Republica de Panamá
SUPERINTENDENCIA DE BANCOS

AGREEMENT Nº 6-98
(Of October 14, 1998)

THE BOARD OF DIRECTORS,
Exercising its Legal Authority, and

WHEREAS:

That, according to Article 27 of Law Decree 9 of February 26 of 1998, Branches and Subsidiaries of Foreign Banks with International License are subject to the supervision of the Superintendency and to the other applicable dispositions of the said Law Decree and its regulatory Standards;

That, according to Article 41 of Law Decree 9 of 1998, it corresponds to this Superintendency to define and establish each one of the elements of the capital of Banks with International License, to establish the basis for the application of capital adequacy requirements and establish the requirements to the deductions of the capital base;

That according to Article 45 of Law Decree 9 of 1998 it corresponds to this Superintendency to establish asset evaluation indexes and out-of-balance sheet according to the accepted international guidelines on the subject;

That, according to Numeral 7 of Article 16 of Law Decree 9 of 1998, it corresponds to this Superintendency to establish, on the administrative level, the interpretation and scope of the legal dispositions or regulations on banking matters;

That it corresponds to this Superintendency to dictate the Standards that Banks must observe so that their operations will function within the adequate level of risks, including the capacity to fix limits and coefficients that Banks must obey in their operations;

That through Agreement Nº 5-98 of October 14 of 1998, regulations were adopted on capital applicable to Banks of General License; and

That it is necessary to define and establish the elements of capital of Banks with International License, establish the corresponding deductions to their capital basis, and establish requirements for asset evaluation and capital adequacy applicable to these Banks.

APPROVES:

CHAPTER I:

ELEMENTS OF CAPITAL:

PRIMARY CAPITAL AND SECONDARY CAPITAL

ARTICLE 1 (PRIMARY CAPITAL):

According to Article 41 of Law Decree 9 of 1998, the primary capital of a Bank with International License includes fully paid stock capital, declared reserves and retained profits.

Fully paid stock capital is the one represented by issued perpetual common stock and preferred stocks, non-cumulative and fully paid.

Declared reserves are those identified as such by the Bank and deriving in their books from cumulative profits to reinforce their financial situation.

Retained profits are non-distributed profits from the term and non-distributed profits corresponding to previous terms.

ARTICLE 2 (SECONDARY CAPITAL)

The secondary capital of a Bank with International License includes the hybrid instruments of capital and debts, subordinated debt to term, general reserves for losses, non-declared reserves and asset reevaluation reserves, according to the following description:

1. Hybrid instruments of capital and debts

Are those that combine the characteristics of capital and debt, and comply with the following requirements:

a. Are totally paid and free of encumbrances,
b. Are subordinated to depositors and creditors in general, and therefore, absorb the losses of the Bank if the primary capital were insufficient and were only paid in preference to common stockholders.
c. Are not redeemable as an option for the holder,
d. Are capable of absorbing the losses of the issuing bank as long as it is in operations.
e. Allow the issuing bank to delay interest payment if there are no profits in the year or if dividends on preferable and common stock must be delayed.

The following documents are considered as hybrid instruments of capital and debt:

1.1. Accumulative preferred stock with the following characteristics:

a. They offer their holders the right to receive previously agreed dividends and do not offer holders the option of reselling to the issuing bank, except when exceptionally authorized by the Superintendency,

b. The payment of dividends can be delayed and accumulated until dividends are totally payable.

c. In the event of winding up, holders have priority only over common shares in relation with payment of dividends and asset distribution, and

d. Have an indefinite term.

1.2. Bonds transferable to Type 1 stock.

They must be available to absorb losses when Capital Funds are reduced under the minimum paid social capital or minimum assigned capital established by Article 42 of Law Decree 9 of 1998, or under the indexes of capital adequacy. Unlike preferred stock, these instruments are remunerated with a fixed premium that includes interests and amortization. Furthermore, these instruments must comply with the following requirements:

a. Original maturity term of more than five years,

b. Must be available to absorb losses in the event of forced or voluntary winding up of the Bank. Their holders have priority in regards to asset distribution before common stockholders, and

c. Issuing requirements do not include clauses that permit anticipated payment of the totality or part of the bonds issued.

To calculate secondary capital, these bonds will be valued at placement price and the computable value will diminish by 20% for each year elapsed from the time when six years remain for its maturity. Therefore, the calculation of the computable amount must be made on the present value of the bonds according to the implicit effective placement rate, applying the following percentages to the remaining years (non-calendar):

Present value of flows at	Computable Capital Percentage (%)
More than 5 years:	100%
More than 4 years and up to 5 years:	80%
More than 3 years and up to 4 years:	60%
More than 2 years and up to 3 years:	40%
More than 1 year and up to 2 years:	20%

1.3. Whatever else is authorized by the Superintendency that complies with the requirements established by Numeral 1 of this Article.

2. Debt subordinated to term

Includes subordinated securities placed up to the concurrence of 50% of the primary capital. Unlike instruments provided for in Numeral 1 of this Article, they cannot absorb losses while the bank is still in operation.

The following securities are considered debt subordinated to term:

2.1. Subordinated bonds.

Are securities with the following characteristics:

a. Original maturity term of more than 5 years,

b. The issuing requirements do not include clauses that permit anticipated payment of the totality or part of the issued bonds, and

c. Are available to absorb losses of the issuing Bank in the event of winding up. Holders have priority in regards to asset distribution only before common shareholders.

To calculate secondary capital, these bonds will be valued at placement price and the computable value will diminish by 20% for each year elapsed from the time when six years remain for its maturity, in the same form established by Numeral 1.2 of this Article for convertible bonds of Type 1stock.

2.2 Bonds convertible to Type II stock.
Are securities with the following characteristics:

a. They grant their holders the right to convert the bond to a number of common shares of the issuing bank, previously agreed upon,

b. The conversion rate must be defined in the informative prospectus of said securities,

c. Unlike Type I bonds, they are not available to absorb losses, except when the Bank enters into winding up, and

d. They are subordinated to the depositors and creditors in general. Therefore, they absorb the Bank's losses if the primary capital were insufficient and will enjoy preference in payment…

To calculate the secondary capital, these bonds will be valued at placement value and the computable value will diminish 20% for each year elapsed before 6 years remain to maturity, in the same manner as established in Numeral 1.2 of this Article for bonds convertible to Type I shares.

2.3. Whatever else is authorized by the Superintendency that complies with requirements established by Numeral 2 of this Article.

3. General Reserves for Losses

Are provisions that have not been required for Banks with International License by law, regulations, the Superintendency, or that exceed those that have been required for those Banks by the Superintendency, regulations or legislation.

General reserves are not intended to cover risks that might be present in assets, nor do they correspond to obligations of real or contingent payment. They do not have a specific objective.
General reserves can only be computed as part of the secondary capital up to an amount equivalent to 1.25% of pondered assets in relation to risks.

4. Non-declared Reserves

They consist on the retained profit part after taxes, as long as they are of the same quality as the declared reserves. As such, they are totally and immediately available to absorb future unforeseen losses and are not taxed with any obligation. However, unlike declared reserves, they have not specific objective and are registered in a special reserve item.

5. Reevaluation Reserves:

Are those that derive from the revaluation of securities traded in the Stock Market, available for sale, to be registered at their market value. Such reevaluation must be made considering the value in effect on the market for assets of similar characteristics, which must be certified by the external auditors in their commentaries to the financial statements. Those securities received, as payment by Banks during the course of operations cannot be included in this item.

The total of the elements computed as secondary capital will be limited to a maximum of 100% of the amount of the elements of the primary capital.

ARTICLE 3 (DEDUCTIONS TO CAPITAL FUNDS):

The calculation of the amount of Capital Funds of a Bank with International License must take into account the following deductions:

a. The non-consolidated capital assigned to Branches abroad.

b. The non-consolidated paid capital of Bank Branches

c. The paid capital of non-banking Subsidiaries. Deductions will include balances registered in the assets for the higher amount paid – in regards to accounting value – on permanent investment in corporations in the country and abroad.

d. Asset items corresponding to expenses or other entries, that due to the accepted general accounting principles and the International Accounting Standards correspond to overvaluation or different non-recognized losses procedures, and also losses experienced at any time in the course of operations.

These deductions will be done quarterly.

ARTICLE 4 (CAPITAL ADEQUACY):

1. Capital Adequacy Index.

Capital Funds of a Bank with International License cannot be lower than 8% of its pondered assets in regards to their risks. To that effect, assets should be considered net of their respective provisions or reserves and with the evaluation covered in Articles 5 and 6 of this Agreement.

2. Banking Branches and Subsidiaries of Foreign Banks with International License:

Banking Branches and Subsidiaries of Foreign Banks with International License that consolidate will comply with the minimum adequacy index demanded by law of its Head Office will be observed and will be computed in a consolidated way with its Head Office. To that effect, the Foreign Bank must deliver twice a year to the Superintendency of Banks a certification from an external auditor of its Head Office were it is certified that the Bank complies in a consolidated way with the capital adequacy requirements.

The Superintendency, if it considers to have enough merit, can request the Bank and the Foreign Supervising Entity additional information that will permit to corroborate that the Bank, in effect, complies with the referred capital adequacy index.

3. Branches and Subsidiaries of Panamanian Banks with International License:

Panamanian Banks with International License must comply with capital adequacy indexes in a consolidated way, including their banking branches and subsidiaries consolidated by them.

CHAPTER II
ASSETS WEIGHED BY RISK

ARTICLE 5 (CLASSIFICATION OF THE ASSETS BY CATEGORY)

To the effect of being weighed by risk, the assets shall be classified in the following categories whose risk percentage is indicated below:

Category	Risk Weight (%)
1	0
2	10
3	20
4	50
5	100

The assets indicated below pertain to each one of the following categories:

1. **Category 1:** (0%)
   a. Available funds maintained in cash.
   b. Demand deposits in Banks established in Panama and Demand Deposits in Banks established in countries members of the Organization for the Cooperation and Economic Development (hereinafter OCDE) having an investment degree rating.
   Included, additionally, are the current account deposits or Demand Deposits abroad, when the depositary Bank belongs to a country member of the OCDE, and said Bank has a risk rating not below the sovereign risk rating of the country in question.

   Included are also the documents in process of collection, deposited or included in the compensation.
   c. Instruments issued or guaranteed by the Panamanian Government or by its autonomous institutions.
   d. The investments in other companies not related to the banking business that are deducted in accordance with Article 3 of this Agreement.
   e. Loans duly guaranteed by means of the pledging of deposits in the Bank itself up to for the amount of the guarantee.
   f. Gold and silver in the form that is approved by the Superintendency.

2. Category 2: (10%)

a. Instruments issued or guaranteed by countries members of the OCDE or by their autonomous institutions, in the currency of said countries.
b. Instruments issued or guaranteed by the International Monetary Fund (IMF), the International Bank for Reconstruction and Foment (BIRF), the International Development Association (AID), the International Financial Corporation (IFC), the Inter American Development Bank (IDB), the European Investment Bank (EIB), the Asian Development Bank (BASD), The African Development Bank (ADB), the International Agricultural Development Fund (FIDA), the Andean Foment Corporation (CAF) and by any other multilateral development Banks approved by the Superintendency.
c. Loans guaranteed by funds deposited in other Banks established in Panama or with instruments issued or guaranteed by the International Monetary Fund (IMF), the International Bank for Reconstruction and Foment (BIRF), the International Development Association (AID), the International Financial Corporation (IFC), the Inter American Development Bank (IDB), the European Investment Bank (EIB), the Asian Development Bank (BASD), The African Development Bank (ADB), the International Agricultural Development Fund (FIDA), the Andean Foment Corporation (AFC) and by any other multilateral development Banks approved by the Superintendency.

3. Category 3: (20%)

a. Other credits not comprised in Literal b of Numeral 1 of this Article against Banks established in Panama, in countries members of the OCDE or in countries with investment degree risk rating. It includes interbank time deposits, stock exchange operations with back-resale agreement, investments in bonds, time deposits and any other credit against said Banks.
b. Letters of credit confirmed and payable at their sole presentation for exterior commerce operations, issued by foreign banks belonging to countries members of the OCDE. Banks may include in this category the contingent credits corresponding to confirmations of letters of credit at call, issued by foreign Banks in favor of Panamanian exporters.
c. Guaranteed loans with banking acceptances due not less than 186 days, issued by Banks established in Panama or by Banks established in countries members of the OCDE.
d. Loans guaranteed by deposits in other banks established in a country member of the OCDE.

4. Category 4: (50%)

a. Loans for housing with mortgage guarantee, granted to the final acquirer of said properties. It includes the credits in force and in overdue portfolio.
b. Other loans with mortgage guarantee provided that the amount of the loan does not exceed 60% of the value of the mortgaged property.
c. Off-balance sheet operations or contingent credits resulting from the granting of endorsements and bonds, issuance of letters of credit and those confirmations of letters of credit not included in Literal b of Numeral 3 of this Article.

d. Financial instruments in the currency of their country of origin, issued or guaranteed by Governments or Central Banks from foreign countries, provided that said countries have a risk rating equivalent to investment degree.

5. **Category 5: (100%)**

   a. All other assets not included in the above categories.
   b. The credits in overdue portfolio corresponding to other Categories, provided that they do not have any of the guarantees referred to in Categories 1, 2, 3 and 4 foreseen in Numerals 1, 2, 2 [sic], and 4 of this Article, respectively.

ARTICLE 6 (EQUIVALENT CREDIT OF DERIVATIVE INSTRUMENTS):

To the effect of this Chapter, it shall be considered as a risk asset the credit equivalent of the future contracts on the interest rate or over currency exchange type, in accordance with the following rules:

1. Calculation basis

   In order to determine the credit equivalent of operations with **derivative** instruments, it must be included only those contracts which as of the date of computation have a market value representing a profit for the Bank. In order to establish whether a contract has a market value representing a profit or loss for the Bank, it must be considered the result that has been determined for each one of the contracts in performing the adjustment by the end of the month. Therefore, no compensation shall be made between those contracts registering profits and those registering losses.

   In order to determine the credit equivalent to each one of those contracts which register profit, it shall be applied the percentages that are indicated in Numeral 2 of this Article, on the nominative value of the ones that are in force on the date of computation. The same procedure shall be followed whenever they are options in force, by applying in this case the percentages over the nominative value of the respective underlying contracts. In the case of forward contracts or currencies, it shall be understood by the nominative value to this effect, the amount of the currency agreed to be acquired by the financial institution.

2. Contracts over interest rates

   For contracts over interest rates, the following percentages shall be applied in accordance with the term remaining for their maturity:

Term until maturity	Risk weight
	(%)
Up to one year	0.5
More than one year	1.0

3. Contracts over currencies

   For the calculation of currency contracts, the following percentages shall be applied, in accordance with the term that remains for the maturity of each contract:

Term until maturity	Risk weight
	(%)
Up to one year	2.5
More than one year	5.0

ARTICLE 7 (PROCEDURE FOR THE DETERMINATION OF THE CAPITAL ADEQUACY INDEX):

In order to determine the adequacy of Capital Funds, the International License Banks shall observe the following steps that are presented in a summarized form in the Annex to the present Agreement:

1. Determine the Capital Funds in accordance with the provisions set forth in Articles 1 and 2 of this Agreement.
2. Determine the addition of the weighed assets, in accordance with the provisions set forth in Article 5 of this Agreement,
3. Add the amounts corresponding to the credit equivalent of the **derivative** instruments, in accordance with the calculation procedure set forth in Article 6 of this Agreement.
4. Deduct the amounts from the provisions constituted over the assets including: “provisions for the amount of the loan”; “provisions for overdue interests”, “provisions for interests on deposits”; “provisions for loss of securities in portfolio”; “provisions for seniority premium”; and “provisions for contingencies”.

   Once the Capital Funds and the risk assets have been determined shall be determined the capital adequacy index based upon the percentage represented by the Capital Funds of the total of the risk assets.

CHAPTER III:
TERM TO ADJUST TO THE PROVISIONS ON CAPITAL ADEQUACY

ARTICLE 8 (CAPITAL ADEQUACY PLAN)

International License Banks which on the date whereon this Agreement takes effect, do not meet the applicable adequacy index shall have a term of one hundred and eighty (180) days to do so, counted from the date whereon this Agreement starts in force and effect. Said Banks shall present within the sixty (60) days following to the effective date of this Agreement an adequacy plan for the approval of the Superintendency, which shall contain a description of the way in which the adequacy Index is projected to be complied with within the term of one hundred and eighty (180) days.

ARTICLE 9 (DURATION)

Without prejudice of the terms indicated in Article 8 above, the present Agreement shall start in force from its promulgation.

Given in the City of Panama, on the fourteenth (14^{th}) day of the month of October of the year nineteen hundred and ninety-eight (1998).

BE IT PUBLISHED AND COMPLIED.

THE PRESIDENT

Joseph Fidanque

<u>ANNEX</u>

THE ABOVE IS A FAITHFUL TRANSLATION OF THE ORIGINAL DOCUMENT IN SPANISH PRESENTED TO ME. Panama, March 8, 2005. Mireya Delgado Debali, Certified Public Translator, Resolutions No. 209 and 304.