



COMISIONADO DE INSTITUCIONES FINANCIERAS

GOBIERNO DE PUERTO RICO

JOSEPH P. O'NEILL
COMISIONADO

CARTA CIRCULAR NÚMERO CIF CC-00-3

A : ENTIDADES BANCARIAS INTERNACIONALES

FECHA : 31 de julio de 2000

ASUNTO: CERTIFICACION REQUERIDA POR EL ARTÍCULO 11.2.b
DEL REGLAMENTO NÚMERO 5653

SECCIÓN I AUTORIDAD

Esta Carta Circular se emite al amparo de las disposiciones de la Ley Núm. 4 de 11 de octubre de 1985, según enmendada, conocida como la Ley de la Oficina del Comisionado de Instituciones Financieras y la Ley Núm. 52 de 11 de agosto de 1989, según enmendada, conocida como Ley Reguladora del Centro Bancario Internacional (la Ley).

SECCION II PROPOSITO

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El Artículo 11.2.b del Reglamento Núm. 5653 conocido como Reglamento del Centro Bancario Internacional (el Reglamento) dispone que "Junto con dichos estados financieros se incluirá una declaración de que la Entidad Bancaria Internacional (la EBI) está en cumplimiento con los términos de la Ley y con el Reglamento, mediante la cumplimentación del Formulario que de tiempo en tiempo diseñe y circule el Comisionado mediante Carta Circular a esos efectos. Dicho Formulario será certificado por un Contador Público Autorizado independiente ejerciendo bajo las leyes de Puerto Rico" (un CPA).

Mediante la Carta Circular 52-1 del 27 de mayo de 1993, la Oficina del Comisionado de Instituciones Financieras (la Oficina) proveyó un formulario para ser utilizado por un CPA para certificar que la EBI está en cumplimiento con la Ley y el Reglamento. Sin embargo, los estándares que rigen a los CPAs, al igual que a la propia industria financiera, han experimentado cambios que hacen conveniente modificar la forma y manera en que un CPA certifique tal cumplimiento conjuntamente con los estados financieros anuales auditados de la EBI.

A tenor con lo antes expuesto, esta Carta Circular tiene como propósito establecer el requisito de que la Gerencia de la EBI haga aseveraciones sobre el cumplimiento de la EBI con los

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términos de la Ley y con el Reglamento y establecer específicamente cuales deben ser tales aseveraciones a hacerse. Además establece los procedimientos que un CPA tendrá que desempeñar para poder atestar sobre la razonabilidad de tales aseveraciones hechas por la Gerencia.

SECCIÓN III FORMULARIO

Se acompañan como Anejo A, B, y C, respectivamente, las aseveraciones en torno al cumplimiento con la Ley y el Reglamento a ser hechas por la Gerencia de la EBI, el informe del CPA de atestación a la razonabilidad de éstas, así como el programa de procedimientos específicos mínimos que el CPA tendrá que llevar a cabo para poder hacer tal atestación.

SECCIÓN IV CONTENIDO DE LA CERTIFICACIÓN REQUERIDA

De acuerdo con el Artículo 11.2.b del Reglamento, dicho Formulario será certificado por un CPA. La certificación constituye un anejo de los estados financieros anuales auditados de la EBI. Por lo tanto, además de lo requerido en el formulario adjunto a esta Carta Circular, los estados financieros deberán cumplir con los Principios de Contabilidad Generalmente Aceptados ("Generally Accepted Accounting Principles") o, con la previa aprobación de la Oficina, con los requisitos equivalentes de otras jurisdicciones con los ajustes, notas y explicaciones necesarias para conformarlos con los Principios de Contabilidad Generalmente Aceptados en los Estados Unidos de América.

SECCIÓN V DEROGACIÓN

La Carta Circular Núm 52-1 emitida el 27 de mayo de 1993, por la presente queda derogada.

SECCIÓN VI VIGENCIA

Las disposiciones de esta Carta Circular comenzarán a regir inmediatamente.





EXHIBIT A

_____, _____ (Date of the financial statements)

To the Office of the Commissioner of
Financial Institutions and
_____, _____ (CPA)

Sirs:

In connection with your examination of our books and records to test our compliance with the provisions of Act No. 52 of August 11, 1989, as amended, known as International Banking Center Regulatory Act (Act No. 52), and Regulation No. 5653, known as the Regulation of the International Banking Center (Regulation No. 5653), for the year ended _____, _____ we represent the following:

1. We are responsible for compliance with Act No. 52 and Regulation No. 5653.
2. We have performed an evaluation of _____'s (Name of the Institution) compliance with the requirements of Act No. 52 and Regulation No. 5653.
3. We have complied with the provisions of Sections 7, 8, 9, 10, 11, 12, 13, 14 and 15 of Act No. 52.
4. We have complied with the provisions of Articles 5, 6, 7, 8, 9, 10 and 11 of Regulation No. 5653.
5. We have disclosed to you and the Office of the Commissioner of Financial Institutions all known noncompliance with Act No. 52 and Regulation No. 5653.
6. We have made available to you all documentation related to compliance with Act No. 52 and Regulation No. 5653.
7. We have disclosed all communications from the Office of the Commissioner of Financial Institutions, internal auditors, and other regulatory agencies concerning possible noncompliance with Act No. 52 and Regulation No. 5653.
8. We have disclosed any noncompliance with Act No. 52 and Regulation No. 5653 occurring subsequent to _____, _____. (Date of the financial statements)

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Very truly yours,

Chief Executive Officer

Chief Financial Officer

Comptroller



EXHIBIT B

INDEPENDENT AUDITOR'S REPORT

To the Board of Directors

_____ (Name of the Institution)

_____ (Town)

We have examined management's assertions about _____'s compliance with the requirements (the requirements) of Sections 7, 8, 9, 10, 11, 12, 13, 14, and 15 of Act No. 52 of August 11, 1989, as amended, known as International Banking Center Regulatory Act (Act No. 52), and Articles 5, 6, 7, 8, 9, 10 and 11 of Regulation No. 5653 of the Office of the Commissioner of Financial Institutions known as the Regulation of the International Banking Center (Regulation No. 5653), during the year ended _____ included in the accompanying Exhibit A. Management is responsible for _____'s compliance with the requirements. Our responsibility is to express an opinion on management's assertions about _____'s compliance with the requirements based on our examination.

Our examination was made in accordance with standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence about _____'s compliance with the requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on _____'s compliance with the requirements.

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In our opinion, management's assertions that _____ complied with the requirements for the year ended _____ are fairly stated in all material respects.

The accompanying Exhibit B includes all instances of noncompliance which are reportable in accordance with the provisions of the Examination Guide issued by the Office of the Commissioner of Financial Institutions. This report is solely for the purpose of complying with the provisions of Article 11.2.b of Regulation No. 5653 and is intended solely for the information and use of the Board of Directors and management of _____, and the Office of the Commissioner of Financial Institutions and others responsible for the administration of the aforementioned regulation, and is not intended to be and should not be used by anyone other than these specified parties.

_____ (Signature of CPA)

_____ (Date of the financial statements)



EXHIBIT C

INTERNATIONAL BANKING ENTITIES EXAMINATION GUIDE

1. Verify that the International Banking Entity (IBE) occupies an office space in Puerto Rico which has been approved by the Commissioner of Financial Institutions (the Commissioner), where its records, documents, files and equipment are maintained. Also ascertain that the place and the activities of the IBE are segregated from any other activity carried out by the person of which the IBE is a unit (Article 5 of Regulation No. 5653 known as the Regulation of the International Banking Center (the Regulation)).
2. Verify that since the beginning of operations the IBE has employed a minimum of four (4) full time employees in its offices in Puerto Rico except as otherwise formally authorized by the Commissioner (Section 13 of Act No. 52 named International Banking Center Regulatory Act (the Act) and Article 5 of the Regulation).
3. Verify that any material change in the information included in the application of the permit has been informed to the Commissioner (Article 6 of the Regulation).
4. Verify that the IBE did not commence operations until after obtaining the license from the Commissioner (Section 7 of the Act).
5. Ascertain that the license has not been sold, assigned, transferred, pledged, used as a guarantee or in any other way encumbered (Section 11 of the Act and Article 7 of the Regulation).
6. Verify that no amendment has been made to the articles of incorporation, partnership agreement or other written document establishing the IBE, unless previously approved, in writing, by the Commissioner (Section 8 of the Act and Article 8 of the Regulation).
7. Examine evidence that, after adopting any amendment to the articles of incorporation, partnership agreement or other written document establishing an IBE or to any certification executed in accordance with Section (5) of the Act, the IBE has filed such amendment with the Department of State (Section 8 of the Act).
8. Verify that the IBE possesses not less than three hundred thousand dollars (\$300,000) of unencumbered assets or financial guarantees acceptable to the Commissioner (as defined by Article 5 of the Regulation) or a lesser amount expressly authorized by the Commissioner. Also verify that these financial instruments have an aggregate market value equal to or greater than the amount required by the Commissioner and that the books of the IBE reflect at all times, the marked to market value of such financial instruments including providing for the deficiency resulting from loss of value (Section 9 of the Act and Article 5 of the Regulation).

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9. Ascertain that the capital has not been reduced without the prior written approval of the Commissioner (Section 9 of the Act and Article 8 of the Regulation).
10. Ascertain that for any additional issue of shares of capital stock or issuance of additional capital by an IBE (except by the person of which the IBE is a unit) not made directly to the owners or shareholders identified on the permit application submitted by the IBE, the IBE has obtained a written approval from the Commissioner. This approval shall be requested at least thirty (30) days prior to the issue (Article 8 of the Regulation).
11. Determine the IBE's compliance, if applicable with Article 9 of the Regulation (related to Section 10 of the Act), which states in part:
 - a. Transactions which involve 10% or more of the stock. Every IBE, except those organized as a unit of another person, shall obtain the prior written approval of the Commissioner for any sale, encumbrance, assignment, merger, barter, exchange or other transfer of ten percent (10%) or more of the stock, interest or participation in the capital of said IBE, to a person or group of persons acting in concert, in a single transaction or a series of transactions for that purpose, or which results in the ownership or control by any person or group of persons acting in concert, of ten percent (10%) or more of the stock, interest or participation in the capital of said IBE. Said authorization shall be requested at least thirty (30) days prior to the proposed date of such transaction.
 - b. Transactions among affiliated entities. A parent company may sell, transfer, encumber, merge, exchange or otherwise negotiate all or any of its stock, interest or capital participation in such IBE to any other person, that is not an individual, that is owned by, owns, or is under common ownership or control with such parent company with prior notification to the Commissioner. The IBE shall notify the Commissioner no less than twenty (20) days prior to the date of the proposed transaction.

Such notification shall contain the details of the proposed transaction. If the Commissioner does not object to the proposed transaction within the term of 20 days, it may be carried out in the way it was notified to the Commissioner.
12. Ascertain that the IBE engages exclusively in the activities authorized on the license granted by the Commissioner (Section 12 of the Act and Article 10 of the Regulation).
13. Determine the IBE's compliance with Article 11 of the Regulation (related to Section 14 of the Act), which requires the following as to accounts and records:
 - a. Every IBE must maintain accounts and records of all the transactions performed by it in the normal course of its operations. The records of the IBE shall consist of entries written in ink or typewritten, computerized printouts and

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other legible printed forms. The original accounting books and records shall be kept in the IBE's place of business in Puerto Rico. Nevertheless, in the event that the IBE is a unit or subsidiary of a foreign person, the original accounting books and registers of the IBE may be recorded and kept in duplicate in the country of origin. The accounting books and records of the IBE shall be separate and apart from the accounting books of any other person, including the person of which the IBE is a unit or subsidiary.

- b. The records of lending transactions and other extensions of credit must include original documents or photocopies and information which includes account number, the name, physical and postal address and occupation of the debtor, a statement of the proposed use of the loan and the terms and condition of the same. The IBE shall have the flexibility to manage and identify the deposit accounts in its possession as it may deem appropriate, provided it maintains in its files a record of every account available for examination by the Commissioner or his authorized representatives, which includes at least the account number and the name, physical and mailing address and the occupation of the depositors.
- c. The records of the IBE and the working documents of the external auditors must be available for examination by the Commissioners examiners for a period of at least five (5) years after the closing of the fiscal year of the IBE in which the records were made.

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- 14. Determine the IBE's compliance with Article 11 of the Regulation (related to Section 15 of the Act), which requires the following as to reports that the IBE needs to submit to the Commissioner:
 - a. A quarterly report of its financial condition and results of operations within thirty (30) days after the close of the quarter.
 - b. Annual audited financial statements, as of the close of its fiscal year and annual audited financial statements of the person of which it is a unit, prepared consistently with the reports of condition filed quarterly. Together with the financial statements, the IBE shall include a statement, certified by an independent certified public accountant, licensed to practice in Puerto Rico, stating that the IBE is complying with the Act and this Regulation. The above mentioned financial statements shall be submitted to the Commissioner within ninety (90) days after the close of the fiscal year.
- 15. Verify Compliance with Circular Letter 93-55-01 dated May 28, 1993.
- 16. Verify compliance with any conditions imposed by the Commissioner including those established at the time of granting the permission to organize and upon granting the license to operate.