

## **Banking Law No. (1) of 1373 P.D. (2005)**

### **Chapter One – The Central Bank**

#### **Section 1 – Nature and Functions of the Central Bank of Libya**

##### **Article 1**

The Central Bank of Libya shall be an autonomous institution with the status of a legal entity with independent financial liability. In this chapter, the word “Bank” refers to the Central Bank of Libya.

With the exception of matters related to the implementation of the Penal Code or the Law on Administrative Attachment, the Central Bank of Libya’s funds shall be considered its own funds and may not be attached to pay the debts of other entities.

##### **Article 2**

The Bank shall be under the auspices of the secretariat of the General People’s Congress and shall carry out its duties in pursuit of its objectives as stipulated in this law within the framework of the government’s general policy. To this end, the Central Bank of Libya may adopt the principles and procedures it deems appropriate, and it may establish rules and regulations related to its operations and to financial, administrative, or other matters by means of decrees of the board of directors.

##### **Article 3**

The head office of the Central Bank of Libya shall be in the city of Tripoli. The Bank may establish branches or appoint agents or correspondents elsewhere within or outside of Libya by decree of the board of directors.

##### **Article 4**

The authorized capital of the Central Bank of Libya shall be LD500 million, which may be increased by decree of the secretariat of the General People’s Congress, upon the recommendation of the board of directors, in coordination with the secretariat of the General People’s Committee on Finance.

## **Article 5**

I. The Bank shall have the following duties and responsibilities:

1. Issue the Libyan currency and maintain its stability within Libya and abroad.
2. Manage the government's reserves of gold and foreign exchange.
3. Regulate monetary policy and supervise currency conversion transactions within Libya and abroad.
4. Regulate credit and banking policy and supervise its implementation within the framework of the government's general policy.
5. Achieve the goals of economic policy in terms of stabilizing the general level of prices and maintaining the soundness of the banking system.
6. Manage the liquidity of the national economy.
7. Regulate and supervise the foreign exchange market.
8. Provide advice to the government on matters related to the general economic policy.

II. In carrying out the above-mentioned duties the Central Bank of Libya may:

1. Exert control on the amount, type, and period of credit available to ensure that the actual needs of economic factors involved in production and services will be met.
2. Take appropriate measures to deal with economic and financial troubles, whether domestic or international.
3. Monitor and supervise banking institutions to ensure the soundness of their financial position, monitor their performance, and protect the rights of their depositors and customers.
4. Supervise the national system of payments, including clearing operations between banks subject to the provisions of this law, and develop regulations to govern the system.
5. Any other measures required to implement the monetary, credit, and banking policies and enhance the supervision of banking credit.

## **Article 6**

The Bank may execute the following transactions in the course of engaging in its activity:

1. Purchase, sell, import, export, and transact in gold bars and coins.

2. Purchase and sell foreign currencies.
3. Rediscount domestic commercial paper and promissory notes according to the rules established by the Central Bank of Libya's board of directors.
4. Manage and develop the government's gold and foreign exchange reserves.
5. Purchase, sell, or guarantee treasury notes and bonds with terms of up to 15 years.
6. Purchase and sell notes and bonds with terms of up to 15 years that are issued or guaranteed by foreign governments or international financial institutions.
7. Issue and transact in securities for open-market transaction purposes consistent with the Central Bank of Libya's nature and functions.

#### **Article 7**

The Bank may discount and rediscount loans granted by banks subject to the provisions of this law. Discount, rediscount, and interest rates shall be set by decree of the Central Bank of Libya's board of directors according to the nature and terms of these loans and the general monetary and credit policy.

#### **Article 8**

If there emerges a financial or other economic disturbance that affects credit stability or requires meeting the needs of the financial market, the Central Bank of Libya may grant banks exceptional loans guaranteed by any of the Central Bank of Libya's assets specified by the Central Bank of Libya's board of directors according to the terms stipulated by the latter.

#### **Article 9**

The Central Bank of Libya shall provide banking services according to the following rules:

1. The Bank shall engage in banking activities relating to public administrative units required to deposit their balances in the Central Bank of Libya, and it shall provide banking services to those units. The Bank shall not pay any interest on the sums and balances deposited in the accounts of public administrative units, and it shall not collect any fee for the banking services that it provides to such units.

2. The Bank may accept deposits from, and provide banking services to, public entities and enterprises. The Bank shall collect consideration for the banking services that it provides according to the provisions of this paragraph and the banking services price list issued by decree of the Central Bank of Libya's board of directors.
3. The Bank may, with the approval of the Financial Secretariat, assign commercial banks to hold the account balances of several public administrative units and provide banking services to these units based on the limits and terms decreed by the Central Bank of Libya's board of directors.

#### **Article 10**

The government may assign the Central Bank of Libya to manage public treasury notes and bonds and loans contracted by the government. The government may also assign the Central Bank of Libya to service and amortize such debt, manage the government's contributions, and advise the government thereon.

#### **Article 11**

- I. Without prejudice to articles 7,8 and paragraph II of this article, the Central Bank of Libya may not grant facilities or guarantees to any party directly or indirectly.
- II. The bank may provide temporary advances to the public treasury to cover any temporary deficit in general budget revenues based on terms agreed between the Central Bank of Libya and the Financial Secretariat, which must include the following:
  - a. Such advances must not exceed one-fifth of the total estimated revenues in the general budget.
  - b. Any advance must be repaid at the end of the fiscal year in which it was provided. No advance may be provided to the public treasury in a given fiscal year until after the advances provided to the public treasury during the previous fiscal year have been repaid.

#### **Article 12**

The government may assign to the Central Bank of Libya functions and duties arising from the government's membership in international financial

institutions. It may also assign the Central Bank of Libya to participate in representing the government in contacts, negotiations, and operations conducted with foreign governments and international organizations regarding monetary, financial, or commercial matters.

### **Article 13**

The Central Bank of Libya may purchase or rent the real estate or moveable property that it requires for its offices or warehouses or the housing of its employees. It may not acquire any other real estate or moveable property in payment of a debt owed to it by another party unless ownership of the real estate or moveable property is transferred to it. Real estate and moveable property so acquired shall be sold within six months and five years respectively of the date on which it is transferred to the Central Bank of Libya unless the board of directors decides to extend these periods.

## **Section 2 - Management of the Central Bank of Libya**

### **Article 14**

A board of directors comprising the following shall manage the Central Bank of Libya:

The chairman of the board of directors: the governor.

The deputy chairman of the board of directors: the deputy governor:

Members: the under-secretary general of the Secretariat of finance; and four persons who are highly qualified in legal, financial, banking, or economic affairs.

### **Article 15**

The governor, deputy governor, and the members of the board of directors must:

1. Possess Libyan citizenship.
2. Not be linked to any other member of the board of directors by a fourth-degree kinship tie.
3. Not be stripped of civil and political rights.
4. Not have interests that conflict with their duties or that would influence their neutrality in deliberations and decision making.

## **Article 16**

- I. The Central Bank of Libya's board of directors shall be responsible for discharging the authorities relating to the achievement of the Central Bank of Libya's goals and purposes. It shall also be responsible for formulating and implementing monetary, credit, and banking policies in the scope of the government's general policy. For this purpose, it may exercise all authorities, particularly the authority to:
  1. Determine the monetary policy tools and means that may be used and the procedures for implementing them.
  2. Determine the rules for valuating assets backing Libyan banknotes.
  3. Establish rules that regulate the supervision and control of banks according to the provisions stated in this law.
  4. Establish supervisory criteria and controls that ensure the soundness of the banks' financial positions and smooth operation; issue the decrees needed to implement such criteria and controls; evaluate efforts to supervise credit provided by banks; and monitor the application of criteria for credit quality and financial soundness.
  5. Approve the budget, financial statements, and reports prepared by the Central Bank of Libya on its financial position and activity results.
  6. Approve the Central Bank of Libya's organizational structure. This structure may include units of a special nature which have technical, financial, and administrative autonomy whose establishment shall be decreed by the governor.
  7. Appoint the directors of the executive departments in the Central Bank of Libya based on the governor's recommendation.
  8. Establish: bylaws governing the Central Bank of Libya's operations and financial, administrative, and technical affairs; rules for auctions and tenders; regulations governing bank employees; and other rules and regulations that ensure the achievement of the objectives stipulated in this law.
  9. Grant the license for commercial, specialized, financing and investment banks and other banks, and establish the rules that regulate and govern their activities and introduce their memorandum of agreement and articles of association.
  
- II. The Central Bank of Libya's board of directors may assign one or more technical committees comprising board members or others to study the subjects presented to the board of directors.

## **Article 17**

The governor and the deputy governor shall be appointed by decree of the General People's Congress for a period of five years. They may be reappointed. The four members other than the under-secretary general stipulated in Article 14 of this law shall be appointed by decree of the secretariat of the General People's Congress, after consultation with the governor, for a period of three years. They may be reappointed.

## **Article 18**

- I. The governor of the Central Bank of Libya shall be the executive chief of the Central Bank of Libya. He shall be responsible for managing the Central Bank of Libya and discharging its normal affairs under the board of directors' supervision. He shall be authorized to:
  1. Convene the board of directors for a meeting, manage the activities of the board of directors' secretariat, and implement the board of directors' decisions.
  2. Manage, supervise, and monitor the activities of the Central Bank of Libya.
  3. Adopt, supervise, and direct investment policies.
  4. Sign solely on behalf of the Central Bank of Libya.
  5. Represent the Central Bank of Libya in its relationships with public and other entities and before the judiciary.
  
- II. The deputy governor shall discharge the governor's functions and authorities in the governor's absence. The governor may authorize the deputy governor to discharge any powers and authorities delegated to the governor under this law and under regulations and decrees issued pursuant to it—including administrative supervision of the daily activity in the Central Bank of Libya's departments and the signing of documents and instruments that entail financial obligations for the Central Bank of Libya—as stipulated by the administrative regulations and the rules regulating the Central Bank of Libya's activity.

## **Article 19**

The board of directors shall be convened by the governor, or by the deputy governor in the governor's absence, for a meeting at the Central Bank of

Libya's head office at least once every month. The board of directors may also convene based on the request of a majority of its members. A board meeting shall not be valid unless it is attended by more than one-half of the board members, including the governor or his deputy. The board's decisions shall be issued by an absolute majority of the votes of the members present. In the event of a tie vote, the chairman's vote shall be decisive. The board may invite to its meetings any expert whose assistance it deems appropriate to seek or any Central Bank of Libya employee, neither of whom shall have the right to vote. The board may convene outside the Central Bank of Libya's head office, provided it meets inside Libya.

#### **Article 20**

The governor and deputy governor shall receive the remunerations decreed for them by the General People's Congress, other members of the board shall receive the remunerations decreed to them by the General People's Congress based on the governor's recommendation. These remunerations may not be reduced during their membership. Nor may they be—in full or in part—in the form of a commission regardless of its type or determined based on the Central Bank of Libya's profits.

#### **Article 21**

All member of the board of directors must, within 15 days of their appointment, provide notice of the shares and stocks that they own in companies, enterprises, or other entities. They must provide notice in the same way of any change that occurs in this information. No member of the board of directors may obtain any credit facilities from the Bank during his membership tenure.

#### **Article 22**

- I. A board member's membership on the board of directors shall be cancelled in any of the following cases:
1. The member no longer fulfills the conditions for membership.
  2. The member has been sentenced for a crime involving a breach of trust.
  3. The member worked as an employee, manager, or member of the board of directors of a bank subject to the provisions of this law.



II. A member may be dismissed from his position by decree of the secretariat of the General People's Congress before the end of his tenure if he is unable to perform his duties for a period of four consecutive months due to illness or another reason. If the position of one of the members becomes vacant before the end of his tenure for any reason, another member shall be appointed to take his place for the remaining period of this tenure.

### **Section 3 - The Central Bank of Libya's Accounts**

#### **Article 23**

The Central Bank of Libya's fiscal year shall start and end at the start and end of the state's fiscal year.

#### **Article 24**

Immediately after the end of the last day of each month, the Central Bank of Libya shall prepare and publish a statement of its assets and liabilities at the close of its operations on that day or at the close of the immediately preceding business day if the last day of the month is a holiday. It shall send a copy of this statement to the secretariat of the General People's Congress and the secretariat of the General People's Committee. The statement shall also be published in the Register of Procedures.

#### **Article 25**

The Financial and Technical Supervision Authority shall be responsible for auditing the Central Bank of Libya's accounts according to the nature of the activity of central banks and the international auditing and accounting standards.

#### **Article 26**

The Bank shall prepare the following within four months of the end of its fiscal year:

- a. Financial statements for the ending fiscal year according to the nature of the activity of central banks and the international accounting standards.

- b. A report on the Central Bank of Libya's financial position for the ending fiscal year. This report shall in particular present domestic and international economic, fiscal, monetary, and banking conditions.

These financial statements and reports shall be submitted within the aforesaid period to the secretariat of the General People's Congress after they are approved by the board of directors and the Financial and Technical Supervision Authority. The financial statements shall also be published in the Register of Procedures.

#### **Article 27**

- a. Book profits and losses resulting from the net revaluation of the Central Bank of Libya's assets and liabilities due to a change in the par value of the Libyan dinar shall be recorded in an account designated the "revaluation reserve account."
- b. Losses resulting from revaluation shall be deducted from the credit balance in the account stipulated in the previous paragraph. If the balance does not suffice to cover these losses, the Public Treasury shall issue, for the Central Bank of Libya, bonds in the value of the deficit. These bonds shall be valued in the domestic currency and shall not bear interest.
- c. In the event of a credit balance in the "revaluation reserve account," the Central Bank of Libya shall, at the end of each fiscal year, cover the value of the bonds mentioned in paragraph (b), in coordination with the Secretariat of Finance. If this value is covered, the Central Bank of Libya shall retain 25 percent of the remaining balance. Any remaining balance shall be used to extinguish the public debt. If the public debt is paid, the remaining balance shall be allocated to finance the deficit, if any, in the general budget.

#### **Article 28**

After subtracting all expenses, the Central Bank of Libya's social security contribution for its employees, bad and doubtful debts provisions, asset depreciation, reserves designated to cover any shortfall in the Central Bank of Libya's assets, any other reserves required by international accounting standards, other normal and unforeseen expenses, and the public treasury's

share of profits resulting from the currency issue operations stipulated in Article 40 of this law, net profits shall be added to the Central Bank of Libya's general reserve balance at the end of the fiscal year as follows:

1. All net profits shall be added until the general reserve totals one-half of authorized capital.
2. If the general reserve reaches one-half of capital, 25 percent of net profits shall be added to the general reserve until it totals authorized capital.
3. If the general reserve equals capital, 10 percent of net profits shall be added to the general reserve until its totals twice the amount of authorized capital.
4. If the general reserve reaches twice the amount of capital, 5 percent of net profits shall be added to the general reserve balance until it totals 10 percent of the Central Bank of Libya's total assets.
5. Net profits remaining thereafter shall be transferred to the public treasury.

#### **Article 29**

The Bank shall be exempt from all taxes and duties.

### **Section 4 - Issuance of Money**

#### **Article 30**

The Bank alone shall have the prerogative to issue currency in Libya. In the application of the provisions of this section, currency shall mean banknotes and coins. The Central Bank of Libya's board of directors may set and stipulate rules and principles for the issuance of currency, and it may establish currency specifications and denominations. Banknotes must bear the signature of the governor.

#### **Article 31**

The currency unit in Libya shall be the Libyan dinar. Each dinar shall be divided into 1000 dirhams. The Central Bank of Libya's board of directors shall set the par value of the Libyan dinar in SDRs or any convertible foreign currency or according to supply and demand in the foreign exchange market.

### **Article 32**

The Bank, in coordination with the General People's Committee, shall set and shall be responsible for managing, the exchange rate of the Libyan dinar against foreign currencies according to domestic and international financial and economic developments so as to achieve the interests of the national economy.

### **Article 33**

The banknotes issued by the Central Bank of Libya shall have unlimited debt discharge power. Coins issued shall have debt discharge power up to LD25. That notwithstanding, this currency shall be accepted at all public treasuries and banks in Libya regardless of its value.

### **Article 34**

The Central Bank of Libya's board of directors may withdraw from circulation any banknotes or coins that it issues, and it may invalidate any denomination thereof in exchange for payment of the nominal value thereof. In this latter case, an announcement shall be published in the Register of Actions and in domestic newspapers at least two months before the date set for the invalidation. Currency that is invalidated shall be cancelled, as shall currency withdrawn from circulation in order to exchange it for other, new currency if it is not suited for recirculation. The cancelled currency shall then be destroyed by the method specified by the board of directors.

### **Article 35**

The Central Bank of Libya shall not be required to pay the value of any lost, burned, destroyed, disfigured, or defective banknotes or coins except in the case of coins that have become defective as a result of the normal circulation thereof.

Nonetheless, the Central Bank of Libya's board of directors may specify cases in which the value of damaged, disfigured, or defective banknotes shall be paid according to the conditions and requirements decreed by the board of directors.

### **Article 36**

The total value of banknotes and coins in circulation must always correspond to assets comprising:

1. Gold bars or coins, or convertible foreign currencies, or SDRs, the value of all of which shall not be less than 30 percent of the total assets of the issue.
2. Treasury notes and bonds issued by the public treasury in Libya, whose period of maturation shall not exceed 15 years from the date on which they are acquired by the Central Bank of Libya and whose value must not exceed 20 percent of the total assets of the issue.
3. Securities issued or guaranteed by international financial institutions or foreign governments which may be retained in their currencies under paragraph (1) of this article, and which become payable within 15 years from the date of the Central Bank of Libya's acquisition of them. The value of such securities shall not exceed 50 percent of the total assets of the issue. The board of directors may decide to retain, within this percentage, foreign bonds that become payable within 15 years of the date of the Central Bank of Libya's acquisition of the bonds, provided the value of the bonds does not exceed 10 percent of the total of the assets of the issue.
4. Other bonds specified by the board of directors of the Central Bank of Libya that are issued by international banks and financial institutions, whose currencies are convertible and may be circulated in international financial markets and whose maturation period does not exceed ten years from the date of the Central Bank of Libya's acquisition of the bonds.

### **Article 37**

Gold, foreign exchange, and foreign assets formed to cover an issue shall be deposited in the Central Bank of Libya's safes or in any of the authorized banks abroad. The deposit shall be in the name of, and to the credit of, the Central Bank of Libya.

### **Article 38**

There shall be a department for banknote and coin issuance in the Central Bank of Libya. The accounts and operations of this department shall be designated separately and distinctly from the Central Bank of Libya's other accounts and operations. All of the expenses arising from the preparation,

issuance, putting into circulation, withdrawal, and destruction of banknotes and coins shall be subtracted from the assets of this department.

### **Article 39**

Banknotes or coins may be paid by the Issue Department to the Central Bank of Libya's other departments and branches or to any person only against payment of the value there of in Libyan currency or against assets that form a portion of the assets of the concerned department or branch according to the terms and conditions decreed by the Central Bank of Libya's board of directors.

### **Article 40**

The profits resulting from currency issue operations shall be distributed at the end of each fiscal year at a rate of 80 percent to the Public Treasury and 20 percent to the Central Bank of Libya. The distribution shall be effected after the deduction of all expenses approved by the auditors and the setting aside of a reserve that suffices to cover any decline in the value of assets. The reserve shall be determined by decree of the Central Bank of Libya's board of directors.

## **Section 5 - Regulation of Foreign Exchange Transactions**

### **Article 41**

Without prejudice to the provisions of Article 42 of this law, any natural person or legal entity may retain any foreign exchange that he/it owns or possesses or that is transferred to him/it and may execute any foreign exchange transaction, including transfers to Libya or abroad.

### **Article 42**

A Libyan public entity may not retain foreign exchange unless it stems from the return on its activity. In this case, it must keep the foreign exchange in an account with the Central Bank of Libya or in an account with a national bank that operates in Libya.

### **Article 43**

Without prejudice to the provisions of the previous article, commercial banks operating in Libya may open accounts in foreign exchange for natural persons and legal entities that are fed by:

1. Deposits in foreign exchange.
2. Sums transferred from abroad.
3. Sums transferred from another domestic account in foreign exchange.
4. The foreign currency equivalent that the commercial bank receives for its purchase of foreign banknotes, traveler's checks, or other means of payment in foreign exchange credited to the account.
5. Banking interest on the aforesaid accounts.
6. Any other legal channel.

### **Article 44**

The accounts provided under the previous article shall be used for the following purposes:

1. Cash payment in foreign currency to the account holder himself or to any payee whom he specifies.
2. The execution of transfers in a foreign currency inside Libya or abroad based on the account holder's request.
3. Transfers to another account in foreign exchange.
4. Any other legal purposes.

### **Article 45**

Banks may, based on an account holder's request or authorization, purchase all or a portion of the balance of the [account holder's] account in foreign currency in exchange for any other currency at the exchange rate prevailing on the date of the purchase according to the rules and conditions decreed by the Central Bank of Libya.

### **Article 46**

Engagement in money changing activities and financial services shall be by permission of the Central Bank of Libya. The Central Bank of Libya's board of directors shall establish rules that regulate such activities and the granting of and cancellation of licenses to engage in such activities.

**Article 47**

Foreign exchange transactions shall be executed through banks and entities that are licensed for this purpose by the Central Bank of Libya. Each such bank and entity must prepare a periodic statement of the foreign exchange that it sells or buys, the foreign exchange transfers that it executes and receives, foreign exchange that it receives for transactions involving the export of goods and services, and foreign exchange balances at its disposal. It must transfer all such foreign exchange to the Central Bank of Libya at the times stipulated by the Central Bank of Libya.

**Article 48**

The value of goods and services inside Libya shall be paid in the Libyan dinar. The equivalent value thereof in means of banking payment authorized by the Central Bank of Libya may be accepted.

**Article 49**

It shall be prohibited to bring into or take out of Libya Libyan currency except in the cases and according to the conditions stipulated by the board of directors of the Central Bank of Libya in a decree published in the Register of Actions.

**Article 50**

Customs officials may exercise the authorities granted to them under the Customs Law regarding that which pertains to the enforcement of this section and the regulations and decrees issued under it.

**Article 51**

The payment of a debt owed to a creditor not resident in Libya to a frozen account in the creditor's name with an accredited bank in Libya, when the transfer of the debt payment to abroad is not feasible for any reason, shall release the debtor from the debt provided the Central Bank of Libya permits such payment. The Central Bank of Libya shall set the conditions and terms for the disposal of such an account.



## **Article 52**

Transfers and transactions of a capital nature from and to Libya may be executed according to the terms and conditions set by the board of directors of the Central Bank of Libya.

## **Article 53**

Commercial banks operating in Libya may grant credit in foreign exchange with sufficient guarantees of the recovery of the value thereof in foreign exchange at the designated times. They may also transact in foreign exchange among themselves within the limits of the balances that they are permitted to receive under rules established by the board of directors of the Central Bank of Libya.

## **Article 54**

The Central Bank of Libya shall be responsible for deciding cases pertaining to foreign exchange not covered in this law so as not to conflict with the provisions of this law.

## **Section 6 – Supervision of Banks**

### **Article 55**

- I. The following shall be subject to the supervision of the Central Bank of Libya under this law:
  1. Commercial banks.
  2. Specialized banks whose objectives include financing and granting credit for specific activities.
  3. Banks that operate abroad whose head office is in Libya.
  4. The branches of foreign banks in Libya.
  5. The representation offices of foreign banks in Libya.
  6. Money changing and financial services companies.
- II. Without prejudice to agreements on the establishment of some banks, all banks operating in Libya shall be subject to the supervision of the Central Bank of Libya pursuant to the provisions of this law.

## **Article 56**

- I. The board of directors of the Central Bank of Libya shall establish, according to the requirements of the domestic money and credit situation, international banking standards and general rules for the control and supervision of banks and the other institutions stipulated in the previous article in order to regulate the following matters:
  1. The method for appraising different types of bank assets.
  2. The determination of the types of liquid assets and the ratio of liquidity to deposit liabilities that must be maintained.
  3. Areas in which banks are prohibited to invest funds.
  4. The provisions that must be available to cover assets whose value is subject to extreme fluctuation.
  5. The ratios that must be observed between the value of credit and the value of credit guarantees; and the specification of credit type.
  6. The ceiling on the rate of interest on all debit and credit accounts and late interest.
  7. The permitted difference between interest rates and the rediscount rate set by the Central Bank of Libya on the one hand and the discount rates set by the banks for their customers on the other hand if credit instruments are suited to being rediscounted or if they are suited to a loan being obtained against them.
  8. The percentage of each type of credit relative to total credit, and the setting of ceilings on the value and term of credit for all or some credit transactions for all banks or any bank.
  9. The minimum monetary cover needed to establish documentary credits and issue letters of credit in general or with respect to a specific type of credit.
  10. The maximum limits on banks' investments in securities, real-estate financing, and credit for consumption purposes.
  11. The terms and conditions under which irregular loans must be repaid, and the setting aside of, and exemption from, interest calculated thereon.
  12. The rules and facilities needed to regulate clearing operations between banks subject to the provisions of this law.
- II. In addition to the rules stipulated in the previous paragraph, the Central Bank of Libya shall establish the following:
  1. Disclosure rules, the statements that must be published, and the method of publication.

2. The rules needed to counter money laundering operations and the financing of terrorism.
3. The rules and requirements with which bank managers must comply.
4. The minimum capital adequacy criterion.
5. Rules for opening accounts and engaging in banking activities.
6. The criteria required for the classification and irregular classification of the loans and credit facilities provided by banks. Each bank shall establish the measures that must be taken to cover irregular loans and credit facilities. In addition, auditors shall be required to ascertain whether the bank management observes these criteria.
7. The rating and classification of banks according to domestic and international banking criteria.
8. Any monetary, financial, and other credit issue consistent with the Central Bank of Libya's objectives and conducive to achieving the interest of the national economy.

#### **Article 57**

- I. All commercial banks must maintain, with the Central Bank of Libya and without interest, the required monetary reserve corresponding to its deposit liabilities. These reserves shall be paid in the Libyan dinar unless the board of directors of the Central Bank of Libya permits the provision of some such reserves in the form of other assets.
- II. The board of directors of the Central Bank of Libya shall stipulate the types of deposit liabilities and the ratio of the required monetary reserve to each type.
- III. Any increase in the limit established under the previous paragraph shall be introduced as gradually as possible, with implementation after a period of at least 15 days from the date on which the banks are notified of the increase.

#### **Article 58**

The board of directors of the Central Bank of Libya may at any time require the banks to deposit reserves for any type of deposit liability at a rate that exceeds the limit stipulated under the previous article. The Central Bank of Libya must pay interest on reserves that exceed the aforesaid limit at a rate

not to exceed the discount rate in effect on the date on which such reserves are deposited.

#### **Article 59**

1. The reserves required of each bank according to the provisions of the previous two articles shall be calculated based on the deposit liabilities of each bank in each week at the close of business on the days designated by the Central Bank of Libya for each week. Regarding the required reserves account, a commercial bank and its branches shall be considered a single unit.
2. If the reserves of a bank fall short of the required reserves, the bank must complete its reserves immediately. The Central Bank of Libya may require such a bank to pay no less than 1/30 of 1 percent of the shortfall for each day, starting from the date set by the Central Bank of Libya.
3. If a bank fails to pay the required reserves in full for one month, the board of directors of the Central Bank of Libya may prohibit or restrict the bank's credit granting and new investment activity, and it may prohibit the bank from allocating all or some of its profits to pay stockholder shares.

#### **Article 60**

The Central Bank of Libya shall be responsible for collecting and examining the reports sent to it by the banks pursuant to the provisions of this law. At the end of the last business day of each month, the Central Bank of Libya shall prepare a summary report on the banks' financial positions. The summary report shall be published in the Register of Actions.

#### **Article 61**

The Central Bank of Libya may examine at any time a banks' books, records, debit accounts, and the electronic systems and files pertaining thereto. The examination shall be conducted at the head office of the concerned bank by bank inspectors assigned for this purpose. The banks must provide these inspectors with all of the data and facilities that they require to carry out their mission. It shall be prohibited for inspectors to reveal or disclose to a third party anything from the records, papers, or information concerning the inspection except in the cases permitted by law or when doing so is necessary for a judicial investigation.

## **Article 62**

- I. If it becomes evident to the Central Bank of Libya from an examination of statements provided by any bank that the bank is experiencing a financial problem mentioned in paragraph (III) of this article, the governor must warn the bank in writing of the need to correct its conditions within two weeks of the date on which the bank receives the warning. The governor may extend this period up to a total period of 30 days. If it is proven to the governor that the bank has begun to take measures to remedy the financial problems and has actually begun to provide the necessary additional financial resources, but the extended deadline has lapsed without the concerned bank being able to remedy its financial problems, the governor may take one or more of the following measures:
  1. Convene the general assembly of the bank for a meeting and take an appropriate measure.
  2. Suspend the bank's manager, refer him for an investigation, and assign someone to handle management of the bank in his stead.
  3. Suspend the bank's board of directors and appoint a temporary management committee until the bank's conditions are corrected.
  4. Merge the bank with another bank with the consent of the general assemblies of the two concerned banks.
  5. Cancel the license granted to the bank to engage in its activity, and take the necessary measures to liquidate the bank.
- II. The implementation of any of the two measures stipulated in subparagraphs (4) and (5) of the previous paragraph must be approved by the board of directors of the Central Bank of Libya.
- III. A bank shall be considered subject to financial problems under this article if one of the following cases exists with regard to it:
  1. Its assets cannot cover its obligations.
  2. There is a noticeable drop in its assets or revenues due to practices inconsistent with banking principles.
  3. There is strong evidence that the bank will not be able to cover depositors' demands or meet its obligations under normal circumstances.
  4. The bank is unable to meet liquidity and reserve requirements established under this law for 60 continuous days or 90 discontinuous days during a single year.

5. Continued deficit in the value of stockholder equity or an inability to maintain the provisions that must be formed.
6. Any other case classified as a financial problem by the Central Bank of Libya.

### **Article 63**

The Central Bank of Libya shall prepare a consolidated statement of the credit facilities granted by the commercial banks to each customer. In order for this measure to be carried out, the banks must send the statements requested by the Central Bank of Libya concerning debtors to whom loans or credit have been granted within the limits specified by the board of directors of the Central Bank of Libya. The banks must do so by the deadlines established by Central Bank of Libya. Any bank may request that the Central Bank of Libya furnish it with a statement of the position of any customer who requests credit facilities from the bank. It shall do so according to the conditions and terms issued by decree of the board of directors of the Central Bank of Libya.

### **Article 64**

Banks subject to the provisions of this law must comply with the rules and regulations established by the Central Bank of Libya to regulate clearing operations and issues relating to the System of National Payments. All entities that engage in their activities pursuant to the provisions of this law must implement the decrees, circulars, and instructions issued by the Central Bank of Libya.

## **Chapter 2 - Commercial Banks**

### **Section 1 – The Establishment and Supervision of Commercial Banks**

#### **Article 65**

I. Any company that ordinarily accepts deposits in current demand accounts or time deposits, grants loans and credit facilities, and engages in other such banking activities according to the provisions of paragraph (II) of this article shall be considered a commercial bank.

A specialized bank whose main purpose is to finance and grant credit for specific activities, and whose basic activities do not include the acceptance of demand deposits, shall not be considered a commercial bank. Special banks may be permitted to engage in some commercial banking activities for the beneficiaries thereof by decree of the board of directors of the Central Bank of Libya.

II. The following shall be considered activities in which a commercial bank engages:

1. The cashing of checks made out to and by customers.
2. Services relating to documentary credits, documents for collection, and letters of credit.
3. Issuance and management of instruments of payment including monetary drawings, financial transfers, payment and credit cards, traveler's checks, etc.
4. Sale and purchase transactions involving monetary market instruments and capital market instruments to the credit of the bank or its customers.
5. The purchase and sale of debt, without or without the right of recourse.
6. Lease financing operations.
7. Foreign exchange transactions in spot and forward exchange markets.
8. The management, coverage, distribution, and transaction of banknote issues.
9. The provision of investment and other services for investment portfolios, and the provision of investment trustee services, including the management and investment of funds for a third party.
10. Management and safekeeping of securities and valuables.
11. Provision of trustee or financial investor services.
12. Any other banking activities approved by the Central Bank of Libya.

## **Article 66**

- I. Each commercial or specialized bank must obtain a license to engage in banking activities before commencing such activities. The board of directors of the Central Bank of Libya shall issue this license. This license shall replace the license stipulated in the Commercial Law. The following shall be observed before the license is granted:
  1. The founding committee shall submit a request to the Central Bank of Libya with the attached documents stipulated by the committee.
  2. Capital shares shall not be offered for subscription until after the Central Bank of Libya's preliminary approval has been obtained.
  3. The granting of a license should not entail a violation of any provision of this law, other laws, and regulations.
  4. The commercial name adopted by the bank shall not be identical or similar to the name of any other bank or other establishment to the degree of causing confusion.
- II. It shall be prohibited for any establishment not licensed to engage in banking activities under this law to use the word "bank" and synonyms thereof or any expression similar thereto in any language, whether in its designation, commercial address, or advertising.

## **Article 67**

- I. Commercial banks must assume the form of a Libyan joint-stock company with paid-up capital of at least LD10 million divided into shares. The value of share shall not exceed LD10. The shares may be held by natural persons and public and private legal entities according to the rules and conditions stipulated in a decree issued by of the board of directors of the Central Bank of Libya, subject to the stock ownership limits established under legislation in effect. Each bank should fulfill its subscribed capital during a period not exceeding five years from granting its license. However, granting such a license to commercial banks to carry out their activities should not avert the Central Bank from discharging its power to assess their ownership structure.
- II. Banks in existence upon in this law's entry into force must render their situations consistent with the provisions of this law within three years of this law's entry into force. The board of directors of the Central Bank of Libya may extend this period by another three-year period.



III. The Central Bank of Libya may permit the establishment of banks with foreign capital. It may also permit foreign banks to hold shares in domestic banks and to open branches or representation offices in Libya according to the terms and conditions established by the Board of Directors of the Central Bank of Libya, provided the head office of the foreign bank branch has a specific nationality, the foreign bank is subject to the supervision of the monetary authority in the country where the head office is located, and the capital allocated for the branch's activity in Libya is at least \$50 million.

### **Article 68**

- I. A commercial bank shall be directed by a board of directors comprising a minimum of five members and a maximum of seven members. The members of the board of directors shall be appointed, and their remuneration set, in a resolution issued by the bank's general assembly. The board of directors shall select a chairman from among its members. The bank's charter shall stipulate the tenure of the chairman and members of the board of directors.
- II. The bank shall have a general manager, who shall be appointed by its board of directors based on the recommendation of the chairman or two members of the board of directors.
- III. The chairman and members of the board of directors and the general manager must enjoy civil and political rights, possess a university degree, possess adequate experience, and not serve as a member of the board of directors of another domestic bank.
- IV. Any person shall be prohibited from serving as members of the board of directors of any domestic bank or having any direct connection with the management of such a bank if the person:
  1. Has been sentenced for a crime involving a breach of trust or has been dismissed or removed pursuant to a disciplinary or judicial decision.
  2. Has declared bankruptcy, stopped payment, or entered into a composition.
  3. Was a member of a board of directors of, or had a direct connection to the management of, a bank that was liquidated in a judicial proceeding or whose license was revoked because it violated the law.

## **Article 69**

- I. The governor of the Central Bank of Libya must be notified of nominees for membership on the board of directors and for the position of general manager of any bank and must be given all information on such nominees at least one week before the meeting scheduled for making the appointment decision. The governor may object to a nomination within one month of the date of receiving notification of the nominees.
- II. Any person appointed to serve as member of the board of directors or general manager in any commercial bank must convey to the governor, within one month of his appointment, a statement of the stocks and shares that he owns in commercial companies. If any change occurs in the information on this statement, said person must inform the governor of the change within one month of the occurrence of the change.

## **Article 70**

- I. A person's membership on the board of directors shall be dropped in any of the following cases:
  1. The person is appointed the general manager of the bank.
  2. The person no longer fulfills a condition for membership stipulated in Article 68 (III) and (IV) of this law.
  3. The person dies or is unable to discharge the functions of his position for any reason for more than four consecutive months.
  4. The person is absent from three consecutive board meetings or five non-consecutive board meetings during a single fiscal year.
  5. The person resigns.
- II. Without prejudice to the provisions in Article 69 (I), if the position of one of the members of the board becomes vacant for any reason stipulated in the previous paragraph, the bank's board of directors shall assign a person to fill the position until the general assembly meets and decides to approve that person or appoint an alternate to serve out the remaining tenure of the board.

## **Article 71**

1. Commercial banks shall be subject to the supervision and control of the Central Bank of Libya. The Central Bank of Libya shall be responsible

for regulating its relations with the commercial banks, coordinating their actions, and monitoring their activity in the framework of the government's general policy.

2. Without prejudice to the provisions of Articles 69 (I) and 78 (4) of this law, the decisions of the boards of directors of the commercial banks on long-term investments and the opening or closing of branches must be conveyed to the Central Bank of Libya within ten days of the date on which the decisions are issued. The implementation of these decisions shall be contingent on the Central Bank of Libya's approval thereof.

#### **Article 72**

1. The national sector may acquire shares of the capital of state-owned banks. The general assembly of such banks shall be composed of the shareholders. Each [shareholder shall have voting rights] according to the percentage of his share of the bank's capital.
2. The financial treatment of employees in each commercial bank shall be determined by decision of the bank's board of directors.

### **Section 2 - Duties of the Banks**

#### **Article 73**

Each bank must retain a capital reserve. Before distributing profits, it must transfer to this reserve no less than 25 percent of its net profits until the reserve totals one-half of its paid capital. It must then transfer to the reserve 10 percent of net profits until the reserve equals capital.

#### **Article 74**

Any bank whose head office is abroad must appoint, with the approval of the Central Bank of Libya, a resident director for its branch(s) in Libya pursuant to an official document that: authorizes the director to receive judicial notices, requests, announcements, and other documents entailed by the nature of the bank's activity; and makes the director fully responsible before Libyan public agencies. An official copy of this document shall be lodged with the Central Bank of Libya.

### **Article 75**

Each bank must always keep, in Libya, funds that at least equal its obligations payable in Libya in addition to a sum equaling the bank's paid capital. In applying this provision, the funds that the bank is permitted to keep abroad shall figure in the calculation of the funds located in Libya.

### **Article 76**

No bank may distribute dividends until after it subtracts all expenses, including establishment and administrative expenses, expenses to cover losses, and any other expenses for which there are no corresponding assets.

### **Article 77**

A commercial bank shall be prohibited from engaging in the following transactions:

1. Wholesale and retail commerce, including importation and exportation and brokerage or commercial agency activities.
2. The acquisition of a joint stock company's shares in the capital of the bank.
3. The acquisition of the shares of another joint stock company in excess of 10 percent of the company's paid capital. The nominal value of the total shares owned by the bank in such companies must not exceed one-half of the paid capital and capital reserve. When necessary, the aforesaid two limits may be increased with the approval of the board of directors of the Central Bank of Libya. The calculation of these two limits shall not take into account the shares transferred to the bank in payment of a debt owed to the bank by a third party. The bank must dispose of these shares within two years of when they are transferred to it. The board may extend this period for up to two additional years.
4. Entry as a general partner into partnerships and the like.
5. Acceptance of shares that comprise the bank's capital in the form of a loan guarantee, or the transacting in or acquisition of such shares, unless ownership of the shares was transferred to the bank in payment of a debt to the bank by a third party; in this case, the bank must sell such shares within one year of the transfer of the shares to it.
6. The purchase of the shares of any bank operating in Libya, even if its head office is abroad.
7. The issuance of bearer notes payable on demand.

## **Article 78**

It shall be prohibited for any bank to establish a credit or provide a financial guarantee or any other credit facility to:

1. Bank employees if the transaction includes an obligation whose value exceeds the employer's salary for a two-year period, unless an adequate guarantee is provided. The transaction in this case must be executed on the same terms stipulated for the bank's customers.
2. Members of the bank's board of directors without the general assembly's approval. This prohibition shall apply to every establishment in which the board member has an interest, e.g., in the case of a member who is a partner in, director, agent, or guarantor of a company [seeking credit, a guarantee, or a credit facility]. It shall also apply to any person for whom a board member is a guarantor.
3. The general manager of the bank and his deputies, assistants, and branch managers without the approval of the bank's board of directors.
4. Any person if the transaction entails an obligation for the bank whose value exceeds the percentage stipulated by the board of directors of the Central Bank of Libya relative to the bank's total capital and reserves. This paragraph shall not apply to: transactions that occur between banks or between a bank's branches; the purchase of commercial paper whose value is paid abroad as the price of exports from Libya; and advances given against such paper.

## **Article 79**

- I. The board of directors of each bank shall establish, within the framework of the credit policies decided by the Central Bank of Libya, rules regulating the granting of credit and the procedures that must be followed to ascertain credit worthiness, the accuracy of the information and statements provided to the bank, and the method for monitoring the use of credit for the purposes and in the areas specified in the credit approval.
- II. The granting of bank credit to a person shall be contingent on the person's good reputation and provision of an adequate guarantee. The person must also provide a feasibility study—prepared by a consultant according to Article 83 (III) of this law—that demonstrates that the financial flows expected from the activity for which credit is granted will suffice to cover the obligations incurred by the activity. The bank

may, in the cases determined by the board of directors, request the revaluation of the guarantees provided to it periodically to ensure that they cover the obligations entailed by the credit granted. The bank may request that the customer provide additional real guarantees or guarantees of another nature that are accepted by the bank.

III. The bank may transfer to another person any right that it possesses or credit that it has granted to its customer and his real and personal securities, or accept any assignment of a right that he possesses without the need to obtain the consent of the debtor, customer, mortgagor, or guarantor unless there is an agreement that stipulates otherwise.

### **Article 80**

Each bank must establish a system for the immediate, ongoing recording of the positions of its customers who obtain from it loans and credit facilities. This system must be linked to the consolidated database in the Central Bank of Libya. Each bank must convey to the Central Bank of Libya, within ten days of the end of each month, a statement of the position of each customer who obtains loans or credit facilities and of any changes that occur regarding such loans and facilities.

### **Article 81**

Each bank must have an internal audit department that is directly subordinate to the bank's board of directors. The director of this department shall be appointed by decision of the board based on the recommendation of the chairman of the board or two board members. The board shall be responsible for determining the authorities of this department, which must include:

1. Review and audit of the bank's daily operations.
2. Preparation of a quarterly report on its activities for submission to the bank's board of directors.
3. Coordination between the bank's management and external auditors.

### **Article 82**

The Central Bank of Libya shall prepare, in coordination with the relevant entities, a register of auditing firms capable of auditing and inspecting the banks' accounts and another register of consulting offices and firms capable

of valuating real and other assets provided to banks to guarantee financing, loans, and facilities granted by the banks. The Central Bank of Libya shall establish rules, conditions, and procedures for registering in these two registers.

### **Article 83**

I. Each bank must assign the auditing of its accounts annually to two chartered accountants selected by the bank's general assembly from among the registrants in the register stipulated in the previous article. Each auditor must:

1. Not be a member of the bank's board of directors, a bank employee or agent, or the recipient of loan or facility from the bank with or without a guarantee.
2. Not be related to any member of the board of directors or to the bank's other chartered accountant by a kinship tie up to the fourth degree.

II. The auditors stipulated in the previous paragraph must each separately:

1. Prepare a report on the bank's annual financial statements. The report should include the methods used to ascertain the existence of and to value assets, the method for appraising existing commitments, and the extent to which the audited transactions comply with the law.
2. Prepare a semi-annual report monitoring the bank's financial and administrative performance and compliance with domestic and international banking criteria.
3. Send a copy of the two reports mentioned in the previous two subparagraphs to the Central Bank of Libya within the period set by the governor.

Without prejudice to the penalties stipulated in Articles 109 (2) and 112 of this law, each chartered accountant shall be liable for any shortcoming contained in any of the two reports that he submits. In the event of any such shortcoming, the Central Bank of Libya may delete the chartered accountant from the register stipulated in the previous article.

III. Each bank must assign a consulting firm or office to value the real and other assets provided to the bank to guarantee financing, loans, and facilities granted by the bank. The office or firm must be registered in the register stipulated in the previous article. No employee in the

consulting firm or office may be a member of the bank's board of directors, a bank employee or agent, or the recipient of a loan or facility from the bank with or without a guarantee.

- IV. Each bank must establish, within its administrative organization, an administrative unit called the "compliance unit." This unit shall be directly subordinate to the board of directors and shall have the following functions:
- a. Monitoring of supervisory instructions issued by the Central Bank of Libya to ascertain compliance therewith by the bank and its branches.
  - b. Monitoring of the bank's adherence to criteria governing daily banking activity, the most important being:
    1. Capital adequacy.
    2. Maintenance of the legally stipulated liquidity.
    3. Maintenance of the required reserves.
    4. International banking supervision criteria.
  - c. Any other functions assigned to the unit by the bank's board of directors.
  - d. The preparation of a periodic report on its activities, which shall be submitted to the board of directors.

#### **Article 84**

Each bank must display, throughout the year and in a conspicuous place at its head office and at all of its branches, a copy of its most recent, audited financial statements. It must also publish these statements in the Register of Actions and in a domestic newspaper.

#### **Article 85**

- I. Each bank must submit to the Central Bank of Libya:
1. Monthly statements on its financial position within 15 days of the end of each month on the form established by the Central Bank of Libya.
  2. Monthly statements that include details on all advances and financial credits provided by the bank, with or without guarantees, to any company in which the bank or any member of its board of directors has an interest, such as being a member of the company's board of directors, or a manager, agent, or guarantor of the company.



3. A copy of its most recent, audited financial statements within four months of the end of its fiscal year.
4. A copy of each report provided to shareholders on the bank's activities within five days of the provision of the report to shareholders, and a copy of the minutes of each meeting held by the general assembly of shareholders within 15 days of each meeting of the assembly.
5. A statement of any change in the members of the bank's board of directors within 15 days of the date on which the change occurs.
6. Any other statements or clarifications on the transactions executed by the bank according to the format and deadline stipulated by the Central Bank of Libya.

II. The governor of the Central Bank of Libya may issue, within a month of the date of his receipt of the financial statements and report stipulated in subparagraph (4) of the previous paragraph, a decision not to approve the profits whose distribution to shareholders is proposed if a shortage of provisions or any drop in the capital adequacy criterion below the established minimum level becomes evident to him, or if a reservation bearing on distributable profits is expressed in the report of the two auditors.

### **Article 86**

Shareholders who hold at least one-quarter of a bank's total issued shares, or depositors whose deposits total at least one-quarter of a bank's total deposits, may request that the Central Bank of Libya inspect and audit the bank's activities. The request must include the reasons warranting the request. The Central Bank of Libya may assign one or more of its employees to inspect the bank's activities. The employees of the inspected bank must provide inspectors with the books, accounts, statements, and documents pertaining to the bank's activities and present the information and statements requested of them. All of this must be done at the bank's head office. The employee assigned to conduct the inspection must submit a report to the governor on the results of the inspection immediately upon completing his mission. The governor may send a copy of this report to the persons who requested the inspection and bill them or the inspected bank, depending on the case, for the expenses entailed by the inspection.

### **Article 87**

No bank may merge with another bank without the approval of the board of directors of the Central Bank of Libya. The governor shall stipulate in a decree the procedures that must be followed in this case.

### **Article 88**

No bank may cease its operations without prior permission from the board of directors of the Central Bank of Libya. This permission shall not be granted until it is first ascertained that the bank is conclusively free of all debts to deposit holders and other creditors according to the terms and conditions established by the Central Bank of Libya.

### **Article 89**

- I. The license granted to a bank to engage in its activity may be revoked in any of the following cases:
  1. If it becomes evident that the bank is in violation of the provisions of the law or regulations issued to implement the law, and the bank has not undertaken to eliminate the violation during the period specified by the Central Bank of Libya and according to the conditions stipulated by the Central Bank of Libya.
  2. If it becomes clear that the bank's license to engage in activity was granted based on erroneous information submitted by the bank.
  3. If the bank pursues a policy conducive to damaging the interests of depositors or shareholders.
  4. If the bank ceases to engage in its activities.
  5. If the bank declares bankruptcy, or a decision is made to liquidate it.
  6. If the bank merges with another bank.
- II. The revocation of a license shall be by decree of the board of directors of the Central Bank of Libya based on the governor's recommendation. In the cases mentioned in subparagraphs 1, 2, 3, and 4 of the previous paragraph, a revocation decree shall not be issued until after the concerned bank has been notified in a registered letter to submit a written defense within two weeks of the date of being notified to do so.

## **Article 90**

A decree issued to revoke a license shall result in the bank's immediate cessation of activity. In this case, the board of directors of the Central Bank of Libya may decide to liquidate the bank's activities immediately and to permit the bank to engage in the operations that are ongoing at the time of the revocation based on the terms stipulated by the board.

## **Article 91**

- I. A fund designated the "Depositors' Funds Guarantee Fund" shall be established to insure deposits in banks operating in Libya. It shall be a legal entity and shall have independent financial liability. Its members shall include all banks in operation that accept deposits. The fund shall be subject to the supervision of the Central Bank of Libya. The fund's head office shall be in the city of Tripoli.
- II. The General People's Committee shall issue a charter for the fund based on the recommendation of the board of directors of the Central Bank of Libya. The charter must include the following in particular:
  1. The fund's objectives and the means for achieving them; and the regulation of the relationship between the fund and its member banks.
  2. The fund's financial resources, including membership dues and the annual dues of its member banks; and rules and aspects concerning the spending of the dues.
  3. The fund's method of operation; and the formation and authorities of its board of directors.
  4. The scope of the guarantee of deposits; and the setting of the maximum guarantee.
  5. The method for auditing the fund's accounts.
- III. The fund's surplus funds shall be carried over from one fiscal year to the next.
- IV. The governor of the Central Bank of Libya may, based on the recommendation of the fund's board of directors, take any of the following measures if a fund member bank violates the charter or resolutions issued to implement the charter:
  1. Direct a warning to the bank in violation.

2. Impose a fine not to exceed 5 percent of the value of the annual dues owed by the bank during the year in which the violation occurs. This fine shall be raised to 10 percent if the bank commits another violation within two years of the previous violation. The fines imposed to enforce the provisions of this article shall be added to the fund's resources.

#### **Article 92**

A federation may be established for banks subject to the provisions of this law. Its charter shall be issued by decree of the board of directors of the Central Bank of Libya and shall be published in the Register of Procedures.

### **Section 3 – General Provisions**

#### **Article 93**

There shall be no restriction on the freedom of depositors to dispose of their account balances with banks subject to the provisions of this law according to the conditions agreed upon the opening of such accounts. The aforesaid balances may not be encroached upon or executed except pursuant to a judicial or administrative attachment. Interest paid on savings balances shall be exempt from all taxes and fees.

#### **Article 94**

Banks must maintain the confidentiality of their customers' accounts and balances and all of their customers' banking transactions. Banks may not permit the examination, disclosure, or provision of information on such accounts, balances, and transactions to a third party without the written permission of the account holder or a competent judicial authority.

#### **Article 95**

The chairmen and members of the boards of directors and the managers and employees of banks shall be prohibited from providing or disclosing, or enabling a third party to examine, any information or data on the bank's customers or the customer's accounts or balances in other than the cases permitted under this law. This prohibition shall apply to anyone who

directly or indirectly examines such information and data by virtue of his profession, position, or work.

#### **Article 96**

The provisions of the previous two articles shall not prejudice the following:

1. The duties legally assigned to be performed by the bank auditors; and the authorities delegated by law to the Central Bank of Libya.
2. The bank's obligation to issue, based on a claimant's request, a certificate stating the reasons for the bank's refusal to cash a check.
3. The bank's right to disclose all or some information on a customer's transactions to substantiate its right in a judicial dispute that arises between it and its customer over these transactions.
4. Measures taken regarding returned checks and measures taken to counter money laundering and the financing of terrorism.

#### **Article 97**

1. The provisions of the Civil and Commercial Codes shall apply to banks to the extent that these provisions do not conflict with the provisions of this law.
2. Electronic documents and signatures executed in the framework of banking transactions and other transactions related thereto shall be honored and shall have a determinative effect in substantiating the data contained therein.
3. Computer output pertaining to banking transactions shall be regarded, as stipulated in the previous paragraph, as equivalent to the legal books stipulated in the Commercial Code and laws that complement it. Banks must retain, for the period established in the law, miniature copies of books, records, statements, documents, correspondence, cables, notices and other documents relating to its activities on hard, floppy, or compact disks or other current data or information storage devices instead of the originals. These copies shall have the determinative effect of the original for evidentiary purposes.

#### **Article 98**

Decrees issued to grant or revoke a bank's license to engage in activity or to approve a bank merger shall be published in the Register of Actions.

### **Article 99**

In exception to the provisions of the Official Holidays Law, the governor of the Central Bank of Libya may determine the days on which banks shall close and the business hours when they shall be open to the public.

### **Article 100**

Without prejudice to the period stipulated in Article 67 (II), banks in existence at the time of this law's entry into force must correct their situations and amend their charters and bylaws to be consistent with the provisions of this law within one year of this law's entry into force.

## **Chapter 3 – Penalties**

### **Article 101**

- I. Without prejudice to any more severe penalty stipulated in the Penal Code or in any other law, the crimes stated in the following articles shall be punished by the penalties stated in those articles.
- II. The board of directors of the Central Bank of Libya shall have the authority to impose the fines stipulated in Articles 102, 104, 106, 106, 107, 108 and 111 of this law.

### **Article 102**

Any entity or bank that violates the provisions of Article 42 of this law shall be punished by a fine of LD5000-LD20,000. In addition, the violator's account shall be closed. This penalty shall be doubled in the event of a repeat violation.

### **Article 103**

Any person who violates the provisions of Article 49 of this law shall be punished by a fine equaling double the sums on account of which the criminal action is filed. This penalty shall be doubled in the event of a repeat violation. In all cases, the sums that are the subject of the action shall be seized. If they are not seized, an additional fine equaling the value of the sums shall be adjudicated.

#### **Article 104**

Any bank that fails to put into effect decrees issued by the Central Bank of Libya in application of the banking supervision provisions stated in Article 56, or who violates the provisions of Articles 58 and 59 of this law, shall be punished by a fine of LD10,000-LD100,000, and the bank in violation shall be required to eliminate the violation.

#### **Article 105**

- I. Any person who violates the provisions of the articles mentioned in the following subparagraphs, which concern the requirement to obtain permission or a license, shall be punished as stated in the following subparagraphs:
  - a. A violation of the provisions of Article 46 of this law shall be punished by a fine of no less than LD5000.
  - b. A violation of the provisions of Article 47 of this law shall be punished by a fine of no less than LD10,000.
  - c. A violation of the provisions of Article 66 of this law shall be punished by a fine of no less than LD50,000.
- II. The penalty shall be doubled in the event of a repeat violation. In all cases, the court shall be required to publish a summary of any conviction that it hands down in one or more domestic newspaper at the expense of the judgment debtor.

#### **Article 106**

Any bank that violates the provisions of Articles 73, 75, 76, or 77 of this law shall be punished by a penalty of LD20,000-LD100,000.

#### **Article 107**

Failure to submit the statements mentioned in Articles 47 and 85 (I) of this law by the designated deadlines or by the deadlines set by the Central Bank of Libya shall be punished by a fine of LD1000-LD10,000.

The same penalty shall be imposed for refusal to provide books, records, documents, and papers to employees of the Central Bank of Libya who are assigned to examine and inspect, without prejudice to the requirement to submit them.

### **Article 108**

Any bank that violates the provisions of Articles 81 and 83 (I), (II), and (IV) of this law shall be punished by a fine of LD10,000-LD50,000.

### **Article 109**

1. Any person who fabricates, with the intent of fraud, inaccurate facts or conceals some documents or facts in statements, minutes, or other papers submitted to the Central Bank of Libya or its representatives according to the provisions of this law shall be punished by a fine of LD1000-LD5000.
2. The aforesaid penalty shall be doubled in the event of a repeat violation or if the act was committed by the chartered account or valuation consultant stipulated in Article 83 of this law.

### **Article 110**

Any person who violates the provisions of Articles 95 of this law shall be punished by a fine of LD1000-LD10,000.

### **Article 111**

Any bank that fails to apply the provisions stipulated in Article 100 of this law shall be punished by a fine of LD10,000-LD50,000. The penalty shall be doubled if the bank fails to correct its conditions within 18 months of the date of this law's entry into force. If the violation continues for two years after this law's entry into force, the provisions of Article 89 (I) of this law shall be applied to the bank.

### **Article 112**

Any chartered accountant who violates the duties stipulated in Article 83 (II) or fails to observe the required accuracy in his report shall be punished by imprisonment of at least six months and/or a fine of LD50,000.

### **Article 113**

- I. Any person who submits to any bank falsified or sham documents, records, or documents or records that include inaccurate statements with



the intent of obtaining a loan or credit facility shall be punished by a fine of LD10,000.

- II. The aforesaid penalty shall be increased in its severity by one-half and applied to any bank employee or valuation consultant who aids or facilitates the obtainment of a loan or credit facility in violation of the conditions and rules stipulated in this regard. This penalty shall be doubled in the case of an employee or consultant who commits an act with the intent to obtain consideration of any type or in the event of a repeat violation.
- III. The penalty stipulated in the previous two paragraphs shall not prejudice the penalties stipulated in the Penal Code or any other law.

#### **Article 114**

Any person who violates any provision stipulating a requirement or prohibition in this law or regulations and decrees issued to implement this law shall be punished by a fine of LD1000-LD5000.

#### **Article 115**

If a bank is charged with a crime, the person responsible for the actual management of the bank shall be punished by the same penalty stipulated for the crime if his knowledge of the crime is proven and if he failed to take measures to prevent the crime from occurring. If a crime occurs in a bank branch, the branch manager shall be liable for the crime. A bank shall be jointly liable for the payment of adjudicated financial penalties or damages if a crime is committed by one of its employees in the name of or on behalf of the bank.

#### **Article 116**

Subject to the provisions of Article 50 of this law, employees of the Central Bank of Libya so designated by decree of the governor shall have the capacity of investigation officers with respect to crimes that occur in violation of the provisions of this law and regulations and decrees issued pursuant to it. In this capacity, these officers may examine records, debit accounts, other documents and records, and electronic systems. They must maintain the

confidentiality of the information or data that they examine or that comes to their knowledge in the performance of their duties.

#### **Article 117**

- I. No criminal action may be filed and no investigative measure may be taken without the governor's permission regarding crimes which are attributed to employees of the Central Bank of Libya and which relate to the performance of their tasks and functions.
- II. No criminal action may be filed and no investigative measure may be taken without the governor's permission regarding the crimes mentioned in this law unless the action or measure is based on the governor's request.
- III. The governor may conduct a settlement regarding the crimes mentioned in the previous paragraph in any action before a final judgment is issued, provided the bank's claims are fully paid according to the terms of the settlement.
- IV. A record of the settlement mentioned in the previous paragraph shall be prepared. It shall be notarized and signed by the parties and shall have the force of a writ of execution. The investigative authorities or the competent court shall be notified of the settlement. Any settlement shall be considered a waiver of the concerned claim and shall result in the termination of the criminal action that is the subject of the settlement.

#### **Article 118**

Financial rewards may be granted to any person who guides, facilitates, or assists in the detection or curbing of a crime stipulated in this law within the limits and according to the terms issued by decree of the board of directors of the Central Bank of Libya.

#### **Article 119**

Without prejudice to the penalties stipulated in this law or any other law and the measures that may be taken under Article 62, the governor of the Central Bank of Libya may take any of the following measures when it is proven that a bank or entity mentioned in Article 55 has committed a violation of

any of the provisions of this law or the regulations or decrees issued pursuant to it:

1. Issue a notice.
2. Issue a warning.
3. Reduce or suspend the credit facilities of the bank in violation.
4. Demand that the chairman of the board of directors of the bank in violation summon the board to a meeting to examine violations attributed to the bank and to take the necessary measures to eliminate the violations. In this case, one or more representatives of the Central Bank of Libya shall attend the meeting of the board of directors.
5. Appoint an observer member to the board of directors of the bank in violation from among the employees of the Central Bank of Libya for a period to be determined by the governor. This member may participate in the board's discussions and register his opinion regarding the decisions made by the board.
6. Suspend the general manager and/or board of directors of the bank from their positions and assign a temporary management committee to handle management of the bank for a period not to exceed six months, which may be renewed for another six months. During the period of its commission, the committee shall present to the bank's general assembly an order to select a new board of directors, or merge the bank with another bank, or dissolve and liquidate the bank. Otherwise, the governor shall request that the board of directors of the Central Bank of Libya revoke the license granted to the bank to engage in banking activity.

#### **Article 120**

Law No 1 of 1993 regarding Banking, Currency and Credit is hereby repealed and so are any other provisions that may contradict the provisions of this law. Any other regulations and decrees that are not in conflict with the provisions of this Law shall remain in effect until are repealed by a new regulations and decrees issued pursuant thereto .

#### **Article 121**

This law shall come into force as of its issuance and shall be published in the Register Procedures and in the different media.

**Date: 12/1/1373 P.D. (2005)**