such Certification shall be retained by the Bank for a period of not less than five (5) years from December 31 of the year to which it corresponds and shall be available for inspection by the OCIF.

CHAPTER XV

UNCLAIMED AMOUNTS AND INTEREST RATE PAYABLE ON AMOUNTS REFUNDED BY THE COMMISSIONER'S OFFICE

SECTION 15.1. SCOPE AND APPLICATION

This Chapter provides for the delivery to the Commissioner of unclaimed amounts, as provided in Section 37(a) of Act No. 55. It also establishes the interest rate payable on amounts repaid by the OCIF in accordance with Section 37(a)(e) of Act No. 55.

This chapter does not apply to accounts where alimony funds are deposited, nor to those accounts established under Act No. 5 of 30 December 1986, as amended, known as the "Organic Law of the Administration for the Support of Minors".

SECTION 15.2. CERTIFICATION REQUIRED

In connection with the publication of notices of unclaimed amounts required by Section 37(a)(d) of Act No. 55, each Bank required to publish the notices shall certify the following:

1. That if you have obtained any concession or rebate on the price of your advertisements or advertising services, such concession or rebate will be applied to the cost of publishing the notices on unclaimed amounts.
2. That the price of said publication is the lowest possible that could be obtained in a newspaper of general circulation in Puerto Rico generally used by the Bank's customers.

The certification required by this Section shall be submitted by an officer of the Bank duly authorized to do so.

The expenses of any publication that contains items of information, advertising or promotion not authorized by law or regulation, or that do not follow the guidelines of the Commissioner and this Chapter, will be adjusted by the OCIF and assumed by the Bank.

SECTION 15.3. DELIVERY OF UNCLAIMED AMOUNTS AND FINAL REPORT

- (a) Any foreign bank or bank which, after making the publications required by Act No. 55 and these Regulations, and dealing with the claims it receives, has in its possession unclaimed amounts, shall deliver the money to the Commissioner not later than December 10 of each year. Such act has the effect of relieving the foreign Bank or Bank as of that date of all liability with respect to the amounts not claimed, provided that the provisions of the Law and these Regulations have been followed. However, any foreign bank or bank shall be required to maintain records of unclaimed amounts for an additional period of five (5) years from the delivery of such unclaimed amounts to the Commissioner.
- (b) With the delivery of the money described in the previous paragraph, a Final Report will be accompanied with the information and documents described below:
 1. The money and other liquid property abandoned or unclaimed to be remitted to the Commissioner shall include the interest or dividends that they have accrued or accrued after subtracting the charges that are legally imposed, until June 30 of the year in which the report is filed;

2. Copy of the Notice of Abandoned or Unclaimed Money and Other Liquid Property with the Affidavit of the newspaper certifying its publication;
3. Copy of invoices for posting the Notice and evidence of payment;
4. Separate final listings of all abandoned or unclaimed money and other liquid property by November 30 of the year of the Final Report. These will include amounts of money and other liquid goods with an actual or estimated value, in aggregate, greater than one dollar (\$1.00). They shall also include the account and branch number, if applicable, the full name (in alphabetical order by their surnames), amounts of money and/or brief description of other abandoned or unclaimed liquid property, and if possible, the actual or estimated value of the latter;
5. A complete and accurate reconciliation between the Initial Report required by section 37(a) of Act No. 55 and this Final Report, in light of the amounts of money and other liquid property abandoned or unclaimed prior to the filing of the Final Report and after application to the money and other liquid property published, the related publication costs;
6. At the time of the submission of the Final Report of Unclaimed Amounts required by the first paragraph of section 37(a) of Act No. 55, the proportionate expense of the expenses incurred in the publication will have already been applied against the abandoned or unclaimed money and other liquid property included in such publications. Calculating such expenditure and deducting it from the amounts reported and delivered is the obligation of the financial institution to which Law No. 55 applies. The OCIF will understand as not complying with the guidelines of Law No. 55 and the guidelines set forth herein the delivery of the Final Report without having made the corresponding deduction.

(c) The OCIF will not receive both the Initial Report and the Final Report, if they do not contain the information required in section 37(a) of Law No. 55 and these Regulations.

SECTION 15.4. CLAIMS AFTER DELIVERY TO THE COMMISSIONER OF UNCLAIMED AMOUNTS

Any person who believes himself entitled to any unclaimed amount may claim it from the Commissioner within three (3) years from the date of delivery by the banking institution. The claimant will have one hundred and eighty (180) calendar days to complete the requirements

set forth in the "Claim Form." The one hundred and eighty (180) days will begin to count from the personal delivery or the date of mailing, by the OCIF, of the "Claim Form". At the request of the claimant, the Commissioner may extend this period provided that there is just cause for doing so. It will be the responsibility of the claimant to comply with the term set forth herein, since if they do not do so, it will be understood that they have no interest in continuing with their claim and any claim that is incomplete and no extension has been requested within the term of 180 days will be canceled. Claims that are cancelled due to lack of interest will not be interpreted as interrupting the prescriptive period provided by law to claim the assets. In these cases, the person will have to file a new claim within the prescriptive period provided by law. The Commissioner shall establish the procedures he deems necessary to establish the legitimacy of the complaints.

SECTION 15.5. INTEREST RATE PAYABLE ON REPAID AMOUNTS

Amounts to be refunded to a person determined by the Commissioner to be entitled to any amount not claimed and remitted by a Bank to the OCIF shall include interest on the amount remitted by the Bank, accrued from the date of referral to the OCIF until the date of payment.

The rate of interest payable by the Commissioner on the amount to be repaid under the provisions of this Chapter shall be equal to that applicable to the payment of judgments of the State without ever exceeding four percent (4%). Interest shall be payable, without being computed cumulatively, on the aforementioned abandoned and unclaimed funds, computed from the date on which it was delivered to the Commissioner, after verification of the claimant's entitlement.

CHAPTER XVI SECURITIES BUSINESS

SECTION 16.1. SCOPE AND PURPOSE OF THE CHAPTER

This Chapter shall apply to the activities of Banks related to securities transactions permitted by various subsections of Section 14(e) of Act No. 55, as amended by Act No. 388.

The purpose of this Chapter is to establish the procedure to be followed in obtaining authorization to engage in securities activities permitted by various subsections of Section 14 of Act No. 55, as amended by Act No. 388.

SECTION 16.2. DEFINITIONS.

- a. For purposes of this Chapter, all terms defined in Article 401 of Act No. 60 of June 18, 1963, as amended, known as the "Uniform Securities Act," are incorporated and made part of this section. All terms defined in Regulation No. 6078 of January 19, 2000, entitled "Uniform Securities Act Regulations" (hereinafter referred to as "Regulation No. 6078") are also incorporated. Laws and regulations that are subsequently adopted to amend or replace them are included. In the same way, any amendments or additions that may be adopted in the future to the definitions of the Uniform Securities Act or Regulation No. 6078 shall be incorporated.
- b. For purposes of this Chapter, the phrase "Gramm-Leach-Bliley Act" shall also include any rules and regulations promulgated under Titles I and II of the Gramm-Leach Bliley Act, or any rules and regulations subsequently adopted to amend or replace them.

SECTION 16.3. GENERAL PROVISIONS

Subsection 16.3.1. Managerial and financial requirements

Any applicant seeking authorization from the Commissioner to engage in securities transactions permitted by subsections (e)(1)(B) and (e)(6) of Section 14 of Act 55 shall have the necessary managerial and financial resources to ensure that such activity will not adversely affect the safety and soundness of the institution.

Subsection 16.3.2. Required institutional policies and procedures.

Any applicant seeking authorization from the Commissioner to engage in the transactions referred to in Subsection 16.4.1 shall have institutional policies and procedures in place to govern such activity by the Bank and its employees. Such policies and procedures must be adequate to eliminate or minimize, among others, the following types of risks to the Bank: credit, market, liquidity, operational, legal, loss of goodwill, and compliance.

Subsection 16.3.3. Periodic review

Transactions in securities referred to in Subsection 16.4.1 carried out by a Bank shall be subject to periodic review by the Commissioner. The Commissioner may, in his or her discretion, modify, restrict, rescind, or otherwise limit a Bank's authority to carry out such transactions, if, as a result of an examination or investigation by the

Commissioner, or by a federal banking agency or any entity supervising the securities business, whether federal, state or private, any of these concludes that the Bank has ceased to comply with the eligibility requirements and other conditions imposed in this Chapter.

SECTION 16.4. PROCEDURE FOR APPLYING FOR AUTHORIZATION TO ENGAGE IN TRANSACTIONS PERMITTED BY VARIOUS SUBSECTIONS AND CLAUSES OF SECTION 14(e) OF ACT NO. 55.

Subsection 16.4.1. Transactions Permitted by Section 14(e) of Act No. 55

Beginning with the effective date of these Regulations, or such later date as may be fixed by order of the Commissioner, no Bank may engage in the transactions described in sections 14(e)(1) through 14(e)(6), inclusive, of Act 55 if such transactions fall outside the scope of the exemptions provided to Banks under sections 201 through 225, both inclusive, of the Gramm-Leach-Bliley Act, without first obtaining the appropriate permits and licenses, as set forth in Section 16.4.2. of this Chapter.

Subsection 16.4.2. Applications to obtain authorization to conduct securities transactions that require licenses or permits under the Puerto Rico Uniform Securities Act.

In order to carry out transactions in securities that fall outside the scope of the exemptions provided to Banks under sections 201 through 225, inclusive, of the Gramm-Leach-Bliley Act, the Banks shall obtain the corresponding permits, licenses, and registrations, as required by the Uniform Securities Act of Puerto Rico, Regulation No. 6078 approved under the aforementioned law, or any regulations adopted to amend or replace it, and any other law or regulation administered by the OCIF that is applicable to such activity.

Subsection 16.4.3. Transactions Permitted by Section 14(e)(1)(B) of Act No. 55

Banks may "carry out the transactions described in section 14(e)(1)(b) after having applied for and obtained the appropriate permits, as provided in Subsection 16.5.2 of this Chapter.

Subsection 16.4.4. Transactions Permitted by Section 14(e)(6) of Act 55

In order to carry out any of the activities that are understood to be covered by subsection (e) (6) of Section 14(e) of Act No. 55, Banks must comply with the provisions of Section 16.5 of this Chapter.

SECTION 16.5. PROCEDURE FOR APPLYING FOR AUTHORIZATION TO ENGAGE IN TRANSACTIONS DESCRIBED IN SECTION 14(E)(6) OF ACT NO. 55

Subsection 16.5.1. Initial Application

When a Bank requests authorization to offer any securities service or carry out any transaction in addition to those listed in paragraphs (1) through (5) of Section 14 (e) of Act No. 55, the requesting Bank shall file a request for a ruling.

Subsection 16.5.2. Application Evaluation and Administrative Determination

(1) If the Commissioner, in its sole discretion, concludes that there is no impediment to making the requested administrative determination, it shall so notify the requesting Bank in writing.

(2) The administrative determination issued by the Commissioner shall constitute an official interpretation of Section 14(e)(6) of Act 55 and any other law discussed in such ruling, provided that the Commissioner is entrusted with the implementation of which the Commissioner has been entrusted to implement, and shall be published for the benefit of the general public.

The applicant for a ruling in accordance with the provisions of Subsection 16.6.1 of this Chapter may simultaneously process the approval of the OCIF, as provided in Subsection 16.5.2 of this Chapter, to carry out the proposed new activity so that it can begin said new activity as soon as it obtains the requested ruling.

SECTION 16.6. ISSUANCE OR DENIAL OF THE REQUESTED PERMIT

Any application under this Chapter shall be approved or denied by the Commissioner within the time prescribed by Rule No. 6 of the "Regulations for Establishing the Standards of Procedure for the Issuance of Licenses, Franchises and Permits", issued by the Commissioner on December 20, 1989, as amended or such provision as may be approved to replace it.

CHAPTER XVII INSURANCE BUSINESSES AND OTHER FINANCIAL ACTIVITIES

SECTION 17.1. SCOPE AND PURPOSE OF THE CHAPTER

This Chapter shall apply to the activities of Banks, including their subsidiaries, permitted by sections 14(k) and 14(n) of Act No. 55, as amended by Act No. 388.

The purpose of this Chapter is to establish the procedure to be followed in obtaining

authorization to engage in certain insurance businesses under section 14(k) and other banking, financial or related activities, pursuant to Section 14(n) of Act 55, as amended by Act 388.

SECTION 17.2. PROCEDURE FOR OBTAINING AUTHORIZATION TO ENGAGE IN CERTAIN INSURANCE BUSINESSES UNDER SECTION 14(k)

Subsection 17.2.1. Notification

Any bank interested in engaging in the insurance business permitted by Section 14(k) of Act No. 55 shall file a notice with the OCIF to that effect.

Subsection 17.2.2. Content of the notification

- (1) The notice required by Subsection 17.2.1. of this Chapter shall include a complete and detailed description of the insurance transactions or business that the applicant intends to conduct under section 14(k) above.
- (2) The notice shall be signed by the president or officer authorized to make such representations by the Board of Directors.
- (3) The applicant shall submit any other information required by the Commissioner relating to the business proposed in the notice.

Subsection 17.2.3. Terms for filing the notification

The notification required by Subsection 17.2.1. of this Chapter must be filed with the OCIF at least thirty (30) days before the date on which the applicant intends to start such business.

Subsection 17.2.4. Determination of the Commissioner

If no objection is received from the Commissioner to the commencement of business permitted by section 14(k), within twenty (20) days after the filing of the notice, the notice shall be deemed authorized.

SECTION 17.3. PROCEDURE FOR REQUESTING AN ADMINISTRATIVE DETERMINATION UNDER SECTION 14(n) OF ACT NO. 55

Subsection 17.3.1. Request for Administrative Determination

Any bank or entity subject to these Regulations may request that the Commissioner issue an administrative determination ("ruling") to the effect that a certain activity, business, transaction or service constitutes or is related to financial banking activity

pursuant to Section 14(n) of Act 55, as amended by Act 388.

Upon requesting such an administrative determination, the applicant shall file a written request for administrative determination.

Subsection 17.3.2. Application Evaluation

(1) If the Commissioner, in its sole discretion, concludes that there is no impediment to making the requested administrative determination, it shall so notify the requesting Bank in writing.

(2) The administrative determination issued by the Commissioner shall constitute an official interpretation of Section 14(n) of Act 55 and any other law discussed in such ruling, provided that the enforcement laws are entrusted to the Commissioner, and shall be published for the benefit of the general public.

(3) An applicant for a ruling pursuant to Section 17.3.1 of this Chapter may simultaneously apply for approval from the office, pursuant to Section 17.4 of this Chapter, to carry out the proposed new activity so that it can commence such new activity as soon as it obtains the requested ruling.

SECTION 17.4. PROCEDURE FOR REQUESTING AUTHORIZATION TO ENGAGE IN ACTIVITIES IDENTIFIED IN ADMINISTRATIVE DETERMINATIONS ISSUED UNDER SECTION 17.2 OF THIS CHAPTER

Subsection 17.4.1. In general

(1) Provided that the Commissioner has determined under Section 17.3 of this Chapter that it is a permitted activity under Section 14(n) of Act 55, any Bank that has adequate capital and meets the other requirements of financial safety and soundness required by Act 55, may engage in the activities identified in the Commissioner's administrative determination by filing an application and obtaining the Commissioner's approval under this Chapter.

(2) Depending on the legal nature of the activity requested and identified as permitted under section 14(n) of Act No. 55, the Commissioner may require, as an additional requirement, that the applicant process its application under any special law of Puerto Rico governing the activity purported to be engaged in under section 14(n) of Act 55.

(3) Nothing in this Chapter relieves the applicant from complying with any provision of law or regulation, federal or state, that is applicable to the purported activity.

Subsection 17.4.2. Additional information

In addition to the information requested or required under any provision of law or regulation applicable to the particular activity pursued under Section 14(n) of Act No. 55, the requesting Bank shall include the following information:

- (1) Full description of the specific activity that the applicant intends to carry out. Specification of the investment that the applicant intends to make to carry out these activities. Any other information that the Commissioner requires from the applicant as necessary to complete the application.
- (2) Plan of operations. The applicant shall file an operations or business plan as part of the application filed under this Chapter. Such plan shall include, at a minimum, information demonstrating that the applicant complies with all managerial, capital, institutional policies and procedures, and other eligibility requirements applicable to the intended activity;
- (3) A representation and certification that the applicant agrees to carry out such activities in accordance with the provisions of any other Puerto Rico or federal law or regulation that is applicable to such activity.
- (4) Any other information that the Commissioner deems necessary to complete the application.

Subsection 17.4.3. Additional Terms

Any applicant who obtains authorization to engage in the activities identified as permitted under Section 14(n) of Act 55 shall be subject to such additional conditions as the Commissioner deems necessary to require at the time of granting the authorization requested.

Subsection 17.4.4. Issuance or refusal of the requested permit

Any application filed under this Section 17.3 of this Chapter shall be approved or denied by the Commissioner within the time prescribed by Rule No. 6 of the "Regulations for Establishing the Standards of Procedure for the Issuance of Licenses, Franchises, and Permits," issued by the Commissioner on December 20, 1989, as amended or as may be approved to replace it.

CHAPTER XVIII

MORTGAGE LOAN GRANTING AND SERVICING BUSINESS

SECTION 18.1. SCOPE AND PURPOSE OF THE CHAPTER

This Chapter shall apply to the activities of Banks related to the granting and servicing of residential mortgage loans for all purposes, including to finance the acquisition of residential real property or refinance residential mortgage loans, permitted by subsections (1) and (7) of section 14(1) of Act No. 55.

The purpose of this Chapter is to establish uniform guidelines for Banks related to the granting and administration of these loans.

SECTION 18.2. DEFINITIONS

For the purposes of this Chapter, the following terms have the meanings set forth below:

- a. **Mortgage Loan Servicing.** It means the entity or internal unit of the Bank that is dedicated to sending periodic statements to the customer; processing, receiving and applying mortgage loan payments; receiving and applying payments of principal, interest and late fees to the loan, credits to account(s) in escrow, remittances to investors, payment of property taxes, the payment of insurance during the term of a mortgage loan, the custody of files and documents related to the mortgage loan, and the provision of supplementary services and compliance with applicable laws, and other similar activities, that the Banks carry out in their own name or under contract with a third party.
- b. **Mortgage Loan Servicer.** It means the internal unit of the Bank or the one that is dedicated to offering the service of Mortgage Loan Administration, as defined in this Chapter.
- c. **Service Charge.** It means the amount of money, rate, discount, or commission that a Bank charges its customers as compensation for the services it provides in that capacity.
- d. **Cancellation Balance Letter.** It means a document certified by a mortgagee or servicer that breaks down the amount of money with which a mortgage loan due could be paid off by a specific date.
- e. **Concessionaire.** Means a person who holds a licence issued by the Commissioner under Act No. 55.

- f. **Custodian.** It means the person who is in charge of safeguarding or keeping the promissory notes that secure mortgage loans.
- g. **Workday.** It means any day other than Saturday, Sunday, or day on which the Government of Puerto Rico is closed by provision of law, order, or executive proclamation.
- h. **Mortgage Lending Business.** It means the business through which one or more cash advances, or its equivalent, are granted by a lender (commonly known as a mortgagee) secured by a mortgage on real estate, where the conditions and the form of payment or settlement of the loan are fixed. It also includes the administration of mortgage loans, as defined in subsection (a) of this section, as well as the power to act as an escrow agent pursuant to Regulation No. 3282 of January 31, 1986, known as the "Escrow Regulations."
- i. **OCIF.** It means the Office of the Commissioner of Financial Institutions created under Act No. 4 of 11 October 1985, as amended, known as the "Office of the Commissioner of Financial Institutions Act".
- j. **Mortgage.** It means one or more cash advances, or its equivalent, made by a lender (commonly known as a mortgagee) evidenced by a mortgage, promissory note or other evidence of debt agreed between the parties, which duly encumbers one or more real estate, where the conditions and the form of payment or settlement of the loan are fixed.
- k. **Purchase and Sale Mortgage Loan.** It means the mortgage that is constituted when the buyer of a property takes a mortgage loan to pay for the property acquired.
- l. **Refinancing Mortgage Loan.** It means when a mortgagor takes out a mortgage loan and with all or part of the proceeds pays off the existing mortgage on the same property in advance.
- m. **Residential Mortgage Loan.** It means any mortgage loan made primarily for personal, family, or household purposes evidenced by a mortgage, promissory note, or other evidence of debt agreed upon between the parties, that encumbers residential real property.
- n. **Residential Real Estate.** It means any real property located in Puerto Rico on which a residence is built or intended to be built.
- o. **Amortization Schedule.** means the structure of payments on each mortgage loan

payable in equal or substantially equal amounts, or those payments that have been provided in the loan agreement, breaking down the principal and finance charges ("interest") applicable to each term of the loan up to the maturity date.

SECTION 18.3. MORTGAGE LOAN SERVICING

- a. Any bank that is going to engage in mortgage loan servicing as part of its mortgage lending business shall notify the OCIF not less than sixty (60) days prior to the date on which it commences servicing mortgage loans. In the case of Banks that are currently offering such service, they shall notify the OCIF within a period of thirty (30) days from the approval of these Regulations.
- b. Any Bank engaged in mortgage loan servicing as part of its mortgage lending business, and which is to discontinue such practice, shall notify the OCIF not less than thirty (30) days prior to the date on which such practice ceases.
- c. Any bank that carries out the administration of mortgage loans shall submit to the OCIF the reports that it may require from time to time.

SECTION 18.4. CANCELLATION BALANCE LETTER

- a. A creditor or mortgage servicer shall require in writing from the mortgagor requesting the cancellation balance letter the purpose of his or her request so that the creditor may determine whether the balance of the mortgage warrants the collection of compensation on the prepaid principal balance ("prepayment penalty").
- b. The Cancellation Balance Letter will be delivered to the applicant within a term of no more than five (5) business days from the date on which it was requested.
- c. The Cancellation Balance Letter must contain at least the following information:
 - (1) customer name;
 - (2) name of the institution;
 - (3) loan number;
 - (4) type of loan;
 - (5) property address;
 - (6) date on which the letter is issued;
 - (7) original loan amount;
 - (8) principal balance;
 - (9) date that includes the period of interest charged in the letter;

- (10) percent interest on the original loan;
 - (11) annual basis on which interest is calculated;
 - (12) interest per diem;
 - (13) total computed interest;
 - (14) late fees;
 - (15) prepayment penalty, if applicable;
 - (16) escrow account balance;
 - (17) balance of cancellation of the Mortgage Loan;
 - (18) effective date of the cancellation balance;
 - (19) signature of the person issuing the letter;
 - (20) certification that the cancellation balance is correct.
- d. In cases where the Cancellation Balance Letter is issued with an incorrect Mortgage Loan cancellation balance amount, the institution that issued such letter will compensate the injured party for reasonable legal fees and other expenses, including interest resulting from the delay in the mortgage balance, incurred and attributable to the error.

SECTION 18.5. UNIFORM RECEIPT OF BALANCE OF PREVIOUS LIENS IN CASES OF REFINANCING AND PURCHASE AND SALE

A. BALANCE OF PRIOR LIENS

- a. In cases where the Purchase Mortgage Loan carries the balance of a previous Mortgage Loan, the Bank granting the Purchase Mortgage Loan shall have the obligation to deliver or transmit the payment in balance of the previous Mortgage Loan by any means acceptable to the creditor or servicer of the same, so that it receives it no later than the second business day following the closing date of the loan. In addition, he will send a letter to the latter within said term requesting the promissory note for its cancellation. A letter will not be required in those cases where the Administrator of the Previous Mortgage Loan is the same as the one who issues the new Mortgage Loan.
- b. In cases where the Refinance Mortgage Loan carries the balance of a prior Mortgage Loan, the Bank granting the Refinance Mortgage Loan shall have the obligation to deliver or transmit the balance payment of the previous Mortgage Loan by any means acceptable to the creditor or servicer in such a way that it receives it no later than the second business day following the expiration of the three (3) day term of

termination provided by Regulation Z, adopted under the "Truth in Lending Act". In addition, he will send a letter to the latter within said term requesting the promissory note for its cancellation. A letter will not be required in those cases where the Administrator of the Previous Mortgage Loan is the same as the one who issues the new Mortgage Loan.

- c. In cases in which the Bank defaults on the balance of a Mortgage Loan under the terms set forth in paragraphs (a) and (b) above, it will be obliged to assume the interest from the day of closing in cases of purchase and sale or from the day of expiration of the termination term in cases of refinancing. until the date of the mortgage balance .

B. MORTGAGE BALANCE RECEIPT

Upon receipt of payment for the balance of the mortgage, the creditor or servicer of the Mortgage Loan subject to cancellation shall in turn issue a Mortgage Balance Receipt to the person who remitted it to him or her and to the mortgagor or the person who made or to whom the payment was originally withheld, within ten (10) calendar days from the date you received payment. Said Mortgage Balance Receipt shall contain a Notice that the pertinent procedures will be made to send the promissory note to the new mortgagee within the applicable term provided in these Regulations. A letter will not be required in those cases where the Administrator of the Previous Mortgage Loan is the same as the one who issues the new Mortgage Loan.

C. MORTGAGE PAYMENT RECEIPT

- (a) In any Mortgage Loan, the person who receives or withholds payment for the balance of a mortgage shall be obligated at the same time of payment to issue a Payment Receipt or other evidence of payment or withholding, as provided in this section, to the mortgagor or to the person making or withholding payment.
- (b) The payment receipts indicated above must contain the following information:
 - 1. date of issue of the receipt;
 - 2. date on which the payment was made;
 - 3. original amount of the tax paid;
 - 4. payment amount;
 - 5. number of the Mortgage Loan subject to payment;

6. a confirmation that the amount paid pays off the Mortgage Loan;
 7. In the case of purchase and sale, a confirmation is required to the effect that the relevant procedures will be made for the balance of the mortgage no later than the second business day following the date of closing of the loan or, in cases of refinancing, no later than the second business day following the expiration of the term of three (3) days of termination from the date of closing of the loan provided by the Regulation Z. Such confirmation shall include a notice notifying you of your right to obtain the Mortgage Balance Receipt from the creditor or servicer of the mortgage subject to cancellation within ten (10) calendar days of receipt of payment, and a notice notifying you of your right to obtain the mortgage cancellation letter from the creditor or servicer of the Mortgage Loan within the term of thirty (30) days from the date on which the latter receives the promissory note subject to cancellation.
- (c) Where applicable, the Closing Disclosure, known as a "CD" or any other satisfactory evidence of payment or withholding, will replace the payment receipt to be issued by the person withholding payment, provided that subsections (6) and (7) of subsection (b) above are complied with in a separate writing.

SECTION 18.6. PROCEDURE FOR CANCELLATION OF PROMISSORY NOTES

- (a) Upon receipt of payment for the balance of the mortgage, the creditor bank or servicer of the Mortgage Loan subject to cancellation shall request in writing from the investor, custodian of the promissory note, or internal unit that performs custody functions of the promissory note, the promissory note subject to cancellation within fifteen (15) calendar days from the date on which it received the payment.
- (b) In cases where the investor, custodian of the promissory note, or internal unit that performs custody functions of the promissory note subject to cancellation is located in Puerto Rico, the creditor bank or servicer of the loan subject to cancellation shall send the promissory note to the entity or internal unit granting the new Mortgage Loan by certified mail, or you may hand it over with acknowledgement of receipt together with the corresponding processing sheet within a period of no more than one hundred and eighty (180) calendar days from the date of cancellation of the mortgage.
- (c) In cases where the investor, custodian of the promissory note, or internal unit that performs custody functions of the promissory note or custodian of the promissory note

is outside Puerto Rico, the creditor or servicer bank will have two hundred and ten (210) calendar days from the date of cancellation of the mortgage to send the promissory note to the entity granting the new Mortgage Loan by certified mail or to deliver it by hand with acknowledgement of receipt jointly with the corresponding procedure sheet.

- (d) The term of one hundred and eighty (180) days or two hundred and ten (210) days, as the case may be, shall be automatically extended for an additional term of no more than ninety (90) days in exceptional cases in which the creditor or administrator maintains in its files evidence of the exceptional circumstances that justify such extension. The creditor or administrator shall submit to the Commissioner a monthly report within ten (10) days following the end of the previous month, indicating all the cases in which he has taken the automatic extension and the reasons for them.
- (e) In those cases in which the creditor or administrator Bank has the promissory note in its possession, but which, due to exceptional circumstances, cannot deliver it, the OCIF shall be notified of this situation within the first thirty (30) days of the automatic extension established in the previous paragraph, and the OCIF shall be requested to make an administrative determination indicating the particular situation of each case and requesting the extension for an additional term. according to the particular circumstances of each case. In such situations, the administrative determination shall provide for the manner and frequency in which the creditor or administrator Bank shall keep the OCIF informed of the developments.
- (f) At the end of one hundred and eighty (180) days or two hundred and ten (210) days, as the case may be, from the date of the original request to the investor, or at the end of the ninety (90) days of extension granted in subsection (d) or such additional term granted in the preceding subparagraph, if the promissory note has not been received, the creditor bank or administrator of the Mortgage Loan subject to cancellation will begin the steps to proceed with the cancellation of the promissory note through the courts, and will assume the costs, expenses and fees of said process. Any creditor bank or servicer of the Mortgage Loan subject to cancellation must make reasonable and prudent efforts to deliver the promissory note in accordance with the terms applicable in subsections (b), (c) and (d) above. If the creditor bank or mortgage loan servicer is unable to complete the delivery of a promissory note subject to cancellation due to lack of information, it must retain and safeguard the promissory note until it is claimed.

In these cases, the creditor bank or servicer of the mortgage loan subject to cancellation may require or obtain those funds that would have been retained by the originator initially for the cancellation of the promissory note when disbursing the new loan. Any difference between the amount initially retained by the originator for the cancellation of the note and the amount incurred for the cancellation of the note will be borne by the creditor bank or servicer of the mortgage loan subject to cancellation.

- (g) Upon receipt of a promissory note subject to cancellation, the internal unit of the creditor bank or administrator of the new Mortgage Loan shall have a period of forty-five (45) calendar days to present the deed for cancellation of the lien in the corresponding section of the Land Registry and shall send the mortgagor a letter of cancellation of the mortgage within said term in which it shall notify the date on which the deed was presented for the purpose of the mortgage debtor. cancellation of the lien to the Land Registry.
- (h) In cases of resignation, revocation, cancellation or suspension of license, the Bank will have to deliver the promissory notes pending cancellation to the notary in charge, together with the fees, stamps and fees for their due cancellation. The Bank shall notify the OCIF of the name of the notary and any other information that the OCIF requires. The Bank shall deliver a copy of the document in which the notary in charge receives the promissory notes pending cancellation within a term of ninety (90) days from the resignation, revocation, cancellation or suspension of the license.
- (i) In cases where the debtor pays off the mortgage with his own funds and prefers that the original promissory note be sent to him so that he can be responsible for the cancellation before the Registry, the creditor or administrator will send the promissory note to the debtor. The application signed by the debtor must be in writing and must be in the loan file, which will be retained for the time established under applicable federal law. In cases where the debtor pays off the mortgage when due with his own funds, the creditor or administrator will send the promissory note to the debtor without the need for the debtor to sign an authorization.

SECTION 18.7. DUTIES AND OBLIGATIONS OF CONCESSIONAIRES

- (a) In addition to the duties and obligations set forth in Act No. 55, Banks engaged in the business of granting mortgage loans must:
 - (1) To provide its services satisfactorily to its clients, in accordance with the best and

healthiest practices prevailing in Puerto Rico. No discrimination may be instituted on the grounds of race, colour, sex, age, marital status, nationality, or religious ideas;

- (2) Provide, at the request of the client and free of charge, an amortization table, when granting a residential Mortgage Loan;
 - (3) Verify that any person who provides services as part of the process of granting the Mortgage Loan has the license or authorization that allows him or her to provide such services, as required by applicable laws and regulations;
 - (4) Verify that any person who provides services as part of the process of granting the Mortgage Loan does not charge service charges in an indirect, hidden, or disguised manner;
 - (5) Issue cancellation balance letters in which the accuracy of the amount is reliably certified no later than the fifth (5th) working day following the request;
 - (6) Submit accurate and timely reports of their operations, as requested by the OCIF.
- (b) Every Bank shall submit to the OCIF those reports that the Commissioner requires from time to time.
- (c) For the purposes of examination by the OCIF, the Banks will be obliged to keep available at least, as applicable, copies of the following documents in relation to each Mortgage Loan originated or administered by them, on paper or digital:
- i. HUD I Settlement Statement
 - ii. Uniform Residential Loan Application
 - iii. Degree Study
 - iv. Cancellation Balance Letter
 - v. Deed of Sale
 - vi. Income Verification
 - vii. Deposit Verification
 - viii. Payment Receipt
 - ix. Evidence of the balance of the previous Mortgage Loan , if any.
 - x. Payment Receipt issued by the mortgagee
 - xi. Mortgage Balance Receipt issued by the creditor or servicer of the mortgage subject to cancellation
 - xii. Measurement plan
 - xiii. Assessment
 - xiv. Certification of debt and securities issued by the CRIM
 - xv. Title Policy
 - xvi. Flood Policy

- xvii. Loss Policy
- xviii. Presentation Minutes
- xix. Truth in Lending
- xx. Good Faith Estimate
- xxi. Mortgage Deed
- xxii. Promissory note
- xxiii. Right of Withdrawal Document
- xxiv. FHA or VA Warranty Certificates
- xxv. Credit Reports
- xxvi. Mortgage Deed Filing Ticket
- xxvii. Mortgage cancellation deed filing ticket
- xxviii. Invoice for each of the services provided to the client by third parties, including but not limited to attorneys, appraisers, and inspectors.

SECTION 18.8. FUNDS RETENTION

Any money held for payment to third parties or for the reserve account at the closing of a transaction will be deposited in a special escrow account of the Bank until it is disposed of according to its destination. The escrow account shall be subject to Regulation No. 3282 of 31 January 1986, as amended, known as the "Escrow Accounting Regulations".

SECTION 18.9. PROHIBITIONS

- (a) No person, member of the Board of Directors, member of committees, executive officer, officer, employee, or agent of the Bank shall:
 - (1) Advertise, display, distribute, broadcast, or permit to be advertised, displayed, distributed, or permitted to be advertised, displayed, distributed, or broadcasts, in a misleading and fallacious manner, information about the types, rates, terms and conditions of mortgage loans. If the types, rates, terms, and conditions are posted in the ads, they must comply with applicable state and federal laws and regulations;
 - (2) Making promises to customers for the purpose of trying to induce them to conduct business knowingly or with reason to know that such promise will not be fulfilled;
 - (3) Using a false representation for the purpose of inducing or persuading a person to conduct a business;
 - (4) Improperly withholding, unless otherwise agreed, any sum of money or documents related to a transaction or failing to inform a customer of his or her entitlement or any sum of money or documents that are part of a transaction;
 - (5) Inducing a party to a transaction to terminate a contract and make a new one when

the purpose of the new contract is to benefit or benefit the Bank;

- (6) Embezzlement or embezzlement of funds in their custody;
 - (7) Engaging in or inducing the falsification of documents that are part of a transaction;
 - (8) Offering and mortgaging a non-existent property, offering and mortgaging a property without the knowledge of the owner of the property, or when the title to the property is not clearly established;
 - (9) Overcharging to hold money in escrow accounts so that the lender has greater protection on the Mortgage Loan;
 - (10) Failing to provide customers with a breakdown of the costs of the mortgage loan or loans with substantial accuracy no less than twenty-four (24) hours prior to the issuance of the mortgage loan(s);
 - (11) Refuse to furnish any records, documents, or information in its custody relating to transactions in real property that the Office of the Commissioner of Financial Institutions wishes to examine;
 - (12) Allow or induce the customer to sign blank loan applications or have them available at a location other than that of the authorized business to be later completed by the broker or the Bank;
 - (13) Rendering, publishing, or making false reports or entries for the purpose of deceiving or defrauding any person or agent authorized by the Commissioner to examine the affairs of the Bank;
 - (14) Engaging in unfair or illegal competition practices.
- (b) Any person who takes part in, instigates or cooperates in the commission of these enumerated acts, regardless of whether or not the person obtained personal gain, shall also be guilty of violation.

CHAPTER XIX

POWERS AND RESPONSIBILITIES OF DIRECTORS

SECTION 19.1. POWERS AND RESPONSIBILITIES OF DIRECTORS

(a) Number of Directors and Residency Requirement

Except with the express authorization of the Commissioner, in the event of a vacancy arising from the death, incapacity, resignation or removal of a director, the Bank shall

appoint or elect a successor, as appropriate, at or before the next annual meeting of shareholders.

(b) Monthly Session

Meetings of a Bank's Board of Directors, of committees appointed by the Board or of a board committee shall be held at least once a month, provided, however, that a minimum of one meeting of the full Board of Directors shall be convened and held on a quarterly basis.

(c) Media for Meetings or Committees

Except as otherwise provided in the certificate of incorporation or bylaws, members of the board of directors or of any committee appointed by the board of directors, pursuant to the authority conferred upon them by this section, shall have the right to participate in any meeting or committee by telephone conference, or any other means of electronic or digital communication, through which all the participants in the meeting can be heard simultaneously and the presence of each of the directors can be reliably accredited. Participation of the meeting in the manner described above shall constitute attendance at such meeting.

**CHAPTER XX
SAFE DEPOSIT BOXES**

SECTION 20.1. SCOPE AND PURPOSE OF THE CHAPTER

This Chapter shall be applicable to the activities of the Banks related to the activity of operating safe deposit box leases.

The purpose of this Chapter is to establish clear and uniform guidelines for Banks related to the management and administration of safe deposit boxes.

SECTION 20.2. SPECIAL REMEDIES

In circumstances where a tenant fails to pay the safe deposit box rent or does not pick up the contents of the safe deposit box at the end of the lease. Every lessor shall be entitled to the following special remedies:

- a. In addition to any contractual remedies that may be available, if the amount due for the use or rental of a safe deposit box has remained unpaid for a period of six (6)

months, the lessor shall, within ninety (90) days of the expiration of such period, send by certified mail, addressed to the lessee or tenant of the safe deposit box, to the address on file, written notice that if the amount due for the use or rental of the safe deposit box is not paid within sixty (60) days from the date the notice is sent, the safe deposit box will be opened and its contents deposited in one of the general safe deposit boxes available to the institution.

- b. At any time after sixty (60) days from the date of sending the notice of non-payment, the lessor, in the presence of two (2) officers authorized for such purposes, and a notary public of Puerto Rico, shall open the safe deposit box and the contents thereof shall be removed. In his role as a State official, the notary public shall include a detailed description of the contents of the safe deposit box in a notarial act for that purpose. In cases where the landlord is certain that the tenant of the safe deposit box is deceased, this process will include a representative from the Department of Revenue who will also conduct an inventory of the contents.
- c. The lessor will be entitled to reimbursement for the expense incurred in the process of opening and preserving the contents of the safe deposit box.
- d. Any fund or other personal property, withdrawn from a safe deposit box or any other security deposit in Puerto Rico whose lease or rental period has expired for non-payment of rental expenses and which has not been claimed by the owner for more than five (5) years from the date the lease or rental period expired, shall be presumed abandoned.
- e. The financial institution shall be relieved of responsibility for the specific contents of the box and shall have discretion to dispose of the contents, including by sale, barter, or final disposition thereof, without authority or right to impute that the value received in the disposition is unreasonable.
- f. To the extent that the financial institution is able to monetize the contents for a value that exceeds the expense incurred by the financial institution during the custody of the asset, its process of opening the cash register and other procedures, including that of maximizing the value received in the sale, the remaining funds must be transferred to the OCIF as unclaimed funds in compliance with the applicable law and regulations.

CHAPTER XXI
ACTIVITIES INCIDENTAL TO FINANCIAL LEASING AUTHORIZED TO BANK SUBSIDIARIES

SECTION 21.1. BANKING SUBSIDIARIES ENGAGED IN LEASING

It shall be permissible for a banking subsidiary engaged in financial leasing:

- a) Dedicate up to 5% of its assets to activities incidental to financial leasing, such as short-term leasing. The Commissioner may, on a temporary basis, increase this proportion of assets devoted to incidental activities, but such increase may never exceed 10 per cent.
- b) Offer its customers preventive maintenance services to assets under lease agreements.

Services incidental to the leasing business authorized herein may be performed only by banking subsidiaries

CHAPTER XXII
OPERATIONAL ISSUES OF BANKS

SECTION 22.1. LEASING

Financial leasing is formalized as an eligible activity for financial institutions. The activities listed in Section 14(a)(m) of Act No. 55 are activities of a Bank and can therefore be carried out directly by the Bank.

SECTION 22.2. ANNUAL BALANCE

It is clarified that compliance with Section 27 of Act No. 55 by carrying out robust collection efforts, including through extrajudicial means. Provided that the requirement of section 27 of legal collection diligence is satisfied when the loan is under review by a specialized loan servicing group, with a robust record of recent judicial or extrajudicial collection efforts as part of the management of the loan.

SECTION 22.3. PUBLICATION OF REPORTS

Compliance with the publication of reports in a period of general circulation under Section 34 and 37(d) of Act 55 is also satisfied by digital methods only.

Any foreign bank or bank may satisfy the annual publication requirement under Section 34 and Section 37(d) of Act No. 55 if it publishes the same on its home page and in any other digital or print method readily accessible to the general public, including its social media, in accordance with the notice periods required by law.

SECTION 22.4. COPY OF NOTICE OR REPORT ON UNCLAIMED AMOUNTS

The paper list requirement under Section 37(a) of Act No. 55 is met by conspicuous notice of the availability of the list, including digital links for easy access at the branch.

Provided that the requirement of Section 37(a) of Act No. 55 to make the printed list available is satisfied, provided that the printed list is available at each branch of the Bank during the period established by law and virtual links to the list are available at the branches and conspicuous notice that it is available for review at the branch in the designated area.

SECTION 22.5. COMMISSIONER'S AUTHORIZATION TO SHARE CONFIDENTIAL SUPERVISORY INFORMATION

The Bank may share confidential supervisory information (i) with its directors, officers, employees, and the directors, officers, and employees of its affiliates; (ii) with the FDIC, CFPB, and the Federal Reserve, subject to the Bank's ability to demonstrate that the determination that such information was timely for purposes of a legitimate supervisory or regulatory process; and (iii) with external lawyers and auditors, when deemed appropriate or necessary. In addition, subject to certain documentation, it may be shared with certain service providers, mediating the corresponding precautionary measures.

CHAPTER XXIII PENALTIES

SECTION 23.1. REMEDIES AND SANCTIONS

(a) The Commissioner is authorized to:

- (1) Impose and collect administrative fines of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) for each violation of the provisions of this Chapter;
- (2) To impose the restitution or reimbursement of those payments received in contravention of the provisions of this Chapter, or such other remedy as it deems necessary to enforce the purposes of Act No. 55;

- (3) To impose and collect administrative fines of not less than one hundred dollars (\$100.00) nor more than five thousand dollars (\$5,000.00) for each day on which the Bank fails to comply with the requirements or orders issued by the Commissioner;
 - (4) When the nature of the violation of the Act, this Chapter, or the orders or resolutions issued by the Commissioner justify it, in addition to the imposition of the administrative fines authorized by the preceding paragraphs, the Commissioner may institute the corresponding legal action against the offender.
- (b) Any Bank which violates the provisions of the Act, this Chapter, or the orders and resolutions issued by the Commissioner, shall be guilty of a misdemeanor or felony under the provisions of the Act, and the Commissioner shall make such referrals as he deems necessary to the appropriate local and federal agencies.
 - (c) Each transaction in violation of the provisions of the Act or this Chapter constitutes a separate offense and each offense shall be individually punishable as such.

CHAPTER XXIV

DISCREPANCIES BETWEEN TEXT, EXCEPTION CLAUSE, REPEALS AND VALIDITY

SECTION 24.1 DISCREPANCY BETWEEN SPANISH AND ENGLISH TEXT

Where there are discrepancies between the text of the Spanish version and the text of the English version of these Regulations, the Spanish version shall prevail.

SECTION 24.2. TERMINATION CLAUSE

The provisions of these Regulations are independent and separable. If any word, phrase, sentence, subsection, article, rule, section, title or other provision of these Regulations is declared unconstitutional or null and void by a competent court, the remaining provisions thereof shall not be affected, impaired or invalidated. The effect of the nullity or unconstitutionality shall be limited exclusively to the word, phrase, sentence, subparagraph, article, rule, section, title or provision of these Regulations that has been so declared, and the regulations thus modified by the decision of said Court shall continue in full force and effect.

SECTION 24.3. REPEAL

The following Regulations and Circular Letters are repealed:

1. Regulation No. 5793, entitled "REGULATION NO. 5793: REGULATIONS OF THE BANKING LAW" of 12 May 1933 ("REGULATIONS OF THE BANKING LAW").
2. Regulation No. 6338, entitled "REGULATION NO. 6338: AMENDMENT TO REGULATION 5793 of May 12, 1998 ("REGULATIONS OF THE BANKING LAW").
3. Regulation No. 7441, entitled "REGULATION NO. 7441: SECOND AMENDMENT TO REGULATION 5793 of May 12, 1998 ("REGULATIONS OF THE BANKING LAW").
4. Regulation No. 8147, entitled "REGULATION NO. 8147: THIRD AMENDMENT TO REGULATION 5793 of May 12, 1998 ("REGULATIONS OF THE BANKING LAW").
5. Regulation No. 8322, entitled "REGULATION NO. 8322: FOURTH AMENDMENT TO REGULATION 5793 of May 12, 1998 ("REGULATIONS OF THE BANKING LAW").
6. Regulation No. 8480, entitled "REGULATION NO. 8480: FIFTH AMENDMENT TO REGULATION 5793 of May 12, 1998 ("REGULATIONS OF THE BANKING LAW").
7. Circular Letter Number CC 89-55-2 of June 8, 1989, Activities Incidental to Financial Leasing authorized to bank subsidiaries.
8. Circular Letter Number CC 94-55-2 of June 6, 1994, Offer of Uninsured Products to Retail Customers.
9. Circular Letter CIF Number CC-15-10 of December 15, 2015, Assets Eligible for the Legal Reserve; Repeal of Circular Letter Number CIF-CC-01-05.

SECTION 24.4. VALIDITY

These Regulations shall enter into force thirty (30) days after their presentation to the Department of State of the Government of Puerto Rico, in accordance with the provisions of Act No. 38-2017, including the laws that are subsequently adopted to amend or replace it.

This was approved by the Commissioner of the Office of the Commissioner of Financial Institutions in San Juan, Puerto Rico, today, May ____, 2025.

Lcda. Natalia I. Zequeira Díaz
Commissioner