AGREEMENT Nº 5-99
(Of July 14, 1999)

THE BOARD OF DIRECTORS,
Exercising its Legal Authority, and

WHEREAS:

That Agreement Nº 5-98 of October 14 of 1998 of this Superintendency established the basis for the application of the capital adequacy requirement of Banks with General License;

That according to Numeral 7 of Article 16 of Law Decree 9 of February 26 of 1998, it corresponds to this Superintendency to establish, on the administrative level, the interpretation and scope of the legal or regulatory disposition on banking matters; and

That the advisability of adding the criteria of compliance with capital adequacy requirements for Banks with General License has become evident during the working sessions of the Board of Directors and of the Superintendency of Banks,

APPROVES:

ARTICLE I: Numeral 2 of Article 4 of Agreement Nº 5-98 of October 14 of 1998 will remain as follows:

"ARTICLE 4 (CAPITAL ADEQUACY):

"2. Branches of Foreign Banks with General License:

In the event of Branches of Foreign Banks with General License they will abide by the minimum adequacy index required by the regulations of its Head Office and will be computed in a consolidated form with its Head Office. To that effect, the Foreign Bank must annually submit to the Superintendency:

   a. A certificate from the external auditor of the Head Office stating that the Bank complies in a consolidated form with the capital adequacy requirements; or, at its discretion,
   b. A certificate of the Foreign Supervising Entity of the country of origin of its Head Office stating that the Bank complies in a consolidated form with the capital adequacy requirements.

   The Superintendency, if it considers finds merit, request the Bank and the Foreign Supervising Entity the additional information that permits to corroborate that the Bank, in effect, complies with the referred adequacy index.

The foregoing is without detriment of the authority of the Superintendency to require, when it considers it prudent, compliance with the adequacy and evaluation indexes established according to Law Decree 9 of 1998."

ARTICLE 2: Add to Agreement Nº 5-98 of October 14 of 1998 the following Article 4A:

ARTICLE 4A: (NOTION OF BANK AND CONSOLIDATION): For the exclusive effects of the present Agreement, the notion of Bank as an entity subject to compliance to the capital adequacy requirement and titled entity of the Capital Funds that serve as a basis for the estimate of the Capital Adequacy Index, it will be understood in the same way as the subsidiaries property of the Bank and that consolidate with it. On that case, the basis for capital funds for the application of the limits established in Articles 63 and 64 of Law Decree 9 of February 26 of 1998, will follow the consolidation principles of the International Accounting Standards. It is understood, however, that:

  a. The primary capital as well as the secondary capital are accepted as capital funds of the Bank and of each one of its subsidiaries, according to what is established in Numeral 12 of Article 3 of Law Decree 9 of 1998;
  b. In the case of insurance companies, reserves that do not have an equity nature will not be included as part of the capital funds."

ARTICLE 3: Literal c of Numeral 3 of Article 6 of Agreement Nº 5-98 of October 14 of 1998, will read as follows:

"ARTICLE 6: (CLASSIFICATION OF ASSETS BY CATEGORIES):

3. Category 3: (20%)

  …

  Loans guaranteed with bank acceptances with not less than 186 days maturity, issued by Banks established in Panama or by banks established in countries members of OCDE."

ARTICLE 4: Literal d of Article 10 and Literal d of Article 11 of Agreement Nº 5-98 of October 14 of 1998, are repealed.

ARTICLE 5: The present Agreement will be in force as of its date.

Issued in the City of Panama, on the fourteenth (14) day of the month of July of nineteen hundred and ninety-nine (1999).

NOTIFY AND EXECUTE

THE PRESIDENT

Rogelio Miro

THE SECRETARY

Eduardo Ferrer