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BUSINESS BANKRUPTCY LAW

New law published in the Federal Official Gazette on May 12, 2000.

VERSION IN FORCE

Last amendment published FOG 01-10-2014

On the margin, a seal with the national coat of arms that reads: United Mexican States. – Presidency of the Republic.

ERNESTO ZEDILLO PONCE DE LEÓN, Constitutional President of the United Mexican States, may all its inhabitants know:

That the Honorable Congress of the Union has addressed to me the following

EXECUTIVE ORDER

“THE CONGRESS OF THE UNITED MEXICAN STATES, ENACTS THE:

COMMERCIAL BANKRUPTCY LAW AND AMENDMENT TO ARTICLE 88 OF THE ORGANIC LAW OF THE JUDICIAL POWER OF THE FEDERATION

ARTICLE FIRST.- The Commercial Bankruptcy Law is approved to be as follows:

COMMERCIAL BANKRUPTCY LAW

TITLE ONE

General provisions and declaration of commercial bankruptcy

Chapter I

Preliminary Provisions

Article 1.- This Law is of public interest and has the purpose of regulating commercial bankruptcy.

It is in the public interest to preserve companies and to avoid that the generalized non-compliance of payment obligations put the viability of the defaulting companies and of other companies with which they have a business relation at risk. With the purpose of ensuring adequate protection of the creditors vis-à-vis the detriment of the equity of the companies in bankruptcy, the judge and the other parties to the process regulated in this Law must at all times govern their actions under the principles of transcendence, procedural economy, speediness, publicity, and good faith.

Paragraph amended FOG 01-10-2014

Article 2.- Commercial bankruptcy consists of two successive phases, denominated conciliation and bankruptcy.

Article 3.- The purpose of conciliation is to achieve the conservation of the Merchant's company through the subscription of an agreement with its Admitted Creditors. The purpose of bankruptcy is

the sale of the Merchant's company, of its productive units or of the goods that make up said company, in order to pay the Admitted Creditors.

Article 4.- For the effects of this Law, the following shall be understood as:

- I. Admitted Creditors, as those that acquire such nature by virtue of judgment on the inclusion, ranking and preference of claims;
- II. Merchant, as the individual or legal entity that has that nature pursuant to the Commercial Code. This concept includes trust property when it is destined to carrying out business activities. Likewise, it includes the holding companies and subsidiaries or affiliates that article 15 of this law refers to;
- III. Domicile, as the corporate domicile or, lacking this, the place where the main administration of the company takes place. In the case of branches of foreign companies, it shall be the location of their main establishment in the Mexican Republic. In the case of individual Merchants, it shall be the main establishment of the Merchant's company or, in the absence thereof, his/her personal domicile;
- III Bis. Electronic signature, as the means of entering into the electronic system of the Judicial Power of the Federation which shall produce the same legal effects as the handwritten signature, as an option to send and receive statements, documents, communications and official notifications, as well as to consult agreements, determinations and judgments related to the issues that are competence of the jurisdictional bodies under this law;
Subsection added FOG 01-10-2014
- IV. Institute, as the Federal Institute of Commercial Bankruptcy Experts;
- IV Bis. Law, as the present Commercial Bankruptcy Law;
Subsection added FOG 01-10-2014
- V. Estate, as the portion of the Merchant's assets declared in commercial bankruptcy—made up of the Merchant's property and rights, except for those expressly excluded in terms of this Law—over which the Admitted Creditors and others that have a claim may exercise their rights, and
- VI. UDIs, as the Units of Investment referred to in the executive order published in the **Federal Official Gazette** on April 1, 1995..

Article 5.- Small merchants may only be declared in commercial bankruptcy when they have agreed, voluntarily and in writing, to be bound to the application of this Law. For effects of this Law, a small merchant shall be understood as the Merchant whose current and due obligations do not jointly exceed the equivalent of 400,000 UDIs at the time of the filing or claim.

State-owned enterprises incorporated as business associations may also be declared in commercial bankruptcy.

Article 6.- When a number of days for the execution of a hearing, the implementation of an administrative law proceeding or act, or the exercise of a right is indicated in this Law, without specifying the type of days, it shall be understood that reference is being made to business days. In those other cases where there is an express reference to a term, if said term is bound to expire on a non-business day, the term shall be understood as concluded on the first following business day.

Article 7.- The judge governs the commercial bankruptcy proceedings and shall have the necessary powers to enforce the contents of this Law, without being able to modify any term or time period that the Law sets forth, unless the Law expressly empowers the judge to do so. The judge or the Institute shall be liable for any lack of compliance with their respective obligations in the terms provided in this Law, except in cases of Acts of God or force majeure.

Commercial bankruptcy proceedings are public, therefore any person may request access to information on the same, through the mechanisms for access to the information that the Judicial Power of the Federation has in place.

Article amended FOG 01-10-2014

Article 8.- The following are applicable in a supplementary manner to this Law, in the following order:

- I. The Code of Commerce;
- II. Commercial legislation;
- III. Special and general commercial practices;
- IV. The Federal Code of Civil Procedures, and
- V. The Civil Code, in federal matters.

Chapter II Of the events of the commercial bankruptcy

Article 9.- The Merchant that generally does not comply with the payment of its obligations shall be declared in commercial bankruptcy.

It shall be understood that a Merchant generally did not comply with the payment of its obligations when:

- I. The Merchant files its declaration of commercial bankruptcy and meets either of the conditions described in subsections I and II of the following article, or
- II. Any creditor or the Public Prosecutor's Office has requested the Merchant's declaration of commercial bankruptcy, and said merchant's situation meets the two conditions described in subsections I and II of the following article.

Article 10.- For effects of this Law, the generalized non-compliance of a Merchant's payment obligations referred to in the previous article, consists in the non-compliance of its payment obligations to two or more different creditors and when the following conditions are met:

- I. That of the due obligations that the paragraph above refers to, those that have been overdue for at least thirty days represent thirty-five percent or more of the obligations attributable to the Merchant on the date that the claim or filing for bankruptcy was presented, and
- II. The Merchant does not have enough of the assets mentioned in the following paragraph to repay at least eighty percent of its due obligations, on the date of the presentation of the claim or filing.

Subsection amended FOG 12-27-2007

The assets that must be considered for the effects of what is established in subsection II of this article shall be:

- a) Cash on hand and demand deposits;
- b) Fixed-term deposits and investments whose maturity is not more than ninety calendar days after the date of the presentation of the claim or filing;
Subparagraph amended FOG 12-27-2007
- c) Customers and accounts receivable whose maturity is not over ninety calendar days after the date of the presentation of the claim or filing, and
Subparagraph amended FOG 12-27-2007
- d) Securities regularly sold and purchased in the relevant markets, which may be sold in a maximum term of thirty banking days and whose assessment on the date of the presentation of the claim or filing is known.
Subparagraph amended FOG 12-27-2007

The inspector's report and the expert opinions offered by the parties must expressly refer to the events defined in the subsections above.

Article 11.- It shall be assumed that a Merchant generally did not comply with the payment of its obligations when any of the following takes place:

- I. Absence or insufficiency of goods to seize when securing an attachment in case of the non-compliance of a legal obligation or when intending to execute a judgment against the merchant with the quality of *res judicata*;
- II. Non-compliance with the payment of obligations to two or more different creditors;
- III. Hiding or being absent, without leaving someone in charge that can comply with the company's administrative or operative obligations;
- IV. In similar circumstances to the case above, the closing of the company's premises;
- V. Resorting to fraudulent, fictitious, or ruinous practices to deal with or stop complying with its obligations;
- VI. Non-compliance of pecuniary obligations included in an agreement executed in terms of Title Five of this Law, and
- VII. In any other case of analogous nature.

Article 12.- The Merchant's estate may be declared in commercial bankruptcy when the company that was headed by the Merchant finds itself in either of the following situations:

- I. He/she/it continues in operation, or
- II. Once operations have been suspended, the legal actions of the creditors have not yet expired.

In these cases, the obligations attributed to the Merchant shall be under charge of the Merchant's estate, represented by its executor. When the aforementioned estate has been disposed of, said obligations attributed to the merchant shall be under the charge of the heirs and legatees in terms of what is set forth in the applicable legislation. In the case of obligations attributed to the Merchant, these shall be the responsibility of the heirs and legatees in the benefit of the estate's inventory and up to the extent of the aforementioned estate.

Article 13.- The Merchant that has suspended or terminated the operation of its company may be declared in commercial bankruptcy when it generally has not complied, in terms of article 10 of this Law, with the payment of the obligations that it contracted by virtue of the operations of the company.

Article 14.- A company's declaration of commercial bankruptcy determines that the partners that are unlimitedly liable shall be considered in commercial bankruptcy for all effects. The circumstance where the partners individually show that they may cover the payment of the obligations of the company shall not release them from the bankruptcy judgment, unless such partners, with their own means, pay the company's due obligations.

The proceedings may begin jointly against the company and against the partners. The proceedings relative to the partners shall be added to those of the company, but shall be processed and recorded independently.

The declaration of commercial bankruptcy of one or more unlimitedly liable partners, individually, shall not, on its own, produce that of the company.

The commercial bankruptcy of an irregular company shall cause the bankruptcy of the unlimitedly liable partners and that of those who are proven to have been deemed limitedly liable without a sound justification therefor.

Article 15.- The commercial bankruptcy proceedings of two or more Merchants shall not be consolidated, except as set forth in the following paragraph.

The commercial bankruptcy proceedings of business organizations that are part of the same business group shall be consolidated, but they shall be processed and recorded independently.

For effects of what is set forth in this Law, it shall be understood that holding companies and subsidiaries or affiliates form a business group, pursuant to the following:

- I. Those that directly or indirectly hold the voting rights in respect of more than fifty percent of the capital of another company; have decision-making power in said company's meetings; are able to appoint the majority of the members of the board of directors or its equivalent; or through any other means whatsoever may have powers to make the fundamental decisions of a company, shall be considered holding companies.

Shares with limited voting rights and those that in the terms of the commercial legislation are denominated beneficial or preferred shares, shall not be considered shares with voting rights.

In the case of companies that have not issued shares, the value of the participations or of other forms of equity shall be considered.

- II. Subsidiaries or affiliate companies shall be those in which more than fifty percent of their voting shares are owned, either directly or indirectly or in both ways, by a holding company. Therefore, the indirect holdings that this paragraph refers to shall be those that the holding company has through one or several other companies that are also controlled by the same holding company.

Those companies in which a holding company, independently of fulfilling the requisites indicated in the preceding subsections, has the capacity to direct, directly or indirectly, the administration, strategy or principal policies of another holding company, either through the ownership of the shares that represent its capital stock, by contract or through any other means whatsoever, shall also be considered subsidiaries or affiliates.

Article amended FOG 12-17-2007, 01-10-2014

Article 15 Bis.- Those Merchants that form part of the same business group may simultaneously file a joint judicial declaration of commercial bankruptcy, without consolidation of their estates. For the joint declaration of commercial bankruptcy, it shall be enough for one of the members of the group to meet any of the conditions mentioned in articles 10, 11, and 20 Bis of this Law and that said condition make it so that one or more of the members of the business group is in the same situation.

In the case of one or more Merchants that are members of a business group that is facing the same situation as those mentioned in the preceding paragraph, their creditor or creditors may claim their joint judicial declaration of commercial bankruptcy.

In the cases set forth in this article, the filing or claim of a joint declaration of commercial bankruptcy shall be conducted under one proceeding, with the judge being able to appoint one inspector, bankruptcy conciliator, or liquidator for the effects of this Law, if it is deemed appropriate for the purposes of the proceeding.

The joint declaration of commercial bankruptcy proceedings may be added to other commercial bankruptcy proceedings pursuant to what is set forth in article 15.

Article added FOG 01-10-2014

Article 16.- The branches of foreign companies may be declared in commercial bankruptcy. The judgment shall only include the goods and rights that have been located and are payable, as the case may be, in Mexico and to the creditors of transactions performed with said branches.

Chapter III

Of the proceedings for the declaration of commercial bankruptcy

Article 17.- The District Judge with jurisdiction in the place where the Merchant has its domicile has competence to hear the commercial bankruptcy of a Merchant, except for what is set forth in the following paragraphs.

In the case of the filings or claims for commercial bankruptcy that are presented by or against holding companies that have already encouraged their subsidiaries or affiliates to declare commercial bankruptcy, or when the filings or claims for commercial bankruptcy are presented against subsidiaries or affiliates that have started the process of a commercial bankruptcy of the holding company or holding business association, the consolidation that article 15 of this law refers to will take place. In this case, the judge that ruled over the first trial shall be competent and it will be enough to present the subsequent filing or claim before said judge for its admission.

The judge of the place where the company that is a member of the business group that meets any of the conditions described in articles 10, 11 and 20 bis has its domicile, shall be competent to hear the joint commercial bankruptcy judgment referred to in article 15 bis of this law.

Article amended FOG 01-10-2014

Article 18.- The exceptions of procedural nature, including those of lack of jurisdiction of the judge and lack of legal standing, shall be processed in ancillary proceedings and shall not suspend the main bankruptcy proceeding. The commercial bankruptcy proceedings shall also not be suspended due to motions being lodged and processed against the determinations issued by the judge.

The judge must dismiss notoriously inadmissible exceptions *ipso jure* and may determine the procedural exceptions in one or more interlocutory judgments.

Article amended FOG 12-27-2007

Article 19.- If the exception of the lack of legal standing of the plaintiff, or the objection to the legal standing of whomsoever represented him/herself as the agent of the Merchant, is declared admissible, the judge shall grant a term no greater than ten days for this to be corrected, if the defects in the documents presented by the agent can be corrected. If the Merchant does not correct documents dealing with its legitimacy to stand in court, the trial shall continue by default. If the plaintiff does not correct said documents, the judge shall immediately dismiss the trial.

Article 20.- The Merchant that considers that it has incurred in a generalized non-compliance of its obligations in terms of any of any of the conditions established in article 10 of this law, may request to be declared in commercial bankruptcy. In case there are grounds for the bankruptcy proceedings, said proceedings shall open in the conciliation stage, except if the Merchant expressly asks that the commercial bankruptcy begin in the bankruptcy stage.

Paragraph amended FOG 12-27-2007, 01-10-2014

The Merchant's filing for its declaration of commercial bankruptcy must be presented in the forms provided for that effect by the Institute. Said forms must include at least: the complete name, corporate name or denomination of the Merchant; the address for service of process; if appropriate, the corporate domicile and the domicile of its various offices and establishments, including plants or warehouses, specifying as necessary where the principal administration of the company is located; or, in case of an individual, the domicile where he/she lives. Also, the following annexes must be attached to respective forms:

Paragraph amended FOG 01-10-2014

- I. The Merchant's financial statements of the last three years, which must be audited when the law so requires;
- II. A report in which the causes that led it to the state of non-compliance are detailed;
- III. A list of the creditors and debtors indicating their names and domiciles, the date of maturity of each of their claims, the rank that it deems that they should be acknowledged with, indicating the particular characteristics of said claims, as well as of the guarantees, personal or property, that were pledged to guarantee its own debts or those of third parties;
Subsection amended FOG 12-27-2007
- IV. An inventory of all its real estate and personal property, securities, commercial goods and sundries and rights of any other kind;
Subsection amended FOG 12-27-2007
- V. A list of the suits that the Merchant is a part of, indicating the parties of those proceedings and their identifying data, their type, the current status of the trial and the name of the judge hearing the trial;
Subsection added FOG 12-27-2007, Amended FOG 01-10-2014
- VI. The offer, if the filing were admitted, to pledge the guarantee that article 24 refers to
Subsection added FOG 12-27-2007. Amended FOG 01-10-2014

VII. In the case of legal entities, the agreements of the corporate acts that are necessary to file a commercial bankruptcy pursuant to the terms and conditions established by the respective corporate bylaws or by the competent corporate bodies. Said agreements must undoubtedly evidence the intention of the partners or shareholders concerning the aforementioned;

Subsection added FOG 01-10-2014

VIII. Proposal of preliminary agreement of payment to its creditors, except when the Merchant files the declaration of bankruptcy in terms of Title Six of this Law, and

Subsection added FOG 01-10-2014

IX. Preliminary proposal of conservation of the company.

Subsection added FOG 01-10-2014

The filing must be presented pursuant to the following provisions relative to the claim.

The writ of admission of the request shall be provided in terms of article 29 of this Law.

Paragraph added FOG 12-27-2007

Article 20 Bis.- The Merchant may also file for commercial bankruptcy, manifesting under oath that any of the events indicated in subsections I and II of article 10 of this Law is imminent.

It shall be understood that the Merchant will imminently meet the conditions of generalized non-compliance in the payment of its obligations when it is presumed that any of said events will inevitably take place within the ninety days following the filing. In this case, the Merchant must file the declaration of commercial bankruptcy pursuant to what is set forth in the preceding article.

Article added FOG 01-10-2014

Article 21.- Any of the Merchant's creditors or the Public Prosecutor's Office may present a claim to declare commercial bankruptcy.

If during the processing of commercial proceedings a judge finds that a Merchant meets any of the conditions described in articles 10 or 11, he/she shall proceed *ex officio* to report this situation to the competent fiscal authorities and to the Public Prosecutor's Office so that the latter may request a declaration of commercial bankruptcy, as applicable. The fiscal authorities shall only proceed to file for the commercial bankruptcy of a Merchant acting as creditors.

Likewise, one or more creditors of the Merchant may file for the commercial bankruptcy to begin directly in the bankruptcy stage. The judge, if the Merchant accepts the claims included in the claim lodged and having previously ruled on the generalized non-compliance of the Merchant's payment of its obligations, shall issue, as appropriate, the judgment of commercial bankruptcy in the bankruptcy stage.

Paragraph added FOG 01-10-2014

In the event that the Merchant does not accept the claim referred to in the preceding paragraph, the commercial bankruptcy proceedings shall begin in the conciliation stage, which shall be conducted in terms of this Law.

Paragraph added FOG 01-10-2014

Article 22.- The filing for commercial bankruptcy must be presented in the form provided to this effect by the Institute, but in any case must be signed by the petitioner and shall include:

Paragraph amended FOG 01-10-2014

I. The name of the court before which it is brought;

- II. The complete name and domicile of the plaintiff;
- III. The name, corporate name and the Domicile of the sued Merchant, including, when they are known, the domiciles of its various offices, manufacturing plants, or warehouses;
- IV. The events that motivate the petition, relating them briefly, clearly and accurately;
- V. The legal grounds and
- VI. The request to declare the Merchant in commercial bankruptcy or, as appropriate, in commercial bankruptcy in the bankruptcy stage pursuant to what is set forth in article 21 of this Law.

Subsection amended FOG 01-10-2014

Article 23.- The claim presented by the creditor must be accompanied by:

- I. Documentary evidence that shows that it has such nature;
 - II. The offer to grant the guarantee that the following article refers to if the claim were admitted, and
- Subsection amended FOG 12-27-2007*
- III. The original documents and certified copies that the plaintiff has in his/her power and that serve as evidence on its part.

The documents presented afterwards shall not be admitted, except in the case of those that serve as evidence against the exceptions alleged by the Merchant, those that were subsequent to the presentation of the claim and those that, even if they existed before, the plaintiff manifests under oath, that he/she did not have knowledge of when presenting the claim.

If the plaintiff did not have the documents that this article refers to at its disposal, it must designate the file or place where the originals are, so that, before processing the claim, at the cost of the plaintiff, the judge may send for copies of them to be issued.

The final presentation of the claims or the statements in electronic form may be sent up to hour twenty-four of the expiration date.

Paragraph added FOG 01-10-2014

Article 23 Bis.- Whoever files the declaration of commercial bankruptcy in terms of articles 20 and 21, respectively, may do so by presenting the request in printed or in electronic form. The requests in electronic form shall be presented through the use of information technologies, using the Electronic signature pursuant to the regulation issued by the Federal Judiciary Board for such effect.

In any case, if either of the parties files the bankruptcy in printed or in electronic form, the jurisdictional bodies shall be obligated to ensure that the electronic and printed files match integrally for the consultation of the parties.

The heads of the jurisdictional bodies shall be responsible for surveying the digitalization of all the statements and documents presented pursuant to this Law, as well as the agreements, determinations or judgments and all the information related to the relevant files in the system, or if said documents were presented in electronic form, they shall be printed in order to incorporate them into the printed file. The court clerks of the relevant jurisdictional bodies shall attest that each statement, document, court order and determination is duly incorporated into both the electronic and printed file with the purpose of them coinciding in their totality.

Article added FOG 01-10-2014

Article 24.- In case of obscurity, irregularity or deficiency in the request or annexes of the filing for commercial bankruptcy, the judge shall issue an agreement in which he/she shall precisely indicate what they consist of, providing a maximum term of ten days so that they may be clarified and corrected. If they are not clarified and corrected, the judge shall dismiss and return all the documents to the interested party.

Paragraph added FOG 12-27-2007

If the judge does not find any reason to declare the inadmissibility of the claim or filing for commercial bankruptcy or the deficiency of the same, or if the deficiencies identified in the statement of the judge were corrected, he/she shall admit said claim or filing. The writ of admission of the filing or claim shall be deprived of legal effects if the plaintiff does not guarantee the fees of the inspector for an amount equal to one thousand five hundred days of the minimum wage in force in the Federal District within the three days following the date when the writ is notified.

Paragraph amended FOG 12-27-2007

The guarantee shall be released in favor of the plaintiff if the judge dismisses the filing or claim or if he/she issues a judgment that declares the commercial bankruptcy.

If the claim is presented by the Public Prosecutor's Office, the guarantee mentioned in this article shall not be required.

Article 25.- The creditor that files for the commercial bankruptcy of a Merchant may request that the Judge adopt injunctive reliefs or to amend those that were adopted, as applicable. The incorporation, amendment, or lifting of said reliefs shall be regulated by what is set forth to the effect in the Commercial Code.

Article 26.- Once the commercial bankruptcy claim is admitted, the judge shall summon the Merchant, serving it with the claim and its annexes, granting it a term of nine days to answer, having to attach its answer to the bankruptcy filing or claim with the list of creditors referred to in subsection II of article 20 of this law. In its answer to the bankruptcy filing or claim, the Merchant must offer the evidence that this Law authorizes.

Paragraph amended FOG 01-10-2014

At the request of the Merchant, or acting *ex officio*, the judge shall issue the injunctive reliefs that he/she considers necessary to achieve the ends of avoiding putting the viability of the company at risk due to the claim or others that take place during the visit, or to avoid worsening said risk. The former, in order to safeguard the public interest provided in article 1 of this Law.

The day following when the judge receives the answer, he/she shall notify the plaintiff so that within a term of three days, the plaintiff may express what is in its best interest and, as applicable, add its presentation of evidence to counter such procedural exceptions as stated by the Merchant.

Paragraph amended FOG 12-27-2007

On the day following the expiration of the term that the first paragraph of this article refers to without the Merchant having presented its answer, the judge must certify said event, declaring the right of the Merchant to answer as precluded. Not answering on time shall create the presumption, unless there is evidence to the contrary, that the determining information included in the claim for the declaration of commercial bankruptcy is true. In this case, the judge must issue a definitive judgment declaring the commercial bankruptcy within the following five days.

Paragraph amended FOG 12-27-2007

Article 27.- With the answer to the bankruptcy filing or claim, the documentary evidence shall be admitted, as shall the opinion of experts when in writing. Whoever presents the expert opinions must accompany said writ with information and documents that attest to the experience and technical knowledge of the corresponding expert. Under no circumstance shall the experts be summoned for interrogation.

With the answer to the bankruptcy filing or claim, the Merchant may offer, in addition to the evidence referred to in the previous paragraph, pieces of evidence that may directly invalidate the applicability of the conditions mentioned in article 10 of this Law. In this case, the judge may order the presentation of the additional evidence that he/she may deem convenient, but the presentation of said evidence may not exceed a term of thirty days.

Article 28.- The Merchant that filed its declaration of commercial bankruptcy, or as may be the case, the creditors or the Public Prosecutor's Office that claimed it, may desist from its filing or claim, provided there is the express consent of all the subjects involved. The Merchant or the claiming creditors shall pay the expenses of the proceeding and any others, and the fees of the inspector and of the bankruptcy conciliator, as applicable.

Article amended FOG 01-10-2014

Chapter IV Of the verification visit

Article 29.- The day following when the judge admits the filing or claim, he/she must send a copy of the same, but not of the annexes, to the Institute, ordering it to appoint an Inspector within the five days following the reception of said communication. Likewise and in the same term, he/she must report the filing or claim to the competent fiscal authorities for the appropriate effects, immediately sending the respective official letters.

Paragraph amended FOG 01-10-2014

The foregoing, notwithstanding that the respective annexes of the claim must remain in the court at the disposal of the Institute, the creditors, and the competent administrative and fiscal authorities,.

Paragraph added FOG 01-10-2014

No later than the day following the appointment of the inspector, the Institute must inform the judge and the appointed inspector. The inspector, within five days following his/her appointment, shall inform the judge of the names of the persons that shall assist him/her in the performance of his/her duties, in the understanding that any person not duly appointed shall not be able to act in the visit. The day following when the judge is informed of said appointments, he/she shall issue a resolution reporting such information to the interested parties.

Article 30.- The day following when the visit that the third paragraph of article 26 refers to is settled and the events established in the second paragraph of article 29 of this ordinance take place, the judge shall order the Merchant to receive a visit, whose purpose shall be for the inspector to:

Paragraph amended FOG 12-27-2007

- I. Rule if the Merchant meets the conditions set forth in article 10 of this Law, as well as the expiration date of the claims related to those conditions, and
- II. As may be applicable, suggest to the judge the injunctive reliefs that he/she deems necessary for the protection of the Estate, in terms of article 37 of this Law.

Subsection amended FOG 12-27-2007

When the visit is to a holding company or a subsidiary or affiliate, the inspector must record this fact in his/her report.

Article 31.- The court writ in which the visit is ordered must also express the following:

Paragraph amended FOG 12-27-2007

- I. The name of the inspector and of his/her assistants;

- II. The place or places where the corresponding visit shall take place, and
- III. The books, registries, and other documents of the Merchant that the visit shall deal with.
Subsection amended FOG 12-27-2007

The court writ that orders the visit shall have the effects of a legal mandate ordering the Merchant to allow the visit to take place, warning the Merchant that in case of non-compliance, a declaration of commercial bankruptcy shall be issued.

Paragraph amended FOG 12-27-2007

Article 32.- The inspector must show up at the Domicile of the Merchant within the five days following when the visit order is issued. If once this term has elapsed the inspector has not presented him/herself to carry out the visit, no matter the reason, the presiding judge or the creditors that sued the Merchant, through the judge, may request that the Institute assign a substitute inspector. Once the substitute inspector has been appointed, the Institute must report this to the Judge so that he/she may amend the visit order.

Article 33.- If, when the Inspector arrives to the place where the visit will take place, the Merchant or its representative are not present, a summons shall be left with the person encountered at said place so that the Merchant or its representative may wait for the Inspector at a determined hour the next day, to be notify the Merchant of the content of the visit order. If at the time of the visit there is no person to notify of the visit, the inspector must request that, before inspection by the courthouse's clerk, the judge warn the Merchant that, in case of insisting on absence, the commercial bankruptcy shall be declared.

If at the discretion of the visitor, it is necessary to designate additional places to carry out the visit, the request must be put to the judge so that he/she may rule on what is relevant to this case.

Article 34.- The inspector must attest to his/her appointment with the respective order. Both the inspector and his/her assistants must identify themselves to the Merchant before carrying out the visit.

The inspector and his/her assistants shall have access to the accounting books, registries and financial statements of the Merchant, as well as to any other document or electronic means of data storage where the financial and accounting situation of the Merchant is recorded and that are related to the purpose of the visit. Likewise, these subjects may carry out interviews with the Merchant's directive, managerial and administrative personnel, including its external financial, accounting and legal advisors.

Paragraph amended FOG 12-27-2007

Article 35.- The Merchant and its personnel shall be obligated to collaborate with the inspector and his/her assistants. In case of not collaborating, obstructing the visit or not providing the necessary information to the inspector or to his/her assistants for them to render a report, at the petition of the inspector, the judge may impose the enforcement measures that he/she considers pertinent, warning the Merchant that if it does not collaborate with the visit, the commercial bankruptcy shall be declared.

Article 36.- At the end of the visit, the inspector shall draft a statement in which the facts or omissions relative to the visit that became known to the inspector and to his/her assistants, shall be attested to in a detailed manner.

The visit statement must be drafted before two witnesses appointed by the Merchant, therefore, twenty-four hours beforehand, the inspector must communicate the day and time when the statement shall be drafted to the Merchant; if the Merchant does not appoint the witnesses, the statement shall be drafted before the court clerk. The Merchant and the witnesses must sign the

statement; if they refuse to do so, said circumstance must be recorded in the statement, without its validity being affected by this situation.

The inspector and his/her assistants may reproduce documentation through any means so that it may be annexed to the visit statement before authentication. The inspector may attest to the known facts relative to the visit through a certifying public officer, without the issuance of letters rogatory (letters of request) or the previous authorization of days and hours in connection to the visit to be required at all.

Article 37.- Besides the injunctive reliefs that are referenced in article 25, during the performance of the visit, the inspector may request that the judge adopt, amend or lift the injunctive reliefs referred to in this article. The former, in order to protect the Estate and the rights of the creditors, having to provide the legal grounds of the reasons for the request in all the cases.

The judge may issue the injunctive reliefs that he/she deems necessary at any stage of the bankruptcy proceeding, once he/she has received the request, or acting ex officio.

Paragraph amended FOG 01-10-2014

The injunctive reliefs may consist of the following:

- I. The prohibition of making payments of expired obligations before the admission date of the commercial bankruptcy filing or claim.
- II. The suspension of all enforcement proceedings against the goods and rights of the Merchant;
- III. The prohibition for the Merchant to carry out the disposal or encumbrance of its company's main goods:
- IV. The seizure of property;
- V. The seizure of cash; VI. Prohibition on transferring resources or securities in favor of third parties.
- VII. The order to place the Merchant on home confinement, for the sole effect of him/her not departing from the domicile without leaving an attorney-in-fact with proper instructions and power of attorney. When the person who has been confined proves to have complied with the foregoing, the judge shall lift the confinement, and
- VIII. Any others of analogous nature.

From the filing for commercial bankruptcy or once the paperwork has been admitted, the Merchant may request that the judge authorize the immediate contracting of credits that are necessary to maintain the ordinary operation of the company and the necessary liquidity during the processing of commercial bankruptcy. To process the credits referred to, the judge may authorize the creation of appropriate guarantees, if the Merchant so requests

Paragraph added FOG 01-10-2014

Once the petition of the Merchant has been presented, and given the urgency and need for financing, the judge, with the previous opinion of the inspector, shall rule on the authorization of the financing with the abovementioned purpose, and shall then proceed to issue the guidelines by which the respective claim and its ordinary payment shall be authorized during the commercial bankruptcy. The former, taking into consideration its preference in terms of article 224 of the Law.

Paragraph added FOG 01-10-2014

Article 38.- The injunctive reliefs shall subsist until the judge orders them to be lifted.

The Merchant may avoid the application of the injunctive reliefs or request that those already issued be lifted, by the pledge of a guarantee constituted at judge's satisfaction.

Article 39.- The Merchant's statements relative to the existence of supporting documents that are not in its possession must be recorded in the visit statement.

Article 40.- The inspector, based on the information recorded in the visit statement, must render to the judge, in a term of fifteen calendar days counting from the date of the start of the visit, a reasoned and detailed report, considering the facts brought in the claim and in the answer, annexing the visit statement to the said report. The report must be presented in the forms given by the Institute for such effect.

The inspector must present his/her report in the terms that the paragraph above refers to, however, for a justified cause, he/she may request an extension from the judge to finish the visit and render the report. The extension may under no circumstances exceed fifteen calendar days.

Paragraph amended FOG 12-27-2007

Article 41.- The judge shall give notice to the Merchant, the plaintiff creditor or creditors and to the Public Prosecutor's Office, if the latter claimed the commercial bankruptcy, of the inspector's report on the day following when he/she receives it. The former so that within a term of five days, the aforementioned subjects may present their allegations in writing, and for the other effects set forth in this Law.

Article amended FOG 12-27-2007, 01-10-2014

Chapter V Of the commercial bankruptcy judgment

Article 42.- Without the need for a summons, the judge shall issue the corresponding judgment within the five days following the expiration of the term for the formulation of allegations; considering what has been manifested, proven, and claimed by the parties, including the inspector's report. The judge shall consider the evidence submitted by the parties, including what has been expressed in the inspector's report.

Article 43.- The judgment of the commercial bankruptcy declaration shall include:

- I. Name, corporate denomination or name and Domicile of the Merchant, and, as applicable, the complete name and domiciles of the unlimitedly liable partners;
- II. The date when it is issued;
- III. The basis for the judgment in terms of what is established in article 10 of this law, as well as, as applicable, a list of the creditors identified by the inspector in the Merchant's accounting. The former without it exhausting the claim's recognition, ranking, and preference process that Title Fourth of this Law refers to;
Subsection amended FOG 12-27-2007
- IV. The order to the Institute to appoint the bankruptcy conciliator through the random mechanism previously established, along with the determination that, in the meantime, the Merchant and his/her/its administrators, managers, and employees shall have the obligations that the law attributes to the depositaries;
- V. The declaration of the opening of the conciliation stage, unless the bankruptcy of the Merchant was filed;

Subsection amended FOG 01-10-2014

- VI. The order to the Merchant to immediately put the following at the disposal of the bankruptcy conciliator: the books, registries, and any other documents pertaining to his/her/its company, as well as the necessary resources to defray the expenses of the registration and the publications provided in this Law;
Subsection amended FOG 12-27-2007
- VII. The mandate to the Merchant to allow the bankruptcy conciliator and the conservators to perform the activities inherent to their positions;
- VIII. The order to the Merchant to suspend the payment of the debts contracted before the date when the commercial bankruptcy judgment takes effects. The former, except for those debts necessary for the ordinary operation of the company, including any claim necessary to keep the ordinary operation of the company and the necessary liquidity during the processing of the commercial bankruptcy, regarding which the Merchant must inform the judge within the seventy-two hours following their payment;
Subsection amended FOG 01-10-2014
- IX. The order to suspend all attachment or alienation orders against the goods and rights of the Merchant during the conciliation stage, with the exceptions provided in article 65;
- X. The retroactivity date;
- XI. The order to the bankruptcy conciliator to publish an extract of the judgment in terms of article 45 of this Law;
- XII. The order to the bankruptcy conciliator to register the judgment in the public registry of commerce that corresponds to the Domicile of the Merchant and in all the locations where he/she/it has an agency, branch, or goods subject to registration in a public registry;
- XIII. The order to the bankruptcy conciliator to start the procedure to recognize claims;
- XIV. The notice to the creditors, so that those who consider it suitable may request the recognition of their claims, and
- XV. The order to issue, at the expense of the requestor, a certified copy of the judgment.

Article 44.- The day subsequent to when the judgment that declares the commercial bankruptcy is issued, the judge must personally notify the Merchant, the Institute, and the Inspector. The creditors whose domiciles are known and the competent fiscal authorities shall also be notified through certified mail or through any other means established in the applicable laws. The Public Prosecutor shall be notified in those cases, acting as the plaintiff, through official communication. Likewise, the liquidating representative shall be notified through official communication and by default, the Federal Attorney for Labor Defense.

Article amended FOG 12-27-2007

Article 45.- Within the five days following his/her appointment, the bankruptcy conciliator shall proceed to request the registration of the commercial bankruptcy judgment in the corresponding public registries and shall have the extract of the same published in the Federal Official Gazette and in one of the major daily newspapers in the location where the trial takes place; said extract may also be distributed through other means that the Institute deems convenient.

Paragraph amended FOG 12-27-2007

The parties that were not notified in terms of the article above shall be considered as notified of the declaration of commercial bankruptcy on the day when the last publication of those documents indicated in this article takes place.

Article 46.- Once the five days have elapsed counting from the expiration of the term to publish the judgment without its publication, any creditor or conservator may ask the judge for the documents needed in order to make the publications itself. The judge shall provide the documents to whoever requests them first. The corresponding expenses shall be claimed against the Estate.

Article 47.- The judgment shall produce the effects of home confinement for the Merchant and, in cases of legal entities, of those who are responsible for its administration, for the sole effect of him/her not departing from the domicile without leaving an attorney-in-fact with proper instructions and power of attorney with a general or special mandate with powers for acts of ownership, acts of administration, and for lawsuits and collections. When whoever was confined demonstrates compliance with the foregoing, the judge shall lift the confinement.

Paragraph amended FOG 01-10-2014

Amended FOG 01-10-2014: The then second paragraph was repealed from the article (before added by FOG 12-27-2007).

Article 48.- The judgment that declares that the commercial bankruptcy is not admissible, shall order for things to return to the condition that they had before the bankruptcy claim and to lift the injunctive reliefs that were imposed or the release of the guarantees that were constituted to avoid its imposition. The judgment must be personally notified to the Merchant and, as applicable, to the creditors that claimed the bankruptcy. The claiming Public Prosecutor shall be notified through official communication.

Paragraph amended FOG 12-27-2007

In all the cases, the acts of administration carried out legally must be respected, as well as those rights acquired by third parties in good faith.

The judge shall sentence the claiming creditor, or the petitioner, as applicable, to pay the judicial expenses and costs calculated as if the business were for an undetermined amount in accordance with the general norms that govern tariff matters in the Federal State in respect thereof, including the inspector's fees and expenses.

Paragraph amended FOG 12-27

Chapter VI Of appeals of the commercial bankruptcy judgment

Article 49.- The judgment that denies the commercial bankruptcy may be appealed; this appellation suspends the procedure and has remanding effects. The judgment that declares the commercial bankruptcy may also be appealed; this appellation only has remanding effects.

The Merchant, the inspector, the creditors and the Public Prosecutor's Office acting as plaintiffs may lodge the motion to appeal.

Paragraph amended FOG 12-27-2007

Article 50.- The appeal must be lodged in writing, within the nine days following the date on which the notification of the judgment shall take effect, and in the same writing, the petitioner must express the grievances that said judgment causes it, offer evidence and, as applicable, indicate documented files to integrate the appropriate record on appeal.

The judge, in the court order that admits lodging the motion, shall notify the contrary party so that in a term of nine days, he/she/it may answer the grievances, offer evidence and, in the given case, indicate documented files to be added to the record on appeal. The judge shall order for the proof to

be recorded in the lodging of the motion and the remittal of the record on appeal to the court of appeals within a term of three days, in the case of original court orders, and five in the case of copies.

In the writs of expression of grievances and their answers, the Merchant may offer the evidence that this Law authorizes, specifying the points that must be dealt with.

Article 51.- The court of appeals, within the two days subsequent to when it has received the record or the court resolutions, as applicable, shall issue a court resolution in which it must admit or dismiss the appeal and shall resolve on the offered evidence and, as applicable, shall open a term of fifteen days for its presentation. The court of appeals may extend this last term for fifteen additional days, when it has not been possible to present evidence for causes not attributable to the offering party.

If it were not necessary to present any evidence, or once the evidence presented has been admitted, a term of ten days shall be granted to present allegations, first to the appellant and then to the other parties. The court of appeals, within the five days following the expiration of said terms, must issue, without any more processing, the corresponding judgment.

Article 52.- The judgment that revokes the commercial bankruptcy must be registered in the same public registry of commerce where the judgment that declared it was already registered, and it shall be communicated to the public registries so that they may proceed to the cancellation of the corresponding registrations.

Article 53.- The revocation judgment of the commercial bankruptcy shall be notified and published in terms of the foregoing articles 44 and 45, and what is set forth in article 48 of this Law shall be followed in what is pertinent.

TITLE TWO **Of commercial bankruptcy bodies**

Chapter I **Of the inspector, bankruptcy conciliator, and liquidator**

Article 54.- The inspector, the bankruptcy conciliator, and the liquidator shall have the obligations and powers expressly granted by this Law.

Article 55.- The inspectors, bankruptcy conciliators, and liquidators may hire, with authorization of the judge, the assistants that they consider necessary for the exercise of their duties, which shall under no circumstances imply the delegation of their respective responsibilities.

Article 56.- The appointment of the inspector, bankruptcy conciliator, or liquidator may be challenged before the judge by the Merchant, and by any of the creditors within the three days following the date on which the appointment was reported to them pursuant to what is established in articles 31, 149, or 172. The challenge shall only be admitted when one of the events that article 328 of this Law refers to is verified. The challenge shall be conducted in ancillary proceedings.

The judge may reject the appointment made by the Institute when one of the events mentioned in article 328 takes place, having to notify the Institute so that a new appointment may be made.

Article 57.- The challenge of the appointment of the inspector, bankruptcy conciliator, or liquidator shall not prevent him/her from beginning his/her duties, nor shall it suspend the continuation of the visit, the conciliation, or the bankruptcy.

Article 58.- When this Law does not determine a term for the fulfillment of the obligations of the inspector, the bankruptcy conciliator, or the liquidator, it shall be understood that these shall be

carried out in a term of thirty calendar days unless, at the petition of any of said subjects, as applicable, the judge authorizes a longer term, which may not exceed thirty additional calendar day.

Article 59.- The liquidator and, as applicable, the bankruptcy conciliator, must render reports of the tasks performed in the Merchant's company before the judge in a bi-monthly manner and must present a final report regarding his/her management, pursuant to the forms which to the effect are provided by the Institute. These forms shall detail the minimum financial, accounting, fiscal, administrative, corporate, and legal information of the Merchant that the reports must include. All the reports shall be notified to the Merchant, the creditors, the claiming Public Prosecutor's Office, and the conservators through the judge.

Article amended FOG 12-27-2007, 01-10-2014

Article 60.- The Merchant, the claiming Public Prosecutor's Office, the conservators, and the creditors themselves, individually, may report to the judge the acts or omissions of the inspector, the bankruptcy conciliator, and the liquidator that do not adhere to this Law. The judge shall issue the enforcement measures that he/she deems convenient and, in the given case, may request the Institute to substitute the inspector, bankruptcy conciliator, or liquidator to the ends of avoiding losses to the Estate.

Paragraph amended FOG 12-27-2007

When an inspector, bankruptcy conciliator, or liquidator is sentenced to the payment of damages and losses through a final judgment, the judge must send a copy of the same to the Institute for effects of what is set forth in subsection VI of article 337 of this ordinance.

Article 61.- The inspector, bankruptcy conciliator, and the liquidator shall be liable before the Merchant and before the creditors, for: their own acts and those of their assistants, in respect of the damages and losses caused by the performance of their duties; non-compliance with their obligations; and the revelation of confidential information that they become aware of by virtue of the performance of their post.

In the case of the liquidator and bankruptcy conciliator, when in charge of the administration, they shall be just as liable for the non-compliance with the fiscal obligations that article 69 of this Law refers to.

Article amended FOG 01-10-2014

Chapter II Of the conservators

Article 62.- The conservators shall represent the interests of the creditors and shall be in charge of the surveillance of the bankruptcy conciliator's and of the liquidator's actions as well as of the actions taken by the Merchant in the administration of his/her/its company.

Article 63.- Any creditor or group of creditors that represents at least ten percent of the amount of the claims attributable to the Merchant, pursuant to the provisional list of claims; at least ten percent of the liabilities attributable to the Merchant pursuant to the definitive list of recognized claims, or pursuant to the recognition, ranking, and preference judgment of claims, shall have the right to petition the judge to appoint a conservator, whose fees shall be paid by whoever requests it. It is not necessary to be a creditor in order to be a conservator. It shall be enough to be a legal entity or individual with legal capacity to be a conservator.

The creditor or group of creditors must address their requests to the judge, so the latter may issue the corresponding appointment *ipso jure*, without giving notice to the parties and within the term of three days subsequent to the presentation of the request. The conservators may be substituted or removed by whoever has appointed them, complying with what is set forth in this paragraph.

Article amended FOG 01-10-2014

Article 64.- The conservators shall have the following powers and duties:

- I. To process the notification and publication of the commercial bankruptcy judgment;
- II. To directly request for the Merchant, bankruptcy conciliator, or liquidator, to carry out the physical examination of a book or document, as well as of any other means of storage of the Merchant's information that is subject to commercial bankruptcy. The former, whenever such request is made in connection with any of the issues that, at their discretion, may affect the interests of the creditors, with the possibility of requesting a copy of the supporting documentation and materials of the examination of the same, which must be treated as confidential. The aforementioned copies shall be paid by the creditors;

Subsection amended FOG 01-10-2014

- III. To directly request of the Merchant, bankruptcy conciliator, or liquidator, written information regarding the issues relative to the administration of the Estate and of the company, that at their judgment may affect the interests of the creditors, as well as the reports mentioned in article 59 of this Law, with the possibility of requesting a copy of the supporting documentation and any other materials of the consultation, which must be treated as confidential. The aforementioned copies shall be paid for by the creditors;

Subsection amended FOG 01-10-2014

- IV. To act as speaker of the creditors that appointed him/her and of the other creditors that so request it, before the Merchant, bankruptcy conciliator, and liquidator, and

Subsection added FOG 01-10-2014

- V. The others established in this Law.

Subsection moved up FOG 01-10-2014

TITLE THREE

Of the effects of the commercial bankruptcy judgment

Chapter I

Of the suspension of the execution procedures

Article 65.- As of the issuance of the commercial bankruptcy judgment and until the conciliation stage ends, no attachment or enforcement mandate against the goods and rights of the Merchant may be executed.

When the attachment or enforcement order addresses labor, the suspension shall not take effects in respect of what is set forth in subsection XXIII, of section A, of constitutional article 123 and its regulatory provisions, considering the salaries of the two years before the commercial bankruptcy; when the attachment or execution order has a fiscal nature, in the prescriptions of article 69 of this ordinance shall be followed.

Article 66.- The writ of admission of the commercial bankruptcy claim shall have among its purposes, notwithstanding the others indicated by Law, to enforce the rights that the Constitution, its regulatory provisions and this Law guarantee to the workers, for effects of their payment with the preference to other credits, that such provisions and subsection I of article 224 of this Law refer to.

The commercial bankruptcy judgment shall not be cause to interrupt the payment of the ordinary labor obligations of the Merchant.

Article 67.- If labor authorities order the attachment of the Merchant's goods to ensure claims in favor of the workers for salaries and wages accrued in the previous two years or for indemnifications, whoever is in charge of the administration of the company of the Merchant shall become the depositary of the attached goods in terms of this law.

As soon as the person in charge of the administration of the Merchant's company covers or guarantees said claims to the satisfaction of the labor authorities, the attachment shall be lifted.

Article 68.- In complying with a labor determination whose purpose is to protect the rights in favor of the workers that subsection XXII, section A, Constitutional article 123, its regulatory provisions and this Law refers to, if the competent labor authority orders the execution of a good that is part of the Estate that is also the object of a collateral on property, the bankruptcy conciliator may request the latter to substitute said good for a bond, to the satisfaction of the labor authority, in order to guarantee the fulfillment of the claim in the term of ninety days.

When the aforementioned substitution is not possible, the bankruptcy conciliator, once the enforcement against secured collateral has been made, shall register the amount that is less between the recognized claim that and the sales price of the collateral that has been enforced against the Estate in favor of the creditor with the secured collateral. The former, for the fulfillment of the claims referred to in the previous paragraph. However, if the value of enforcing the collateral is less than the amount of the recognized claim, the difference shall be considered an unsecured claim.

Article 69.- Starting from the commercial bankruptcy judgment, the fiscal claims shall continue causing the updates, penalties, and ancillaries that correspond pursuant to the applicable provisions.

If an agreement were to be reached in terms of Title Five of this Law, the penalties and ancillaries caused during the conciliation stage shall be cancelled.

The commercial bankruptcy judgment shall not be cause to interrupt the payment of the Merchant's fiscal contributions or of social security contributions, due to them being necessary for the ordinary operation of the company.

Starting from the commercial bankruptcy judgment and up to the termination of the term for the conciliation stage, the administrative procedures of the enforcement of the fiscal claims shall be suspended. The competent fiscal authorities may continue with the performance of the necessary actions for the determination and attachment of the fiscal claims attributable to the Merchant.

Chapter II

Of the separation of goods in the Merchant's possession

Article 70.- The goods in possession of the Merchant that are identifiable, whose property was not transferred to him/her/it by a definitive and irrevocable legal title, may be separated by their legitimate holders. The commercial bankruptcy judge shall be competent to rule over the separation action.

Once the separation petition has been made, with the requisites established in article 287, if the Merchant, bankruptcy conciliator, or conservators do not oppose it, the judge shall order the separation *ipso jure* in favor of the plaintiff. In case of opposition, the separation shall continue its process in ancillary proceedings.

Article 71.- The assets with the following conditions, or any other of analogous nature, may be separated from the Estate:

- I. Those that may be repossessed in accordance with the laws;
- II. The real estate sold to the Merchant and not paid for by the latter, when the purchase has not been duly registered in the corresponding public registry;
- III. The goods acquired in cash, if the Merchant has not paid the total price at the time of the declaration of commercial bankruptcy;
- IV. The personal property or real estate acquired in installments, if the non-compliance with the payment determination clause was registered in the corresponding public registry;
- V. The securities of any kind issued in favor of the Merchant or that were endorsed in favor of the latter, as payment of sales made on behalf of third parties, provided it is proven that the obligations fulfilled in this manner are indeed originated in such way and that the item was not entered in a current account between the Merchant and its principal;
- VI. The taxes withheld, collected, or transferred by the Merchant on behalf of the fiscal authorities, and
- VII. Those in the Merchant's possession in any of the following events:

Paragraph amended FOG 01-10-2014

- a. Deposit, lease, usufruct, or that the goods were received in administration or consignment, if in this case the commercial bankruptcy was declared before the manifestation of the buyer of making the merchandise his/hers, or if the term to claim it has not elapsed;

Subparagraph amended FOG 01-10-2014

- b. Purchase, sales commission, transit, delivery, or collection fee;
- c. For delivery to a determined person on behalf of a third party or to fulfill obligations that had to be fulfilled at the Merchant's Domicile;

When the remaining claim of the reduction was set aside to pay off a bill of exchange, the legitimate holder of this may obtain its separation.

Paragraph amended FOG 01-10-2014

- d. The amounts in the name of the Merchant coming for sales made on its own. The separation petitioner may also obtain the assignment of the corresponding claim to credit, or

Subparagraph amended FOG 01-10-2014

- e. Those held on behalf of a trust.

Subparagraph added FOG 01-10-2014

Article 72.- In what relates to the existence or identity of the goods whose separation is requested, the following shall be taken into account:

- I. The separation actions shall only proceed when the goods are in the possession of the Merchant from the time of the declaration of commercial bankruptcy;
- II. If the goods were to perish after the declaration of commercial bankruptcy and were insured, the separation petitioner shall have the right to obtain the payment of the indemnification received or to subrogate itself in the rights to claim it;

- III. If the goods were alienated before the declaration of commercial bankruptcy, there shall be no separation of the price received for them; but if the payment were not collected, the separation petitioner may subrogate itself in the rights against the purchasing third party, having to deliver the surplus between what was collected and the amount of its claim to the Estate;

In the second case provided in the paragraph above, the separation petitioner may not present him/herself as creditor in the commercial bankruptcy;

- IV. The goods that were remitted, received in payment, or changed for any legal title, equal to those that were separable may be separated;
- V. The identity test may be done even when the goods were not in their packages, or partially alienated, and
- VI. Provided the separable goods were given in pledge to third parties in good faith, the secured creditor may oppose the delivery while the guaranteed obligation and the ancillaries were not paid.

Article 73.- The separation shall be subordinated to the separation petitioner complying with the previous obligations arising from the possession of the goods.

In the cases of separation by the assignor that received part of the price, the separation shall be conditioned to the previous refund of the part of the price received. The restitution of the price shall be proportional to its total amount, in relation to the amount or number of separated goods.

The salesperson and the other separation petitioners have the prior obligation to reintegrate every amount that was paid or that is owed for fiscal rights, transportation, fees, insurance, general average, and expenses of conservation of the goods.

Chapter III Of the administration of the Merchant's company

Article 74.- During the conciliation stage, the administration of the company shall correspond to the Merchant, except for what is set forth in article 81 of this Law.

Article 75.- When the Merchant continues to carry out the administration of its company, he/she/it shall carry out the ordinary operations including necessary expenses, and the bankruptcy conciliator shall survey the accounting and all the operations performed by the Merchant.

Paragraph amended FOG 12-27-2007

The bankruptcy conciliator shall decide on the determination of pending contracts and shall approve, with the previous opinion of the conservators, if they exist, the contracting of new credits, the constitution or substitution of guarantees, and the alienation of assets when they are not linked to the ordinary operation of the Merchant's company. The bankruptcy conciliator must report this to the judge. Any objection shall be conducted in ancillary proceedings.

In case of substitution of guarantees, the bankruptcy conciliator must have the previous written consent of the relevant creditor.

For the alienation of assets that are not linked to the ordinary operation of the company, the bankruptcy conciliator must adhere in what corresponds to the alienation procedures and general terms provided in articles 197, 198, 205, and 210 of this Law, with the purpose of seeking the best alienation conditions in order to obtain the largest recovery value, without the need for the judge's authorization.

Paragraph added FOG 01-10-2014

In the cases of contracting credits necessary to keep the ordinary operation of the company and the necessary liquidity during the processing of the commercial bankruptcy, when those credits are authorized in terms of this article, the bankruptcy conciliator shall define the guidelines in which the respective credit shall be authorized, taking into account its preference in the terms of article 224 of the Law, including the constitution of guarantees that proceed, if it were so requested by the Merchant.

Paragraph added FOG 01-10-2014

The creditors with property pledge on assets that, at the discretion of the judge before whom the bankruptcy procedure is processed, with the reasoned opinion of the bankruptcy conciliator, are not strictly necessary for the ordinary operation of the company of the Merchant, may start or continue the enforcement in accordance with what is provided in the applicable provisions. What is set forth in article 227 of this Law shall be applicable to these creditors with collateral.

Paragraph added FOG 01-10-2014

Article 76.- For purposes of the opinion that the second paragraph of the preceding article refers to, the bankruptcy conciliator must send the conservators the characteristics of the relevant operation, in the forms issued for such effect by the Institute.

The conservators shall issue their opinion in writing, which shall be addressed to the bankruptcy conciliator, within a term of five days counting from the date when the bankruptcy conciliator submits the proposal for their consideration. The lack of a timely response by the conservators shall be understood as their acceptance.

The determination of the conservators shall be adopted by the majority of the represented credits. For such effects, it shall not be necessary for the conservators to meet in order to vote.

What is set forth in this article shall be applicable even when the bankruptcy conciliator has taken the administration of the Merchant's company.

Article 77.- The bankruptcy conciliator, under his/her strictest responsibility, may abstain from requesting the opinion of the conservators for the alienation of a good in those cases in which the relevant good is perishable or he/she considers that it may be exposed to a serious decrease in its price, or its conservation is costly in comparison to the profit that it may generate to the Estate, having to inform the Judge of this within the three days following the operation. Any objection shall be conducted in ancillary proceedings.

Article 78.- When the bankruptcy conciliator has the administration of the Merchant's company, he/she must also act as a diligent administrator of his/her own business would do, being responsible for the losses or damages that the company suffers for his/her fault or negligence. Likewise, the bankruptcy conciliator must do the necessary paperwork to identify the goods property of the Merchant that is declared in commercial bankruptcy that are in possession of third parties.

Article amended FOG 01-10-2014

Article 79.- The bankruptcy conciliator and the Merchant must consider the convenience of conserving the company in operation.

Notwithstanding what is set forth in the paragraph above, when it is convenient to avoid the growth of the liability or the deterioration of the Estate, the bankruptcy conciliator, with the previous opinion of the conservators, in case they exist, may request for the judge to order the closing down of the company, which may be in whole or in part, temporary or definitive. The foregoing shall be conducted in ancillary proceedings.

Article 80.- When the Merchant is in charge of the administration of the company, the bankruptcy conciliator shall be empowered to call the board of directors when he/she considers it necessary, to submit to its consideration, and as applicable, the approval of the issues that are deemed necessary.

Article 81.- If the bankruptcy conciliator deems that it is convenient for the protection of the Estate, he/she may request for the judge to remove the Merchant from the administration of the company. When admitting this petition, the judge may take the necessary measures in order to keep the integrity of the Estate. The removal of the Merchant shall be processed in ancillary proceedings.

Article 82.- If the removal of the Merchant from the administration of the company is decreed, the bankruptcy conciliator shall assume, along with his/her own, the powers and obligations of administration that this Law attributes to the liquidator for the administration.

Article 83.- In the event that the preceding article refers to, and in those cases of legal entities declared in bankruptcy, the powers of the bodies that, in accordance with the law or the bylaws of the company, have competence to make determinations regarding the administrators, directors, or managers shall be suspended.

Chapter IV Of the effects in terms of the action in other trials

Article 84.- The actions brought and the trials followed by the Merchant, and those brought and followed against him/her/it, which are being processed at the time of issuing the commercial bankruptcy judgment, that have patrimonial content, shall not be added on to the commercial bankruptcy, but shall be followed by the Merchant under the surveillance of the bankruptcy conciliator. Therefore the Merchant must inform the bankruptcy conciliator of the existence of the procedure, the day following when he/she/it has knowledge of the bankruptcy conciliator's designation.

Notwithstanding what is provided in the paragraph above, the bankruptcy conciliator may substitute the Merchant in the case provided in article 81 of this Law.

After the commercial bankruptcy judgment has been issued, other patrimonial content procedures against the Merchant may be started separately, which shall be processed before the competent authorities under the surveillance of the bankruptcy conciliator, without these trials being added on to the commercial bankruptcy.

Paragraph added FOG 01-10-2014

Article 85.- The bankruptcy conciliator shall not intervene nor in any case may the Merchant be substituted in trials exclusively relative to goods or rights whose administration and provision he/she/it conserves in terms of article 179 of this Law.

Chapter V Of the effects in relation to the obligations of the Merchant

Section I General rule and accelerated maturity

Article 86.- With the exceptions indicated in this law, the provisions over obligations and contracts shall continue to be applied, as shall the covenants of the parties.

Article 87.- The following shall be understood as not provided, except for the exceptions expressly established in this Law: any contractual stipulation that due to the presentation of a commercial bankruptcy filing or claim, or of its declaration, establishes amendments that worsen the terms of the contracts for the Merchant.

Article 88.- To determine the amount of the credits attributable to the Merchant, starting from when the judgment on the declaration of commercial bankruptcy is issued, the following shall be taken into account:

- I. Its pending obligations shall be understood as due;
- II. In respect of the credits subject to a condition precedent, it shall be considered as if the condition was not met;
- III. The credits subject to condition subsequent shall be considered as if the condition was met without the parties having to return the benefits received to each other while the obligation subsisted;
- IV. The amount of the credits for periodic or successive benefits shall be determined at their current value, considering the previously agreed upon interest rate or, by default, what is applied to the market in similar operations, taking into consideration the relevant currency or unit and, if this were not possible, interests at the legal rate;
- V. The life annuity creditor shall have the right to have his/her/its credit recognized at its replacement value in the market or, by default, at its current value calculated pursuant to the commonly accepted practices;
- VI. The obligations that have an undetermined or uncertain amount will need to be valued in actual money, and
- VII. The obligations that are not pecuniary must be valued in money; if the foregoing is not possible, the credit may not be recognized.

Article 89.- On the date that the commercial bankruptcy judgment is issued:

- I. The capital and the outstanding financial ancillaries of the credits in domestic currency, not secured with collateral on property, shall stop causing interests and shall be converted into UDIs using the equivalence of said units that is reported by Banco de México to this effect. The credits that were originally denominated in UDIs shall stop causing interests;
- II. The capital and outstanding financial ancillaries of the credits in foreign currency, not secured with collateral on property, notwithstanding the place of payment which was originally agreed upon, shall stop causing interests and shall be converted to national domestic currency at the exchange rate determined by Banco de México to settle obligations denominated in foreign currency payable in the Mexican Republic. Said amount shall at the same time be converted into UDIs in terms of what is set forth in the subsection above, and
- III. The credits secured with collateral on property, notwithstanding if it was originally agreed that their payment would be performed in the Mexican Republic or abroad, shall be kept in the currency or unit in which they were originally denominated and shall only cause the ordinary interests stipulated in the contracts, for up to the value of the goods that guarantee them.

For the effects of determining the participation of the creditors secured with collateral on property in the decisions that correspond to them to take pursuant to this Law, the amount of their credits on the date of the declaration of the bankruptcy, shall be converted into UDIs in terms of what is established for the credits secured with collateral on property in subsections I and II of this article. The creditors secured with collateral on property shall participate as such for this amount, notwithstanding the value of the guarantees, except if they decide to exercise the option provided in the following paragraph.

When a creditor secured with collateral on property considers that the value of its guarantee is less than the amount of the debt per capital and ancillaries on the date of the declaration of commercial bankruptcy, he/she/it may petition the judge to be considered a creditor secured with collateral on property for the value that the creditor itself attributes to its guarantee, and as an unsecured creditor for the remainder. The value that the creditor attributes to its guarantee shall be converted into UDIs at the value of the date of the declaration of commercial bankruptcy. In this case, the creditor must expressly waive, in favor of the Estate, any excess between the price obtained when executing the guarantee and the value that he/she/it attributed to it, considering the value of the UDIs on the date when the enforcement takes place.

Article 90.- Starting from the date when the commercial bankruptcy judgment is issued, only the following may be offset:

- I. The rights in favor of and the obligations attributable to the Merchant that derive from a same transaction and that the latter is not interrupted by virtue of the commercial bankruptcy judgment;
- II. The rights in favor of and the obligations attributable to the Merchant that expired before the commercial bankruptcy judgment and whose offsetting is provided in the laws;
- III. The rights and obligations that derive from the transactions provided in article 102 to 105 of this Law, and
- IV. The fiscal credits in favor and against the Merchant.

Section II Of the pending contracts

Article 91.- The commercial bankruptcy shall not affect the validity of the contracts executed on goods of strictly personal nature, of non-patrimonial nature or relative to goods or rights whose administration and disposal is kept by the Merchant in terms of article 179 of this Law.

Article 92.- The contracts, preparatory or definitive, and pending execution, must be fulfilled by the Merchant. The former, except if the bankruptcy conciliator opposes this due to it not being in the best interest of the Estate.

The Merchant's contracting party shall have the right to have the bankruptcy conciliator declare if he/she will oppose the fulfillment of the contract. If the bankruptcy conciliator manifests that he/she will not oppose it, the Merchant must comply or guarantee the contract's fulfillment. If the bankruptcy conciliator reports that he/she will oppose, or does not respond within the term of twenty days, the Merchant's contracting party may at any time terminate the contract, notifying the bankruptcy conciliator of this situation.

When the bankruptcy conciliator is in charge of the administration or authorizes the Merchant to execute the pending contracts, he/she may avoid the separation of the goods, or in the given case shall demand their delivery, paying their price.

Article 93.- The salesperson may not be demanded to deliver the goods, personal property, or real estate that the Merchant acquired, unless he/she is paid the price or his/her payment is guaranteed.

The salesperson shall have the right to repossess the goods if the delivery was performed in compliance with a final contract that was not executed in the form prescribed by the law. The repossession shall not proceed if the contract is irrefutable and the Merchant, with authorization of the bankruptcy conciliator, demands for the contract to be made in legal form or the annulment action for the lack of proper form of the contract is terminated.

Article 94.- The salesperson of the unpaid personal property, that at the time of the declaration of commercial bankruptcy, is in route to be delivered to the Merchant who is declared in commercial bankruptcy, may oppose the delivery:

- I. Changing the consignment in the terms legally admitted, or
- II. Holding the material delivery of the goods, even if he/she does not have the necessary documents to change the consignment.

The opposition to the delivery shall be conducted through ancillary proceedings between the salesperson and the Merchant, with the intervention of the bankruptcy conciliator.

Article 95.- If the salesperson of real estate is declared in commercial bankruptcy, the buyer shall have the right to demand the delivery of the property through the previous payment of the price. The former, if the sale was perfected pursuant to the applicable legal provisions.

Article 96.- The Merchant declared in commercial bankruptcy that purchased a good that has not yet been delivered to him/her/it, may not demand for the salesperson to proceed with the delivery until the Merchant pays the price or guarantees the payment.

If the delivery was performed based only on a promise of sale, the salesperson may repossess the good if the sales contract was not recorded in a public deed, when this requisite is legally demanded.

Article 97.- If the execution of the contract were decided and the payment of the price were subject to an unexpired term, the salesperson may demand for its fulfillment to be guaranteed.

Article 98.- If it were the case of sales by deliveries, and some of these were carried out without them being paid, these must be paid. The former shall be a requisite for the effects of the fulfillment provided in the preceding article and in the third paragraph of article 92 of this Law.

Article 99.- Notwithstanding the declaration of commercial bankruptcy of the salesperson of a real estate property, if the good was determined before said declaration, the purchaser may demand the fulfillment of the contract, with the previous payment of the price.

Article 100.- The deposit, credit opening, fee, and mandate contracts shall not be terminated by the commercial bankruptcy of one of the parties, unless the bankruptcy conciliator considers that these must be terminated.

Article 101.- The current accounts shall be closed early and shall be put into a condition of liquidation to demand or cover their balances, by virtue of the declaration of commercial bankruptcy, unless the Merchant, with the consent of the bankruptcy conciliator, expressly declares their continuation.

Article 102.- The declaration of commercial bankruptcy shall terminate the securities repurchase agreement contracts executed by the Merchant, under the following rules:

- I. When the Merchant acted as a purchaser of securities, he/she/it must transmit to the seller, in a term no greater than fifteen calendar days counting from the date of the

declaration of commercial bankruptcy, the securities of the kind that correspond against the reimbursement of the price plus the payment of the agreed premium;

- II. When the Merchant acted as seller of, the contract shall be abandoned from the date of the declaration of commercial bankruptcy and the purchaser may demand the payment of the difference that, as applicable, may exist in its favor precisely on the date of the declaration of commercial bankruptcy, through the recognition of credits. The Merchant shall keep the price of the operation and the purchaser shall keep the property and free disposition of the securities which are the purpose of the repurchase agreement, and
- III. The repurchase agreements executed between the Merchant and its counterparty in a reciprocal manner, whether they are documented or not in framework or regulatory contracts, shall expire early on the date of the declaration of commercial bankruptcy, even when their expiration date is after this one, having to be offset in terms of this Law.

If there were no provision in the corresponding agreements for the offsetting and settlement of the adequate benefits or considerations, with the purpose of carrying out the offsetting, the value of the titles shall be determined pursuant to their market value on the day of the declaration of commercial bankruptcy. If there were no market price available and demonstrable, the bankruptcy conciliator may entrust a third party, expert in the matter, to assess the titles.

The balance that, is generated attributable to the Merchant by virtue of the accelerated maturity, may be demanded through the recognition of credits, as applicable. If credits are generated in favor of the Merchant, its counterparty must deliver said balance to the Estate in a term no greater than thirty calendar days counting from the date of the declaration of commercial bankruptcy.

Article 103.- The securities loan transactions executed by the Merchant that are guaranteed with domestic currency shall be subject to the same rules as the repurchase agreements.

The securities loan transactions executed by the Merchant that are guaranteed with securities in domestic currency, shall be subject to what is established in subsection III of the preceding article.

Article 104.- The differential or futures contracts and the derivative financial transactions that expire after the declaration of commercial bankruptcy shall be early terminated on the date of the declaration of commercial bankruptcy. These contracts and transactions must be offset in terms of this law.

If there were no provision in the corresponding agreements for the offsetting and settlement of the adequate benefits, with the purpose of carrying out the offsetting, the value of the underlying goods and obligations shall be determined pursuant to their market value on the day of the declaration of commercial bankruptcy. If there were no available and demonstrable market value, the bankruptcy conciliator may entrust a third party, expert on the matter, to assess the goods or obligations.

The credit that, is generated against the Merchant, as applicable, shall be payable through the recognition of credits. If the early expiration that this article refers to generates a balance attributable to whoever contracted with the Merchant, the latter must deliver it to the Estate within a maximum term of thirty calendar days counting from the declaration of commercial bankruptcy.

For effects of this Law, derivative financial operations shall be understood as those in which the parties are obligated to the payment of money or to the fulfillment of other obligations to deliver, that

have a good or a market value as underlying, as well as any agreement that is indicated through general rules by the Banco de México.

Article 105.- Debts and credits shall be offset or applied to the payment, as the case may be, and shall be payable in the terms agreed or as it is indicated in this law, on the date of the commercial bankruptcy judgment. The former shall also apply to the guarantees whenever it was agreed that these be transferred in property to the remaining creditors of the framework, regulatory or specific agreements for the execution of derivative financial transactions, repurchase agreement transactions, securities loan transactions, futures transactions, or other equivalent transactions, as well as any other legal acts in which a person is debtor of another, and at the same time creditor of it, that may be reduced to currency, even when the debts or credits are not liquid or payable on the date of the commercial bankruptcy judgment but that, in terms of said agreements or of this Law, may become liquid or payable.

Paragraph amended FOG 01-10-2014

The provisions of this article shall be applicable notwithstanding what is indicated in article 92 of this Law and even when the offsetting is performed within the period referred to in article 112 of this ordinance. The former, unless if it were proven that the agreement or agreements that bring about the offsetting were executed or amended to give preference to one or various creditors.

The debit balance that, as applicable, may result from the offsetting allowed by this article attributable to the Merchant, may be demanded by the corresponding counterparty through the recognition of credits. If a credit balance were to result in favor of the Merchant, the counterparty shall be obligated to deliver it to the bankruptcy conciliator for the benefit of the Estate, in a term no greater than thirty calendar days, counting from the date of the declaration of commercial bankruptcy.

Article 106.- The commercial bankruptcy of the lessor does not terminate the real estate rental agreement.

The commercial bankruptcy of the lessee does not terminate the real estate rental agreement. Notwithstanding the foregoing, the bankruptcy conciliator may opt for the termination of the contract. In case of termination, the indemnification agreed in the contract for this case must be paid to the lessor or, by default, an indemnification equal to three months of rent, for the accelerated maturity.

Article 107.- The provision of services contracts, of strictly personal nature, in favor or attributable to the Merchant declared in commercial bankruptcy, shall not be terminated and what is agreed between the parties shall be followed.

Article 108.- The lump sum contract for construction works shall be terminated by the commercial bankruptcy of one of the parties, unless the Merchant, with the authorization of the bankruptcy conciliator, agrees on the fulfillment of the contract with the other contractor.

Article 109.- The commercial bankruptcy of the insured party does not terminate the insurance contract early if the insured object were real estate; but if it were personal property, the insurer may terminate it.

If the bankruptcy conciliator did not report the declaration of commercial bankruptcy to the insurer within a term of thirty calendar days from its date, the insurance contract shall be rescinded from this time.

Article 110.- In the life insurance or mixed insurance contracts, the Merchant, with authorization of the bankruptcy conciliator, may decide the assignment of the insurance policy and obtain the reduction of the insured capital, in proportion to the premiums already paid. The former, pursuant to the calculations that the insurance company considered to make for the contract and being aware of the risks taken by the same. Likewise, it may engage in any transaction that provides an economic benefit for the Estate.

Article 111.- The commercial bankruptcy of a partner of a general partnership or a limited liability company; or the bankruptcy of an unlimitedly liable partner of a limited partnership (whether or not the partnership issues stock), shall be given the right to ask for its liquidation in accordance with the last corporate balance or to continue in the company if the bankruptcy conciliator provides his/her consent. The former, provided that the other partners do not prefer to exercise their partial liquidation right, unless something else were provided in the respective bylaws.

Chapter VI Of acts of creditors fraud

Article 112.- For effects of what is set forth in this chapter, the calendar day two hundred seventy immediately before the date of the judgment on the declaration of commercial bankruptcy shall be understood as the retroactivity day.

If there were any subordinated creditors among those referred to in subsection II of article 222 Bis, including the persons referred to in articles 15, subsection I, and 117, subsection II., whether the credit was granted with collateral on property or not, the term indicated in the preceding paragraph shall be doubled in respect of the acts in which said subordinated creditors are involved.

The judge, at the request of the bankruptcy conciliator, the liquidator, the conservators or any creditor, may establish a date before the retroactivity date indicated in the previous paragraphs, without it being possible to exceed 3 years. The former, provided said requests are presented before the credit recognition, ranking and preference judgment. The foregoing shall be conducted through ancillary proceedings.

For the change in the retroactivity date provided in the paragraph above to proceed, it shall be required for the petitioner to describe a series of events that may fit into any of the hypotheses that are established in article 114 to 117 of this Law. The former, providing the documentation that he/she has; on the understanding that it is not necessary to prove the existence of the acts of creditors fraud in the respective ancillary proceedings for the amendment of the retroactivity date to proceed.

The judgment that amends the retroactivity date shall be published in the Judicial Bulletin, or in the given case, in the court's boards.

Article amended FOG 01-10-2014

Article 113.- All the acts of creditors fraud shall be ineffective in respect of the Estate.

The acts that the Merchant performed before the declaration of commercial bankruptcy, knowingly defrauding its creditors if the third party that intervened in the act had any knowledge of this scheme, shall be considered to have been acts of creditors fraud.

This last requisite shall not be necessary for gratuitous acts.

Article 113 Bis.- In the cases of acts of creditors fraud, the liability action that consists in indemnifying the damages and losses that article 270 Bis-1 of this law refers to may be exercised by the persons indicated in said article as well as by the following persons:

- I. One-fifth of the Admitted Creditors;
- II. The Admitted Creditors that jointly represent at least twenty percent of the total amount of the recognized credits, or
- III. The conservators that were appointed in the commercial bankruptcy.

The foregoing is without prejudice of the other civil or criminal liability actions that proceed in terms of the applicable laws.

Article added FOG 01-10-2014

Article 114.- The following are acts of creditors fraud, provided they were carried out starting from the retroactivity date:

- I. Gratuitous acts;
- II. The acts and alienations in which the Merchant pays a compensation of a value notably higher or receives a compensation of a value notably lower than the benefit of its counterparty;
- III. The transactions executed by the Merchant in which conditions or terms were agreed that differ significantly from the prevailing conditions in the market in which they were executed, on the date of its execution, or of the commercial uses or practices;
- IV. The debt acquittals made by the Merchant;
- V. The payment of unexpired obligations made by the Merchant, and
- VI. The discount made by the Merchant from its own effects, after the retroactivity date, shall be considered an early payment.

The declaration of ineffectiveness shall not proceed when the Estate takes advantage of the payments made to the Merchant.

If the third parties returned what they received from the Merchant, they may request the recognition of their credits.

Article 115.- The following are presumed act in creditors fraud if they are performed after the retroactivity date, unless the interested party proves his/her/its good faith:

- I. The granting of guarantees or increase of the current ones, when the original obligation did not include said guarantee or increase, and
- II. The payments of debts made in kind, when it is different from the originally agreed one or, when the compensation agreed was in money.

Article 116.- If the Merchant is an individual, the operations against the Estate made with the following persons are considered in creditors fraud if those acts were carried out after the retroactivity date, unless the interested party proves its good faith:

- I. His/her spouse, female or male concubine, blood relatives up to the fourth degree, or up to the second degree if the kinship is through marriage, as well as relatives through civil kinship, or
- II. Legal entities, in which the persons that the subsection above refers to, or the Merchant him/herself, are managers or part of the board of directors; or jointly or separately, directly or indirectly, hold rights that allow them to exercise the vote in respect of more than fifty

percent of the capital, have decision-making power in their meetings, are able to name the majority of the members of the body of administration, or through any other means, have powers to take fundamental decisions of said legal entities.

Subsection amended FOG 01-10-2014

Article 117.- If Merchants are legal entities, the operations against the Estate made with the following persons are considered creditors fraud if those acts were carried out after the retroactivity date, unless the interested party proves its good faith:

I. The administrator, members of the board of directors or relevant employees of the Merchant, or of the legal entities indicated in the following subsection IV, pursuant to what is set forth in article 270 Bis, or with the spouse, female or male concubine, blood relative up to the fourth degree, or up to the second degree if the relation were through marriage, as well as relatives through civil kinship of the persons mentioned above;

Subsection amended FOG 01-10-2014

II. Those individuals that jointly or separately, directly or indirectly, hold rights that allow them to exercise the vote in respect of more than fifty percent of the capital of the Merchant subject to commercial bankruptcy, or of the legal entities indicated in the following subsection IV, that have decision-making power in their meetings, are able to appoint the majority of the members of their body of administration or through any means have the powers to take the fundamental decisions of the Merchant subject to bankruptcy;

Subsection amended FOG 01-10-2014

III. Those legal entities where there is a coincidence of the managers, members of the board of directors or relevant directors with those of the Merchant's subject to commercial bankruptcy, and

Subsection amended FOG 01-10-2014

IV. Those legal entities that are, directly or indirectly, controlled by the Merchant, that exercise control over the latter, or that are controlled by the same company that controls the Merchant.

Subsection amended FOG 01-10-2014

Article 118.- Whoever purchased things in creditors fraud in bad faith shall respond before the Estate for the damages and losses that are caused, when the good was passed on to a purchaser in good faith or if it were lost.

The same liability falls on who, to avoid the effects of the ineffectiveness that the creditors fraud would cause, destroyed or hid the goods that are the subject matter thereof.

Article 119.- When the refund to the Estate of some object or amount is mandated, the following shall be understood, even if it is not expressly stated: that its liquid products or interests corresponding to the time in which the good or money was enjoyed must also be returned. For effects of the calculation of the liquid products or interests, what was originally agreed between the parties shall be followed or, by default, the applicable legal interest shall be considered.

TITLE FOUR
Of the recognition of credits

Chapter I
Of the transactions for the recognition

Article 120.- For the performance of the duties that this Title confers to him/her, the bankruptcy conciliator shall remain in his/her post independently of the termination of the conciliation stage.

Article 121.- Within the thirty calendar days following the date of the publication of the commercial bankruptcy judgment in the Official Gazette, the bankruptcy conciliator must present the judge with a provisional list of credits attributable to the Merchant in the form determined by the Institute for this effect. Said list must be created based on: the accounting of the Merchant; the other documents that allow for the determination of the Merchant's liability; the information that the Merchant itself and its personnel shall be obligated to provide to the bankruptcy conciliator; and, as applicable, the information arising from the inspector's report and from the recognition of credit requests that are presented.

Article amended FOG 12-27-2007

Article 122.- The creditors may request the recognition of their credits:

- I. Within the twenty calendar days following the date of the publication of the commercial bankruptcy judgment in the Federal Official Gazette;
Subsection amended FOG 12-27-2007
- II. Within the term to formulate objections to the provisional list that article 129 of this Law refers to, and
- III. Within the term to lodge the motion to appeal to the credit recognition, ranking, and preference judgment.

Once the term of subsection III has elapsed, no credit recognition may be demanded.

In the case of collective credits, to present requests for credit recognition, it shall be enough for the common representative of the creditors to appear before the bankruptcy conciliator or liquidator to request the respective recognition. However, in this case, any creditor of the collective credit shall be able to individually appear before court to request the respective credit recognition. In this last case, the amount recognized individually to the creditor shall be deducted from said credit.

Paragraph added FOG 01-10-2014

Article 123.- The bankruptcy conciliator shall include those credits that may be determined based on the information that the above article 121 refers to, in the amount, rank, and preference that correspond to them pursuant to this law. The former, notwithstanding if the creditor did not request the recognition of its credit in the provisional list. Likewise, those credits whose ownership was transferred up to that moment in terms of what is set forth in article 114 of this law must also be included.

Article 124.- The amount of the fiscal credits may be determined at any time pursuant to what is established in the applicable provisions.

The bankruptcy conciliator must accompany the credit recognition lists with all the fiscal credits that are notified to the Merchant by the fiscal authorities with the indication, as applicable, that said authorities may continue with their corresponding verification procedure.

The bankruptcy conciliator must also include the labor credits in the credit recognition lists.

Article 125.- The credit recognition requests must be presented to the bankruptcy conciliator and shall include the following:

- I. The complete name and domicile of the creditor;
- II. The amount of credit that the creditor deems to have against and, as applicable, in favor of the Merchant;
- III. The guarantees, conditions, terms and other characteristics of the credit, including the type of document that evidences the credit;
- IV. The rank and preference that at the discretion of the petitioner and pursuant to what is set forth in this law, corresponds to the credit whose recognition is requested, and
- V. The information that identifies, as applicable, any administrative, labor, judicial, or arbitration procedure that was initiated and that is related to the credit in question.

The credit recognition request must be presented duly signed by the creditor, in the forms determined by the Institute, and must be accompanied by the original documents on which the petitioner is basing its request, or a certified copy of said documents. If the creditor does not have these, he/she/it must indicate the place where they are and show that he/she/it initiated the process to obtain them.

The creditor must designate a domicile to hear and receive notifications within the jurisdiction of the judge or, at its own cost and under its responsibility, indicate an alternative means of communication to be notified, such as fax or e-mail. Upon the omission of this requisite, the corresponding notifications, even those of personal nature, shall be given on the court's boards. In this case, the bankruptcy conciliator shall issue his/her communications through the judge.

Article 126.- When the spouse or concubine of the Merchant declared in commercial bankruptcy has against the Merchant, credits for onerous contracts, or for payment of debts incurred by the Merchant, it shall be assumed, unless there is evidence to the contrary, that the credits have been constituted and that the debts have been paid with goods belonging to the Merchant; therefore, the spouse or concubine may not be considered a creditor.

Article 127.- When in another legal procedure, a final judgment, labor award, final administrative determination, or arbitral award was issued before the retroactivity date, through which the existence of a credit right against the Merchant was declared, the relevant creditor must present to the judge and to the bankruptcy conciliator, a certified copy of said determination.

The judge must recognize the credit in the terms of such determinations, through its inclusion in the credit recognition, ranking and preference judgment.

Article 128.- In the provisional list of credits, the bankruptcy conciliator must include, in respect of each credit, the following information:

- I. The complete name and domicile of the creditor;
- II. The amount of the credit that he/she deems must be recognized, in the terms established in article 89;

- III. The guarantees, conditions, terms, and other characteristics of the credit, among them, the kind of document that evidences the credit, and
- IV. The rank and preference that pursuant to what is set forth in this Law, he/she deems corresponds to the credit.

The bankruptcy conciliator must integrate the following into a provisional list of credits, which must include a description of the reasons and causes for which he/she supports the proposal in respect of each credit. The former, justifying the differences that, as applicable, may exist in respect of what is registered in the accounting of the Merchant or of what is requested by the creditor. Likewise, a list of those credits that he/she proposes not to recognize must be included, along with the detailed reasons therefor.

Paragraph amended FOG 12-27-2007

The bankruptcy conciliator must add those documents that he/she considers to have served as base for his/her formulation of the provisional list of credits, which shall form integral part of the same or, must indicate the place where they may be found.

Article 129.- Once the bankruptcy conciliator presents the provisional list of credits to the judge, the latter shall put it at the disposition of the Merchant and the creditors so that within the term of five days, that may not be extended, they may present their objections, in writing, to the bankruptcy conciliator, accompanied by the documents that they deem relevant, through the judge. Those documents shall be brought before the bankruptcy conciliator by the judge, on the day following their reception.

Article amended FOG 01-10-2014

Article 130.- The bankruptcy conciliator shall have a term of ten days, which may not be extended, counting from the day on which the term that the preceding article refers to expires, for the formulation and presentation before the judge of the final list of credit recognition. The bankruptcy conciliator shall prepare said list based on the provisional list of credits and the objections to it. The list must include all the credits in respect of which unappealable judgment has been decreed, as well as the fiscal and labor credits that until then had been notified to the Merchant, in the terms approved in judgment passed as *res judicata*. Also, all the other additional requests presented after the preparation of the provisional list of credits shall be taken into consideration.

Paragraph amended FOG 12-27-2007

If the bankruptcy conciliator does not present the definitive list at the expiration of the term that the preceding paragraph refers to, the judge shall issue the enforcement measures that are necessary to that effect and, if it were not presented in the ensuing five days, he/she shall request for the Institute to appoint a new bankruptcy conciliator.

Article 131.- The bankruptcy conciliator shall not be responsible for the errors or omissions that appear in the final list of credit recognition, whose origin owes to the lack of registration of the credit or any other error in the accounting of the Merchant, that may have been avoided with a credit recognition request or with the formulation of objections to the provisional list.

Article 132.- Once the term mentioned in article 130 of this Law has elapsed, the judge, within the following five days, shall issue the credit recognition, ranking, and preference judgment taking the final list presented by the bankruptcy conciliator into consideration, as well as all the documents that may be annexed.

Article 133.- The judge, on the day subsequent to when the credit recognition, ranking, and preference judgment is issued, shall notify the Merchant, the Admitted Creditors, the conservators, the bankruptcy conciliator and the Public Prosecutor's office through a publication in the Judicial Bulletin or through the court's boards.

Article 134.- The following events interrupt the time barring due to statute of limitations of the relevant credit:

- I. The credit recognition request, even when it does not comply with the requisites established in article 125 of this ordinance or is presented extemporaneously;
- II. The objections that are made in writing in respect of the provisional list;
- III. The recognition, ranking, and preference judgment in respect of credits included in it, or
- IV. The appeal regarding the credits whose recognition is requested.

Chapter II **Of the appeal of the credit recognition, ranking, and preference judgment**

Article 135.- The motion to appeal proceeds against the credit recognition, ranking, and preference judgment. Said motion only has remanding effects..

Article 136.- The Merchant, any creditor, the conservators, bankruptcy conciliator or, as applicable, the liquidator or the Public Prosecutor's Office, who acts as the plaintiff of the bankruptcy, may appeal the credit recognition, ranking, and preference judgment on their own behalves or through their representatives.

Paragraph amended FOG 12-27-2007

The foregoing, notwithstanding if the appealing creditor abstained from soliciting its credit recognition, or from carrying out any objections to the provisional list.

Article 137.- The motion to appeal must be lodged before the judge him/herself, within the nine days subsequent to the day on which the notification of the credit recognition, ranking, and preference judgment takes effect.

Article 138.- In the same brief through which the motion is lodged, the appellant must express the grievances, offer evidence and indicate the proof that must be included in the respective record. In the event of omission of this last requisite, the judge shall dismiss the motion *ipso jure*.

Article 139.- In the court order on which the motion for appeal is admitted, the judge shall serve notice to the counterparties of the appellant so that, within the nine days following the notification, they may answer what is in their best interest. In said writ, the counterparty of the appellant must offer evidence.

When answering the grievances, the appealing party may indicate additional proofs of file. If this is not done on time, the appellant's conformity shall be presumed.

Article 140.- The day subsequent to when the term to answer grievances, that the previous article refers to, expires, with or without answering the allegations, the judge shall send the original briefs of the appellant, of the other parties, as applicable, as well as the copy of records, adding what he/she deems necessary to the court of appeals.

Article 141.- Once the briefs and the copy of records are received, without further ado, the court of appeals shall rule on the admission of the motion.

Article 142.- Within the ten days following the admission of the motion, the court of appeals shall summon the parties to a hearing for presentation of evidence and formulation of allegations. The hearing may only be postponed one time, and in all cases must be held no later than thirty calendar days after the originally established date.

Once the hearing has taken place, the court of appeals shall issue a summons for judgment and shall decide the appeal within the following five days.

Article 143.- The creditors that were not recognized in the credit recognition, ranking, and preference judgment and lodge the motion to appeal, may only exercise the right that this Law grants to the Admitted Creditors when there is a final determination that attributes this nature to them.

Article 144.- If a creditor transfers the ownership of its credits through any means, he/she/it must, like the purchaser, notify of the transfer and its features to the bankruptcy conciliator in the forms determined by the Institute to the effect. The bankruptcy conciliator must make the notification public pursuant to the provisions issued by the Institute to the effect.

TITLE FIVE Of the conciliation

Only Chapter Of the adoption of the agreement

Article 145.- The conciliation stage shall last one hundred and eighty-five calendar days, counting from the day when the commercial bankruptcy judgment was last published in the **Federal Official Gazette**.

The bankruptcy conciliator or the Admitted Creditors that represent more than fifty percent of the total amount of the recognized credits may request an extension from the judge of up to ninety calendar days counting from the date when the term indicated in the preceding paragraph concludes. The former, whenever they consider that the execution of an agreement is close to occurring.

Paragraph amended FOG 01-10-2014

The Merchant and Admitted Creditors that represent at least seventy-five percent of the total amount of the recognized credits, may request an extension from the judge of up to ninety calendar days more than the extension that the preceding paragraph refers to.

Paragraph amended FOG 12-27-2007, 01-10-2014

In no case may the terms of the conciliation stage and its extension exceed three hundred and sixty-five calendar days counting from the date when the commercial bankruptcy judgment was last published in the **Federal Official Gazette**.

Once the initial term has concluded and, as applicable, the term of the extension as well, the judge shall only proceed to draw up the corresponding certification, attesting to the termination of the conciliation stage and, as applicable, of the extension, and the Merchant in commercial bankruptcy shall be considered bankrupt.

Paragraph added FOG 01-10-2014

The terms for the approval of the agreement are included within the conciliation stage and its extension, which may not be extended in excess of the term provided in this article.

Paragraph added FOG 01-10-2014

Article 146.- Within the five days subsequent to when the notification of the commercial bankruptcy judgment is received, the Institute must appoint, pursuant to the random procedure previously established, a bankruptcy conciliator for the performance of the duties provided in this Law, unless any of the situations provided in article 147 is already taking place.

Article 147.- The bankruptcy conciliator appointed in terms of what is set forth in the preceding article may be substituted when:

I. The Merchant and the Admitted Creditors that represent at least half of the total recognized amount, request, through the judge, for the Institute to substitute the bankruptcy conciliator for one that they reasonably propose from among those registered before the Institute.

The Institute must proceed to appoint the new proposed bankruptcy conciliator, provided the judge certifies the existence of the required majority of the Admitted Creditors and the consent of the Merchant;

Paragraph amended FOG 01-10-2014

II. The Merchant and a group of Admitted Creditors that represent at least half of the total recognized amount appoint, upon common agreement, an individual or legal entity that is not in the Institute's registry and that they wish to act as a bankruptcy conciliator, in which case they must agree on his/her/its fees with him/her/it. The subordinated creditors that subsection II of article 222 Bis refers to, including the persons that articles 15, subsection I and 117, subsection II refer to, shall not participate in the voting that this subsection refers to.

Paragraph amended FOG 01-10-2014

In such an event, the Judge shall report this situation to the Institute on the following day, and the appointment made by the Institute will remain without effect. The bankruptcy conciliator appointed in this way shall assume all the rights and obligations that this Law attributes to the bankruptcy conciliators of the Institute.

In the case of the commercial bankruptcy with a previous restructuring plan, the Merchant and the creditors that subsection II of article 339 of this Law refers to, may, by common agreement, appoint an individual or legal entity that is not in the Institute's registry and that they wish to act as bankruptcy conciliator, agreeing on his/her/its fees with him/her/it.

Paragraph added FOG 01-10-2014

In case of substitution of the bankruptcy conciliator, the substituted bankruptcy conciliator must provide the substitute with all the necessary support so that he/she may take possession of his/her post, and shall deliver a report of the status of the conciliation, as well as all the information regarding the Merchant that he/she may have obtained in the exercise of his/her duties.

Article 148.- The bankruptcy conciliator shall seek for the Merchant and its Admitted Creditors to come to an agreement in terms of this Law.

Article 149.- The bankruptcy conciliator, within the three days following his/her appointment, must report the appointment to the creditors and indicate a domicile within the jurisdiction of the judge that rules over the commercial bankruptcy, for the fulfillment of the obligations that this Law imposes.

The bankruptcy conciliator may meet with the Merchant and with the creditors that he/she deems convenient and with those others that so request it, either jointly or separately, and communicate with them in any form.

Article 150.- The Merchant shall be obligated to collaborate with the bankruptcy conciliator and to provide the information that the latter considers necessary for the performance of his/her duties.

The bankruptcy conciliator may request the judge to terminate the conciliation stage early when he/she considers the lack of disposition of the Merchant and of its creditors to subscribe an agreement in terms of this Law or the impossibility of doing so. The bankruptcy conciliator shall take into account if the Merchant did not comply with an agreement that terminated a previous commercial bankruptcy. The request of the bankruptcy conciliator shall be conducted in ancillary proceedings, and the bankruptcy conciliator must provide the reasons behind said request.

Article 151.- The bankruptcy conciliator shall recommend doing the studies and appraisals that he/she considers necessary to carry out an agreement, putting them, through the judge, at the disposal of the creditors and the Merchant, except for information that may be considered confidential in terms of the applicable provisions.

Article 152.- The Merchant may enter into composition with its workers provided they do not worsen the terms of the obligations attributable to the Merchant, or request cancellations or authorizations from the fiscal authorities in terms of the applicable provisions.

The terms of the agreements with the workers and the determinations of authorizations or cancellations relative to the payment of the fiscal obligations must be included in the agreement that, as applicable, may be executed in adherence to the prescriptions set out in this Title.

Article 153.- Composition must consider the payment of: the credits provided in article 224 of this Law; the singularly privileged credits; and, as applicable, pursuant to their respective guarantees and privileges, the credits secured with collateral on property and with special privileges that were not part of the composition deed.

Composition must provide sufficient reserves for the payment of the differences that may result from the challenges that are pending determination and the fiscal credits to be determined.

In the case of fiscal obligations, the agreement must include the payment of said obligations in terms of the applicable provisions; non-compliance shall provoke the corresponding administrative procedure of execution.

Any Admitted Creditor that subscribes the composition deed that this article refers to, may provide the total or partial extinction of its credits, its subordination or some other form of particular treatment that is less favorable than the treatment that is given to the creditors of the same rank in general. The former, provided that the consent of the same is expressly recorded.

Paragraph added FOG 01-10-2014

Article 154.- Composition between the Merchant and any of its creditors executed after the beginning of the declaration of commercial bankruptcy shall be null. The creditor that executes them shall lose its rights in the commercial bankruptcy.

Article 155.- If in the composition proposal, an increase of the capital stock is agreed, the bankruptcy conciliator must inform the judge of this so that he/she may notify the partners, with the purpose of them exercising their preemptive right within the fifteen calendar days following the notification. If this right is not exercised within the indicated term, the judge may authorize the increase of the capital stock in terms of the agreement proposed by the bankruptcy conciliator.

Article 156.- All the Admitted Creditors, except for the creditors for fiscal credits and the labor ones, may subscribe the composition deed in relation to what is set forth in subsection XXIII of section A of constitutional article 123 and in this Law.

To subscribe the agreement, it shall not be necessary for the creditors to meet to vote.

Article 157.- To be effective, the composition deed must be subscribed by the Merchant and its Admitted Creditors that represent more than fifty percent of the sum of:

I. The amount recognized to the totality of the unsecured and subordinated Admitted Creditors, and

Subsection amended FOG 01-10-2014

II. The amount recognized to those Admitted Creditors secured with collateral on property or special privileges that subscribe the agreement.

In those cases in which the Merchant has subordinated Admitted Creditors that subsection II of article 222 Bis refers to, including the persons that articles 15, subsection I, and 117, subsection II refer to, that represent at least twenty-five percent of the total recognized amount of the credits that subsection I and II of this article refer to, individually or jointly, for the composition to be effective, it must be executed by the Admitted Creditors that represent at least fifty percent of the total sum of the amount of the recognized credits that subsections I and II of this article mention, excluding the amount of the credits in favor of the subordinated creditors that subsection II of article 22 Bis refers to, including the persons that articles 15, subsection I and 117, subsection II refer to.

Paragraph added FOG 01-10-2014

What is set forth in the preceding paragraph shall not be applicable if the subordinated Admitted Creditors that subsection II of article 222 Bis refers to, including the persons that article 15, subsection I, and 117, subsection II refer to, agree to the terms of the composition that the rest of the Admitted Creditors execute. In that case, the percentage referred to in the first paragraph of this article shall prevail.

Paragraph added FOG 01-10-2014

Article 158.- The composition deed shall be considered executed by all those unsecured Admitted Creditors, without acceptance of any manifestation from them, when the agreement provides the following in respect of their credits:

- I. The payment of the debt that was payable on the date that the commercial bankruptcy judgment took effect, converted to UDIs at the value of the day of the commercial bankruptcy judgment;
- II. The payment of all the amounts and ancillaries that were made payable pursuant to the contract in force, from the date of the judgment on the declaration of commercial bankruptcy, up to the approval of the agreement, if the declaration of commercial bankruptcy was not made and supposing that the referred to amount in the subsection above was paid on the day of the commercial bankruptcy judgment. These amounts shall be converted into UDIs at the value of the date on which each payment was made payable, and
- III. The payment, on the dates, for the amounts and in the agreed upon denomination, of the obligations that, pursuant to the respective contract, are payable starting from the approval of the agreement, assuming that the amount referred to in subsection I was paid on the day of the commercial bankruptcy judgment and that the payment referred to in subsection II was made at the time that they were due.

The payments that subsections I and II of this article refer to must be made within the thirty business days following the approval of the agreement, considering the value of the UDIs on the day when the payment is made.

The credits that receive the treatment that this article refers to shall be considered up to date, starting from the date of approval of the agreement.

Article 159.- The composition deed may only stipulate for the unsecured Admitted Creditors that did not subscribe it, the following:

- I. A stay, with capitalization of ordinary interests, with a maximum duration equal to the least duration assumed by the unsecured Admitted Creditors that subscribed the composition deed and that represent at least thirty percent of the recognized amount that corresponds to said rank;

- II. Debt relief of the principal balance and unpaid accrued interests, equal to the least debt relief assumed by the unsecured Admitted Creditors that subscribed the composition deed and represent at least thirty percent of the recognized amount that corresponds to said rank, or
- III. A combination of a stay and debt relief, provided that the terms are identical to those accepted by at least thirty percent of the amount recognized to the unsecured Admitted Creditors that subscribed the composition deed.

In the composition deed, it may be stipulated that the credits be kept in the currency, value unit, or denomination in which they were originally agreed.

Article 160.- Those Admitted Creditors secured with collateral on property that did not participate in the composition deed that is executed, may start or continue with the execution of their guarantees unless the agreement includes the payment of their credits in terms of article 158 of this Law, or the payment of the value of their guarantees. In this last case, any excess of the recognized debt in respect of the value of the guarantee shall be considered an unsecured credit and shall be subject to what is established in the preceding article.

Article 161.- The Merchant or the bankruptcy conciliator, once he/she/it considers that he/she/it has the favorable opinion of the other and of the majority of the Admitted Creditors necessary for the approval of the proposal composition deed, shall put it at the disposition of the Admitted Creditors for a term of fifteen days so that they may render their opinion and, as applicable, execute the composition deed.

Without prejudice of what is set forth in the preceding paragraph, the Merchant or the bankruptcy conciliator, as applicable, must attach to the proposal of the composition deed, a summary of the same that contains the main characteristics, expressed in a clear and organized manner. Both the agreement proposal and its summary must be presented in the forms provided by the Institute.

During the term established in the first paragraph of this article, the Merchant shall have the obligation, at the request of the bankruptcy conciliator or any of the Admitted Creditors, to provide them with any documentation or information that they may need in order to approve the composition deed.

Once the term of ten days has elapsed, counting from when the term provided in the first paragraph of this article expires, the bankruptcy conciliator shall present the composition deed, duly executed by the Merchant and at least the required majority of Admitted Creditors, to the judge. Said presentation shall be made according to those terms established in the second paragraph of this article.

Article amended FOG 01-10-2014

Article 161 Bis.- In the case of collective credits whose titles or instruments were issued through the securities market and in the absence of specific rules in the provisions, contracts, instruments, or documents that regulate them, the holders of collective credits attributable to the issuing Merchant may agree on their own procedure to determine the mechanisms through which the execution of the composition deed shall be voted on or, by default, adhere to the following regime:

- I. When the common representative of the holders of the relevant instruments or titles has knowledge of the existence of the composition proposal that the preceding article refers to, a general holders' meeting must be called, so that within the term of fifteen days, the meeting may be held and the composition proposal may be subjected to a discussion and approval or rejection, or, as applicable, the meeting may veto the already executed deed;
- II. For effects of the approval or rejection of the proposal of the composition deed or, as applicable, to veto the already executed composition deed, it shall be required for at least

seventy five percent of the amount of the issuance to be represented and for the decisions to be approved by at least the majority of the counting votes cast in the meeting.

The call for the holders' meeting shall be published one time in the Federal Official Gazette and in one of the newspapers of major circulation in the domicile of the issuing Merchant, at least ten days before the date on which the meeting must be held.

- III. The common representative of the holders shall be the only one empowered to communicate to the bankruptcy conciliator, the liquidator, or the judge him/herself, the determinations adopted in the general holders' meeting and, as applicable, shall proceed to execute the composition deed, carrying out the determinations and binding all the holders of the instruments or titles with his/her signature;
- IV. If the meeting were not called by the common representative of the holders or the necessary quorum referred to in subsection II above of this article were not met, any holder of the instruments or titles may appear before the commercial bankruptcy of the Merchant to manifest him/her/itself in respect of the proposal of composition and, as applicable, to subscribe it;
- V. For collective credits attributable to the Merchant issued abroad or subject to foreign laws, the originally agreed upon procedure to adopt determinations must be followed, and what is established in this article shall be applicable when pertinent;
- VI. The individual actions of the holders shall not be appropriate when, over the same subject, an action of the common representative or analogous figure or similar, is brought or is in course, or when said actions are incompatible with some determination duly approved by the general holders' meeting.

Article added FOG 01-10-2014

Article 161 Bis 1.- In the case of collective credits different from those indicated in the preceding article, and in the absence of specific rules in the provisions, contracts, instruments, or documents that regulate them, the holders of said credits may adhere to the procedure indicated in the preceding article, or agree on their own to determine the mechanisms through which the subscription of the composition shall be voted on.

Article added FOG 01-10-2014

Article 162.- The judge must put the composition deed at the disposal of the Admitted Creditors within the five days subsequent to when the composition deed and its summary are presented to him/her for approval, in order to, as applicable:

- I. Raise the objections that they consider pertinent, in respect of the authenticity of the expression of their consent, and
- II. Exercise their right to veto, which the following article refers to.

Article 163.- The composition may be vetoed by the unsecured Admitted Creditors that did not execute the composition deed, whose recognized credits jointly represent more than fifty percent of the total amount of the credits recognized to said creditors.

Paragraph amended FOG 01-10-2014

The unsecured Admitted Creditors that did not execute the composition deed may not exercise their veto right if, in said deed, the payment of their credits is provided in terms of article 158 of this ordinance.

Article 164.- Once the term that article 162 of this Law refers to has elapsed, the judge shall verify that the agreement proposal meets all the requisites provided in this Chapter and does not contravene the public order provisions. In this case, the judge shall issue the determination approving the agreement.

Article 165.- The composition, as approved by the judge, shall obligate:

- I. The Merchant;
- II. All the unsecured Admitted Creditors;
- II Bis. All the subordinated Admitted Creditors;
Subsection added FOG 01-10-2014
- III. All the Admitted Creditors secured with collateral on property or special privilege that subscribed it, and
- IV. The Admitted Creditors secured with collateral on property or special privileges for which the agreement provided the payment of their credits in terms of article 158 of this Law.

The subscription of the composition deed by the Admitted Creditors with collateral—property or personal—or with special privilege, does not imply the waiver to their guarantees or privileges; therefore, said entitlements shall subsist to guarantee the payment of the credits in their favor in the terms of the agreement.

Paragraph amended FOG 01-10-2014

In the case of collective credits secured with collateral on property, this may only be executed when such action is due to, or is a consequence of, the decision adopted by the majority required by the regulating provisions or the documents that contain said collective credits and, in the absence of a provision in this respect, in the corresponding general creditors' meeting, as provided by article 161 Bis 1 of this Law.

Paragraph added FOG 01-10-2014

Article 166.- With the judgment of composition approval, the commercial bankruptcy shall be terminated and, consequently, said composition and the judgment that approves it, jointly, shall constitute the only document that governs the obligations attributable to the Merchant in respect of the recognized credits.

Any stay, debt relief, deduction or any other benefit that composition and the judgment that approves it establishes in favor of the Merchant, shall only be understood in respect of the latter, and not in respect of the joint obligors, guarantors, underwriters, and other co-debtors, co-obligors, and guarantors of the Merchant. The former, unless there is express consent of the creditor of the relevant recognized credit.

Likewise, with the judgment, the bodies of the commercial bankruptcy shall cease their duties. To that effect, the judge shall order the bankruptcy conciliator to cancel the registrations that were made in the public registries due to the commercial bankruptcy.

Article amended FOG 01-10-2014

Article 166 Bis.- Only in exceptional cases, where there is a change in the circumstances that seriously affects the fulfillment of the composition deed executed in terms of the Title Five of the Law, with the purpose of fulfilling the conservation needs of the company, the composition amendment action shall proceed, and it must be brought before the same judge that ruled over the commercial bankruptcy that the composition in question derived from. The claim must be brought

jointly by the Merchant and by sufficient Admitted Creditors to attain the majority that article 157 of this Law refers to.

The judge shall notify whoever acted as bankruptcy conciliator of the claim, so that the latter may manifest him/herself in respect of the proposed amendment and for the due safeguarding of the rights of all the Admitted Creditors and without prejudice of the right of any of them to oppose the exception of *res judicata* in relation to a substantial fact that cannot be discredited in the composition amendment determination that came to be issued.

Within the five days following the notification of the proceedings to the person who acted as bankruptcy conciliator, the latter shall proceed to request the registration of the respective claim in the corresponding public registries and shall publish an extract of the same in the Federal Official Gazette and in one of the gazettes of major circulation in the locality where the procedure takes place, being able also to disseminate said information through those other means determined to this effect by the Institute. For the notification of the proceedings to creditors with domicile abroad, what is established in article 291 of this law shall be applicable.

In the cases of the amendment or the verification of the fulfillment of a composition deed executed in terms of Title Five of the Law, the judge that ruled over the commercial bankruptcy from which the composition derives thereof shall be competent to rule on said action, wherever it was approved. The same judge shall rule on the file or claim for commercial bankruptcy that, as applicable, derives from the non-compliance with the pecuniary obligations included in the relevant agreement.

Likewise, any Admitted Creditor may request the forced fulfillment of the composition. It is sufficient for the creditor to claim it in the same ancillary proceedings before the judge that ruled on the commercial bankruptcy from which the composition derives thereof.

Article added FOG 01-10-2014

TITLE SIX Of the bankruptcy

Chapter I Of the declaration of bankruptcy

Article 167.- The Merchant in commercial bankruptcy shall be declared in a bankruptcy condition when:

- I. The Merchant itself requests it;
- II. The term for the conciliation has elapsed and so has its extension, if one was granted;
Subsection amended FOG 01-10-2014
- III. The bankruptcy conciliator requests the declaration of bankruptcy and the judge grants it in the terms provided in article 150 of this Law, or
Subsection amended FOG 01-10-2014
- IV. In the case provided in article 21 of this Law.
Subsection added FOG 01-10-2014

Article 168.- In the case of subsections I and II of the preceding article, the judgment on the declaration of bankruptcy shall be issued *ipso jure*. In the case of subsection III, the procedure shall be conducted in ancillary proceedings.

Article 169.- The judgment on the declaration of bankruptcy must include:

- I. The declaration that the capacity of the Merchant to dispose of the goods and rights that integrate the Estate is suspended, unless this suspension was decreed previously;

- II. The order to the Merchant and to its administrators, managers, and employees to deliver the possession and administration of the goods and rights that integrate the Estate to the liquidator, except for those that are unencumbered, attached, or without statute of limitations ;
- III. The order to the persons that have goods belonging to the Merchant in their possession, except for those attached to the execution of a final judgment for the fulfillment of previous obligations to the commercial bankruptcy, to deliver said goods to the liquidator;
- IV. The prohibition to the debtors of the Merchant to pay or deliver goods to it without the authorization of the liquidator, with the warning of having to pay double in case of disobedience, and
- V. The order to the Institute to appoint the bankruptcy conciliator as liquidator, in a term of five days, or to the contrary, to appoint a liquidator; meanwhile, whoever is in charge of the administration of the Merchant's company shall have the obligations of a custodian regarding the goods and rights that integrate the Estate.

The bankruptcy judgment must include, besides what that this article refers to, those other prescriptions indicated in subsections I, II and XV of article 43 of this Law.

Article 170.- At the time of declaring the bankruptcy, the judge shall order the Institute, in a term of five days, to ratify the bankruptcy conciliator as liquidator or, by default and pursuant to the general provisions issued to the effect, to appoint a liquidator, unless one of the situations provided in article 174 is already taking place.

The day following the appointment of the liquidator, the Institute shall report this appointment to the judge. The liquidator must communicate to the judge, within the five days following his/her appointment, the name of the persons that shall assist him/her in the performance of his/her duties, without prejudice of him/her starting his/her duties immediately after being appointed.

Article 171.- The liquidator must register the bankruptcy judgment and publish an extract of the same in terms of what is set forth in article 45 of this ordinance.

Article 172.- The liquidator must report his/her appointment to the creditors and indicate a domicile, within the jurisdiction of the judge that rules on the commercial bankruptcy, for the fulfillment of the obligations that this Law imposes, within the three days subsequent to when he/her becomes aware of his/her appointment.

Article amended FOG 12-27-2007

Article 173.- As applicable, the bankruptcy conciliator shall provide the liquidator with all the necessary support so that he/she may take possession of his/her post, and shall deliver all the information regarding the Merchant that was obtained in the exercise of his/her duties, and, as applicable, the goods belonging to the Merchant that the bankruptcy conciliator has managed.

The Bankruptcy conciliator must provide the liquidator with an updated list of all the actions brought and the trials followed by the Merchant and those brought and followed against he/she/it that article 84 of this Law refers to.

Paragraph added FOG 01-10-2014

Article 174.- The liquidator appointed in terms of what is set forth in the preceding article may be substituted when:

- I. The Merchant and the Admitted Creditors that represent at least half of the total recognized amount, request the Institute, through the judge, to substitute the liquidator for one that they reasonably propose from among those registered before the Institute, or
- II. The Merchant and a group of Admitted Creditors that represent at least half of the total recognized amount, appoint, in common agreement, an individual or legal entity that is not in the Institute's registry and that they wish to act as liquidator, in which case they must agree on his/her/its fees with him/her/it. The subordinated creditors that subsection II of article 222 Bis refers to, including the persons that articles 15, subsection I and 117, subsection II refers to, shall not participate in the vote that this subsection refers to.

Paragraph amended FOG 01-10-2014

In such an event, the Judge shall report it to the Institute on the following day, and the appointment made by the Institute shall be vacated. The liquidator appointed in this way shall assume all the rights and obligations that this Law attributes to the liquidators.

In case of substitution of the liquidator, the substituted liquidator must observe what is set forth for the bankruptcy conciliator in the preceding article.

Article 175.- The bankruptcy judgment may be appealed by the Merchant, any Admitted Creditor or the bankruptcy conciliator in the same term as the commercial bankruptcy judgment. When the Merchant appeals the judgment, and this judgment was issued in view of the assumptions of subsections I and II of article 67, it shall be admitted with both remanding and suspending effects; in the other cases, the appeal shall be admitted only with remanding effects.

If the judge admits the appeal of the bankruptcy judgment in both effects, brought by the Merchant, he/she shall indicate the amount of the guarantee that must be presented by the appellant within the term of six days for the suspension to take effect.

Paragraph added FOG 01-10-2014

Chapter II

Of the particular effects of the bankruptcy judgment

Article 176.- Subject to what is established in this Chapter, the provisions on the effects of the commercial bankruptcy judgment are applicable to the bankruptcy judgment.

Article 177.- Without prejudice of what is ordered in the second paragraph, the powers and obligations attributed by this Law to the bankruptcy conciliator, different from those necessary to carry out a composition and the recognition of credits, shall be understood as attributed to the liquidator starting from his/her appointment. When the conciliation stage ends early due to the Merchant requesting his/her/its declaration of bankruptcy, or once the term of the conciliation and its extension, as applicable, have concluded and the judge has granted it, the person that started the credit recognition shall remain in his/her post until concluding the job.

If the commercial bankruptcy starts in the bankruptcy stage, the liquidator shall also have the powers that this Law attributes to the bankruptcy conciliator for effects of the recognition of credits.

Article amended FOG 12-27-2007

Article 178.- The judgment that declares the bankruptcy shall imply the removal *ipso jure*, without the need for an additional judicial mandate, of the Merchant from the administration of his/her/its company, where the liquidator shall substitute him/her/it.

For the performance of his/her duties and subject to what is set forth in this Law, the liquidator shall have the broadest powers of ownership that proceed by law.

Article 179.- The Merchant shall maintain the disposition and the administration of those goods and rights to his/her/its own property that are legally unencumberable, unattachable, or outside of the statute of limitations.

Article 180.- The liquidator must start the occupation proceedings starting from his/her appointment, having to take possession of the goods and premises that are in possession of the Merchant and start his/her administration. For that, the judge must take the necessary measures and issue as many determinations as necessary for the immediate transfer of the books, papers, documents, electronic storage and information processing means and all the assets that are in the possession of the Merchant.

The Courthouse Clerk shall record the acts relative to the liquidator's entry into his/her post.

For the practice of the occupational law proceedings, non-business days and times shall always be authorized.

Article 181.- The occupation of the property, documents, and papers of the Merchant shall be carried out pursuant to the following rules:

- I. Before the liquidator appointed by the Institute begins his/her duties, the bankruptcy conciliator shall continue performing the duties of supervision and surveillance that were entrusted to him/her;
- II. As soon as the liquidator starts his/her duties, the following shall be delivered to him/her through an inventory: the property, the existing cash, the books, the securities, and other documents belonging to the Merchant, and
- III. The judge shall order the depositaries of the property that were attached, as well as those other appointed by the judge from the commercial bankruptcy when decreeing provisional remedies, to turn said property to the liquidator.

Article 182.- The conservators may attend the occupation proceedings if they have already assumed their posts, as well as the Merchant and its legal representative.

Article 183.- The liquidator, when taking possession of the properties that integrate the Merchant's company, shall immediately take the necessary measures for the company's safety and conservation.

Article 184.- During the time in which the liquidator continues the operation of the Merchant's company, the sales of merchandise or services relative to the activity of the company shall be performed pursuant to the regular ongoing business.

Without prejudice to the foregoing, the Merchant shall be obligated at all times, as a general rule, to assist and support in the duties and tasks of the liquidator related to the operation of the company during the bankruptcy stage. For such effect, the liquidator may request the assistance of the judge, who shall issue the enforcement measures that he/she deems convenient.

Paragraph added FOG 01-10-2014

The administrators, the attorneys-in-fact, and representatives of the Merchant shall not have any capacity or legitimacy to represent it in the bankruptcy stage within the bankruptcy process, except for in the terms and for the effects expressly provided in this Law.

Paragraph added FOG 01-10-2014

Article 185.- The property that due to their nature must be quickly sold and the securities that are close to their maturity date, or that for any other reason must be presented for the conservation of the rights that are inherent to them, shall be listed and delivered to the liquidator. The former so that

he/she may perform the necessary actions in due time. The money shall be delivered to the liquidator for its deposit.

Article 186.- If the trustees of goods that integrate the Estate refuse to hand over their possession or obstruct the liquidator, at the request of the latter, the judge shall decree the necessary enforcement measures for such effect.

Article 187.- It shall be assumed that the goods that the spouse, if the marriage was contracted under the regime of separate property, or the female or male concubine of the Merchant, acquired during the marriage or cohabitation in the two years before the retroactivity date of the commercial bankruptcy judgment, belong to the Merchant.

To take possession of these goods, the liquidator must bring the issue in ancillary proceedings against the spouse, female concubine or male concubine of the Merchant, where proving that the existence of the marriage or cohabitation within said period existed and the acquisition of the assets during the same shall be enough. The spouse, female concubine or male concubine may dispute this, showing that said assets were acquired with means that belonged exclusively to him/her.

Article 188.- All the goods acquired by the marital partnership in the two years before the retroactivity date of the commercial bankruptcy judgment shall be included in the Estate. This provision exclusively includes the products of the goods when the marital partnership was set only over said products.

If the Merchant's spouse exercises the right to ask for the termination of the marriage, he/she may repossess the property and rights that correspond to him/her in terms of the provisions that are applicable.

Article 189.- The liquidator, in administration of the Merchant's company, must always act as a diligent administrator of his/her own business would, being responsible for the losses or damages that the company suffers for his/her own fault or negligence.

For the contracting of new credits and the constitution or substitution of guarantees, what is set forth in articles 75, 76, and 77 of this Law must be observed in what is pertinent.

Article 190.- Within a term of sixty days counting from the date on which the liquidator takes possession of the Merchant's company, he/she must turn in to the judge:

- I. A report on the condition of the Merchant's accounting;
- II. An inventory of the Merchant's company;
Subsection amended FOG 01-10-2014
- III. A balance, on the date on which he/she assumes the administration of the company, and
Subsection amended FOG 01-10-2014
- IV. A detailed report of the assistance that he/she received from the Merchant in terms of article 184 of this Law.
Subsection added FOG 01-10-2014

These obligations must be fulfilled in the formats established by the Institute.

Once the judge receives the documents indicated in the preceding subparagraphs, he/she must put them at the disposition of any interested party.

Article 191.- The inventory shall be made through a list and description of all the real estate and personal property, securities of all kinds, items of commerce and rights in favor of the Merchant.

The liquidator shall have possession of the property and rights that integrate the Estate in accordance with how the inventory of the same is practiced or verified. To these effects, he/she shall be considered a judicial depositary.

Article 192.- The acts that the Merchant and its representative perform without the authorization of the liquidator shall be null and void starting from the declaration of bankruptcy, unless they are made in respect of those goods whose disposal is kept by the Merchant. Said authorization must be in writing and may be general or particular.

If before the declaration of bankruptcy, the Merchant were removed from the administration of his/her/its company or his/her/its powers were limited in relation to some of his/her/its goods, when dealing with third parties that show that they are aware of the situation, the acts performed against the order of removal of the Merchant or limitation of its powers shall be null.

If the third party had appeared at the commercial bankruptcy, it shall be assumed that he/she was aware of the situation described in the preceding paragraph, without evidence to the contrary being admitted.

The declaration of nullity shall not proceed when the Estate takes advantage of the benefits obtained by the Merchant.

Article 193.- The payments made to the Merchant after the declaration of bankruptcy, with knowledge that the bankruptcy had been declared, shall not produce a releasing effect. If the payment was made after the last publication of the declaration of bankruptcy in the **Federal Official Gazette**, or if the person that paid did not appear in the file of the commercial bankruptcy, it shall be assumed, without evidence to the contrary being admitted, that the payment was made with knowledge of the declaration of bankruptcy.

Article 194.- For effects of this law, it shall be assumed that all the correspondence that comes to the domicile of the Merchant's company is relative to the operations of the same, therefore the liquidator or, as applicable, the bankruptcy conciliator, once he/she is in charge of the administration, may receive it and open it without requiring the presence or authorization of the Merchant for that effect.

Article 195.- Whenever it is requested by the liquidator, the Merchant must appear before him/her. Taking into account the nature of the information that the liquidator needs, he/she may request for the Merchant to appear in person and not through an attorney-in-fact; or shall indicate which one or which ones of his/her/its administrators, managers, or employees must appear.

For the exercise of the power that the paragraph above refers to, the liquidator may request the assistance of the judge, who shall issue the enforcement measures that he/she deems convenient.

Article 196.- In the case of legal entities, the provisions relative to the obligations of the Merchant shall be attributable to whoever, in accordance with the law, the valid bylaws, or its articles of incorporation, has the legal representation of the legal entity.

TITLE SEVEN
Of the alienation of the asset, the ranking of credits, and the payment of the Admitted Creditors

Chapter I
Of the alienation of the asset

Article 197.- Once the bankruptcy has been declared, even when the recognition of credits has not concluded, the liquidator shall proceed to the alienation of the goods and rights that integrate the Estate, seeking to obtain the highest possible return for their alienation. For such effect, the best conditions and shortest terms of resource recovery must be sought.

The procedures and general terms in which the alienation of goods is made, must deal with the commercial characteristics of the transactions, the sound prevailing commercial practices and usages, the place where the goods to be alienated are located, as well as the times and conditions both general and particular in which the operation is carried out, even considering, as applicable, reduction of administration costs.

When the alienation of the totality of the goods and rights of the Estate as a productive unit allows for the maximization of the product of the alienation, the liquidator must consider the convenience of keeping the company in operation. If it were not possible to keep the company in operation, the alienation of the goods may be carried out by grouping them to form packages that allow for the reduction of the terms of alienation and to reasonably maximize the value of recovery, considering their commercial characteristics.

In any case, the elements of publicity and effectiveness that guarantee the objectivity and transparency of the corresponding procedures must be promoted.

When securities are included within the goods and rights of the Estate, the alienation of the same shall be carried out pursuant to what is established in this chapter, without the Securities Market Law being applicable in what relates to the securities offers.

Article amended FOG 01-10-2014

Article 198.- The alienation of the goods must be performed through the public auction procedure provided in this chapter, except for as set forth in articles 205 and 208 of this Law.

The auction must be carried out within a term of no less than ten calendar days or no greater than ninety-calendar days counting from the date when the call is first published.

Article 199.- The liquidator shall publish the call for the auction pursuant to the general provisions issued to this effect by the Institute.

The call for bids must include:

- I. A description of each of the goods or group of goods of the same kind and quality that are intended to be alienated;
- II. The minimum price that serves as reference to determine the adjudication of the auctioned goods, accompanied by a reasonable explanation of said price and, as applicable, the documentation that supports it;
- III. The date, time, and place where the auction is proposed to be carried out, and

- IV. The dates, places, and times in which the interested parties may get acquainted with, visit, and examine the relevant property.

Article 200.- From the time when the publication indicated in the preceding article is made, up to the date immediately prior to the date of the auction, anyone interested in participating may present to the judge, in a closed envelope, bids for the property that is the subject matter of the auction. Those bids presented afterwards shall not be admitted.

Article 201.- All the bids and offers that are tendered in an alienation procedure must fulfill the following requisites:

- I. Be presented in the forms published by the Institute for this effect;
- II. Provide the payment in cash. In the cases in which it is possible to precisely determine the amount that corresponds to an Admitted Creditor as pro-rata share derived from a sale, the relevant credit shall be allowed to apply said amount to an offer, equating it with the cash payment;
- III. Have a minimum validity for the forty-five calendar days following the date of the auction or, as applicable, the date when the offer is presented, and
- IV. Be guaranteed in the terms determined by the Institute through general rules.

Article 202.- When presenting the bids or offers to the judge in terms of this article, or article 205 of this Law, the bidders or offerors must state, under oath, their family or property ties to the Merchant, his/her/its administrators or other persons directly related to the operations of the Merchant. Whoever presents a bid or offer in representation of another person must also state the corresponding ties of the person that he/she represents. For effects of this article, if the Merchant is a legal entity, before proceeding with the alienation of the goods, the liquidator must report to the judge who the holders of the capital stock are, report their stock percentages, and identify its administrators and persons that may bind it with their signature.

The omission or falsity of said disclosure shall be cause for nullity of any adjudication that results from the acceptance of the relevant bid, without prejudice of the resulting liabilities. In this case, the bid shall be considered null and void .

Family ties shall be understood as the following, for effects of this article: the spouse, the female or male concubine, blood kin up to the fourth degree or up to the second degree if the kinship is through marriage, and civil kinship. When applicable, family ties shall be understood as referring to the administrators, managers, directors, attorneys-in-fact, and members of the board of directors of the Merchant.

In the event that the Merchant is a legal entity, for effects of this article, property ties shall be understood as those that arises between said Merchant and the following persons:

- I. The holders of at least five percent of its capital stock;
- II. Those that effectively control the legal entities that have at least five percent of its capital stock;
- III. The legal entities in which its administrators or the persons indicated in the subsections above are holders, jointly or separately, of at least five percent of the capital stock;

- IV. Those that may bind it with their signature;
- V. Those in which it participates, directly or indirectly, in at least five percent of the capital stock;
- VI. The administrators and persons that may bind the persons indicated in the subsection above with their signature, and
- VII. Any other person that, due to being directly related to the operations of the Merchant, has access to privileged or confidential information regarding the company of the same.

The persons that meet the conditions that this article refers to may present bids within the term indicated in article 200 of this Law, but once they have been presented, these cannot be improved, nor may said persons participate in biddings.

Article 203.- The judge or, as applicable, the courthouse clerk shall chair the auction on the date, time, and place authorized by the judge, observing the following:

- I. The access to the auction shall be public;
- II. At the time indicated for the auction, whoever chairs it shall declare it open and, thereafter, shall proceed to open the envelopes with the previously received bids before those present, discarding those that do not comply with the requisites indicated in article 201 or that offer a price under the minimum indicated in the call;
- III. If no valid bid is received, the auction shall be declared unawarded;
- IV. Whoever chairs the auction shall read the amount of each of the admitted bids out loud, making the express mention of those tendered by persons with family or property ties to the Merchant in terms of the law;
- V. Once the reading has concluded, whoever chairs the auction shall indicate the bid with the highest price for the goods subject to auction and shall ask if any of those present wish to improve it. If someone improves it within a term of fifteen minutes, it shall be asked again if any other bidder is interested in improving the bid, and so forth in respect of the bids that are tendered, and
- VI. If after fifteen minutes have passed since the last request for a higher bid, the last bid is not improved, the latter shall be declared the winner.

Article 204.- At the conclusion of the session, the judge shall order the adjudication of the goods previously paid for, in favor of the bidder that made the winning bid.

In any case, the integral payment must be presented within the ten days following the date when the auction was held. To the contrary, the bid shall be discarded and the auction shall be held as null and void. In this case, the bidder shall lose the deposit, or the corresponding guarantee shall be made effective in benefit of the Estate.

Article 205.- The liquidator may request authorization from the judge to alienate any good or group of goods of the Estate through a procedure different from what is provided in the preceding articles when he/she considers that more value may be obtained in such a manner.

In this case, the liquidator's request must include:

- I. A detailed description of each of the goods or groups of goods of the same kind and quality that are intended to be alienated;
- II. A description of the procedure through which the alienation is proposed, and
- III. A reasonable explanation of the convenience of carrying out the alienation in the form proposed and pursuant to what is set forth in articles 198 to 204 of this Law.

Article 206.- The day following when the request that the preceding article refers to is received, the judge shall put it at the disposition of the Merchant, the Admitted Creditors and the conservators for a term of ten days.

During this term, the following persons may state to the judge, in writing, their disagreement with the proposal:

- I. The Merchant;
- II. One fifth of the Admitted Creditors;
- III. The Admitted Creditors that jointly represent at least 20 percent of the total amount of the recognized credits, or
- IV. The Conservators that were appointed by the Admitted Creditors that jointly represent at least 20 percent of the total amount of the recognized credits.

Once the term has elapsed without the judge declaring his/her disagreement, he/she shall order the liquidator to proceed to the alienation in the terms of the request.

Article 207.- If the totality of the goods of the Estate have not been alienated once the term of six months starting from the beginning of the bankruptcy stage has elapsed, any interested person may present an offer to the judge for the purchase of any good or group of goods from among those remaining. The offer must be presented in the forms and pursuant to the bases issued by the Institute to this effect, indicating the goods that it includes and the price offered, and must be accompanied by the guarantee determined by the Institute through general rules.

The day subsequent to when the offer has been received, the judge shall put it at the disposition of the Merchant, the Admitted Creditors and the conservators for a term of ten days. If at the end of said term these persons have not declared their opposition to the offer of the persons indicated in subsection I to IV of article 206 of this law to the judge, in writing, the judge shall order the liquidator to call, within the three days following the reception of the order, an auction in terms of article 199 of the same, indicating that the minimum price that subsection II of said article refers to, shall be the offer received.

The auction shall be held in a term no less than ten calendar days and no greater than ninety calendar days starting from the call.

The offer received shall be considered a bid in the auction. The person that presented it may not improve it or participate in the biddings.

Article 208.- Under his/her own responsibility, the liquidator may proceed to the alienation of assets of the Estate without adhering to what is set forth in this chapter when the goods require an immediate alienation. The former, because said goods either cannot be kept without deteriorating or being compromised or if they are exposed to a serious decrease in their price; or whose conservation

is too costly in comparison to their value; or if it is the case of goods whose alienation value does not exceed the amount established for such effect by the institute through general rules.

Paragraph amended FOG 01-10-2014

In those cases, within the three business days of carrying out the sale, the liquidator, through the judge, shall inform the Merchant, the conservators, and the Admitted Creditors of the sale. The report must include a description of the relevant goods, their prices and conditions of sale, the justification of the urgency of the sale and the identity of the buyer.

Article 209.- The goods that are subject to a separation claim may not be alienated when a judgment that denies the separation is not finalized. Without prejudice to the foregoing, at the request of the liquidator, the separation petitioner must grant a guarantee to compensate the Estate for the damages or losses that may result if the separation claim does not proceed. The judge, as applicable, shall determine the amount of said guarantee.

Article amended FOG 01-10-2014

Article 210.- The liquidator may request the expert reports, appraisals, and other studies that he/she deems convenient for the fulfillment of his/her mandate.

The liquidator must divulge the studies that the paragraph above refers to to the public. Said studies shall be presented in the forms established by the Institute to this effect.

The alienation of goods procedure may be entrusted to specialized third parties when such action may help to receive a greater recovery value of said goods or when, considering the cost and benefit factors, it is more profitable. The liquidator must monitor the performance of the specialized third parties in respect of the acts that are entrusted to them.

Paragraph added FOG 01-10-2014

The Institute, through general rules, may set prices and guarantee deposits to those who request access to the referred to information; said amounts shall thereafter form part of the Estate.

Paragraph amended FOG 01-10-2014

Article 211.- If the alienation provides the adjudication of the Merchant's company as a unit in operation, or of parts of it that consist of operating units, the liquidator must notify the third parties that have contracts pending execution, related to the company or to the unit that is subject to alienation, reporting that they have a term of ten calendar days, counting from the date of the notification, to state their wish in writing to the liquidator of terminating their respective contracts. In respect of the contracting parties that do not oppose it, their contracts shall continue with the new owner.

Said notification must be made in writing in the domicile of the contracting parties, when it is recorded in the books and documents of the Merchant's company. When the domicile of one or more contracting parties is unknown, the notification must be made through publication in a major daily newspaper, for two consecutive days and with the name of the contracting parties to which the notification is directed. The notification shall be held as made on the day following the last publication.

Article 212.- The liquidator shall not respond for the dispossession or for the hidden defects of the goods that are alienated, unless it is otherwise agreed with the purchaser.

The purchaser of all or part of the Estate's goods may not claim of the liquidator, or of the Admitted Creditors that received pro-rata shares, the reimbursement of all or part of the price, the decrease of the same, or the payment of any liability.

Article 213.- The Admitted Creditors secured with collateral of property that start or continue an enforcement procedure pursuant to what is established in the applicable provisions must notify the liquidator of this, reporting the data that identifies the enforcement procedure.

The liquidator may participate in the enforcement procedure in defense of the interests of the Estate.

Article 214.- During the first thirty calendar days of the bankruptcy stage, the liquidator may avoid the separate enforcement of a guarantee on goods that are linked to the ordinary operation of the Merchant's company when he/she considers that it benefits the Estate to alienate them as part of a group of goods.

In those cases, previous to the alienation of the relevant group of goods, the liquidator shall carry out an assessment of the goods that guarantee the credit:

- I. If the creditor did not exercise the right that the second paragraph of article 89 of this law refers to, the following shall be applied:
 - a. If the assessment of the liquidator is greater than the amount of the relevant credit, including the interests accrued as of the day of the alienation, the liquidator shall carry out the integral payment of the credit, with the corresponding deductions pursuant to this Law, or
 - b. If the assessment is of an amount less than the credit, including the corresponding interests, the liquidator shall pay the creditor the amount of the assessment. If the assessment is less than the amount of the recognized credit on the date of the declaration of bankruptcy, its difference shall be registered as an unsecured credit.
- II. If the creditor exercised the right that the second paragraph of article 89 of this law refers to, the following shall proceed:
 - a. If the creditor attributed a value greater than the liquidator's assessment to its guarantee, the latter shall pay the creditor the amount of the assessment and shall register the difference between the assessment and the amount of the recognized unsecured credit as of the date of the declaration of bankruptcy for payment, or
 - b. If the creditor attributed a value less than the liquidator's assessment to his/her/its guarantee, the latter shall pay the amount that the creditor attributed to its guarantee and shall register the difference between the attributed value and the amount of the recognized credit as unsecured credit, as of the date of the declaration of bankruptcy for payment.

For effects of the comparisons and the payments that this article refers to, the value attributed by the creditor to its guarantee shall be converted into domestic currency, using the value of the UDIs of the day before the payment to the creditor.

In any case, the payment to the creditor must be made within the three days following the alienation of the package of relevant goods.

The relevant Admitted Creditor may challenge the assessment of the liquidator. The challenge shall be processed in ancillary proceedings, without the alienation of the goods being suspended and without the result affecting the validity of the alienation. While the challenge is adjudicated, the liquidator must separate, from the product of the sale, the sum that corresponds to the difference between the value attributed by the liquidator and the value claimed by the non-compliant Admitted Creditor and invest this sum, in terms of what is set forth in article 214 of this Law.

If the judge determines that the challenge has grounds and the property or properties are attributed a value above that assigned by the liquidator, that difference and its products shall be delivered to the Admitted Creditor. If the judgment dismisses the challenge, the sum that was reserved shall be reintegrated into the Estate.

Article amended FOG 01-10-2014

Article 215.- In what is relative to the investments and reserves that articles 214 and 230 of this law refer to, the liquidator must make them in a credit institution's fixed income instruments. The yields of said instruments must preponderantly protect the real value of said resources in terms of inflation and also have the adequate characteristics of safety, profitability, liquidity, and availability.

The liquidator must present the judge with a report every month on the condition of the investments that the preceding paragraph refers to and on the operations that took place during said term, so that, on the day following its reception, the judge may put it at the disposition of the Merchant and the conservators.

Article 216.- When the execution of a guarantee or its alienation proceeds pursuant to article 214 above, the product of the sale shall be deducted from the amount with which the creditor must contribute to the payment of the singularly privileged creditors and the credits attributable to the Estate, in accordance with what is established in article 226 of this Law.

If it were not possible to determine the corresponding contribution at the time of the execution, the minimum amount that may be provided shall be deducted and the difference between this and the maximum that may result shall be reserved, pursuant to the calculations done by the liquidator. The definitive adjustment shall be made as soon as it is possible to precisely determine the amount of the corresponding contribution.

Chapter II Of the ranking of credits

Article 217.- The creditors shall be classified in the following ranks, in accordance with the nature of their credits:

- I. Singularly privileged creditors;
- II. Creditors secured with collateral on property;
- III. Creditors with special privilege;
- IV. Unsecured creditors, and
- V. Subordinated creditors.

Subsection amended FOG 01-10-2014

Subsection amended FOG 01-10-2014

Subsection added FOG 01-10-2014

Article 218.- Singularly privileged creditors are the following, and their preference shall be determined by the list order:

- I. The Merchant's burial costs, if the commercial bankruptcy judgment occurs after his/her death, and
- II. The creditors for the expenses of the illness that caused the death of the Merchant, if the commercial bankruptcy judgment occurs after his/her death.

Article 219.- For effects of this Law, creditors secured with collateral on property are, provided their guarantees are duly constituted pursuant to the applicable provisions, the following:

- I. Mortgage creditors, and
- II. Those with pledges.

The creditors secured with collateral on property shall receive the payment of their credits from the product of the goods encumbered to the guarantee, with the absolute exclusion of the creditors that subsections III to V of article 217 of this Law refer to and in adherence with the order that is determined in accordance with the applicable provisions in relation to the date of registry.

Paragraph amended FOG 01-10-2014

Article 220.- The creditors with special privileges are all those that, in accordance with the Commercial Code or laws on the matter, have a special privilege or a withholding right.

The creditors with special privileges shall collect on the same terms as the creditors secured with collateral on property or in accordance with the date of the credit, if it were not subject to registration, unless some of them had based their claim on a determined good or right. In the latter case, the distribution shall be made on a pro rata basis independent of their dates, unless the laws indicate the contrary.

Article 221.- Labor credits different from those indicated in subsection I of article 224 and fiscal credits shall be paid after the singularly privileged credits and the credits secured with collateral on property are paid, but before the credits with special privileges are paid.

If the fiscal credits are secured with collateral on property for effects of their payment, what is set forth in article 219 of this Law shall be followed for up to the amount of its guarantee, and any remainder shall be paid in the terms of the first paragraph of this article.

Article 222.- Unsecured creditors are all those that are not considered in articles 218 to 221, 222 Bis or 224 of this ordinance, and they shall collect on a pro rata basis independent of their dates.

Article amended FOG 01-10-2014

Article 222 Bis.- The following are subordinated creditors:

- I. The creditors that agreed to the subordination of their rights in respect of the unsecured credits; and
- II. The creditors by virtue of credits not secured with collateral on property and held by any of the persons referred to in articles 15, 116 and 117 of this Law. The former, with exception of the persons indicated in articles 15, subsection I, and 117, subsection II.

Article added FOG 01-10-2014

Article 223.- Payments shall not be made to creditors of a rank until those credits belonging to creditors of a previous rank are settled. The former, in accordance with the preference established for the same.

Article 224.- The following are credits against the Estate and shall be paid in the order indicated and before any of those credits referred to in article 217 of this Law:

- I. Those referred to in subsection XXIII, section A, of constitutional article 123 and its regulatory provisions;
Subsection amended FOG 01-10-2014
- II. Those contracted for the administration of the Estate by the Merchant with the authorization of the bankruptcy conciliator or liquidator or, as applicable, the credits necessary to keep up the ordinary operation of the company and the necessary liquidity during the processing of the commercial bankruptcy. In this last event, all privileges and preference related to the payment shall be lost if said credits are granted against what was determined by the judge or what was authorized by the bankruptcy conciliator. This is also true in the case of credits that final judgment determines to have been contracted via creditor fraud and to the detriment of the Estate;
Subsection amended FOG 01-10-2014
- III. Those contracted to deal with normal expenses for the security of the goods of the Estate, their repair, conservation, and administration, and
Subsection amended FOG 01-10-2014
- IV. Those proceeding from a judicial or extrajudicial administrative-law proceedings in benefit of the Estate.
Subsection amended FOG 12-27-2007
- V. (Repealed)
Subsection repealed FOG 12-27-2007

Article 225.- Vis à vis the creditors secured with collateral on property or with special privileges, the privileges that the preceding article refers to cannot be made effective, and only the following have privilege:

- I. The creditors for the concepts that subsection XXIII, section A, of constitutional article 123 and the regulatory provisions refer to, including the salaries of the two years before the declaration of commercial bankruptcy of the Merchant;
- II. The expenses of the litigation that were brought for the defense or recovery of the goods that are subject to guarantee or over which a privilege falls, and
- III. The expenses necessary for the repair, conservation, and alienation of the goods mentioned in the preceding subparagraph.

Article 226.- If the total amount of the Merchant's obligations for the concept that subsection I of the preceding article refers to is greater than the value of all the goods of the Estate that are not subject to a guarantee, the excess of the privilege shall be distributed among all the guaranteed creditors.

Article 227.- To determine the amount with which each guaranteed creditor must contribute to the obligation indicated in the preceding article, the value of all the goods of the Estate that are not subject to collateral on property shall be subtracted from the total amount of the obligations of the Merchant for the concept referred to in subsection I of article 225. The resulting amount shall be multiplied by the share that the value of the guarantee of the creditor in question represents of the sum of the values of all the goods of the Estate that are subject to a guarantee.

Article 228.- When a company with unlimitedly liable partners has been declared in commercial bankruptcy, the creditors of those partners, whose credits were contracted before the origin of the unlimited liability of the partner, shall concur with the creditors of the company, placing themselves in the rank and preference that corresponds to them.

The creditors after the unlimitedly liable partners of a company in a bankruptcy condition shall only have the right to collect their credits from the remainder, if there were any, after the debts of the company in question were settled, in accordance with these provisions.

Chapter III Of the payment to the Admitted Creditors

Article 229.- Starting from the date of the bankruptcy judgment, at least every two months, the liquidator shall present the judge with a report on the alienations made and on the condition of the remaining assets, and a list of the creditors that shall be paid, as well as the pro rata share of the bankruptcy distribution that corresponds to them.

In relation to the credits that were challenged, the liquidator must reserve the amount of the sums that, as applicable, may correspond to them. Said reserves shall be invested pursuant to what is set forth in article 215 of this Law, and when the challenge is determined, as applicable, the payment of the Admitted Creditors in question or the reintegration of the Estate of any surplus shall proceed.

Article 230.- In the cases in which the determination of one or more challenges may amend the amount that is to be distributed to the Admitted Creditors, the liquidator shall only distribute the amount that is not susceptible to being reduced as a consequence of the determination of the appeal. The difference shall be reserved and invested, in terms of what is set forth in article 215 above. When the challenge is determined, the payment of the creditor shall proceed, as applicable.

In the cases in which a judgment was not issued on the recognition, rank, and preference of credits, the product of the alienations that are carried out must be invested in terms of what is set forth in the cited article 215.

Article 231.- The judge shall put the report and list that articles 229 and 230 of this ordinance refer to at the disposition of the Admitted Creditors and the Merchant so that within a term of three days, they may declare what is in their best interest. Once this term has elapsed, the judge shall determine the manner and terms in which the distribution of the available cash shall proceed.

Article 232.- The bankruptcy distributions shall continue being made while there are assets susceptible to alienation.

Article 233.- If, at the time that the commercial bankruptcy must be terminated, there were still credits pending recognition due to a challenge to the judgment that recognized them, the judge shall wait to declare the termination of the commercial bankruptcy until the corresponding challenge is determined.

Article 234.- It shall be considered that all the items of the assets have been alienated, even when part of it remains, if the liquidator shows the judge that they have no economic value, or if the value that they have is less than the encumbrances on them, or the expenses necessary for their sale.

In such cases, the judge, hearing the conservators pursuant to the procedure established in article 76 of this Law, shall decide on the destination of these goods shall.

Article 235.- Once the commercial bankruptcy has concluded, the creditors that did not obtain the integral payment shall individually keep their rights and shares for the balance against the Merchant.

Article 236.- Once the commercial bankruptcy has concluded for the causes that subsections III and IV of article 262 of this Law refer to, if other goods belonging to the Merchant were discovered, or if goods were restituted that should have been included as part of the Estate, their alienation and distribution in the terms provided in this Law shall proceed.

TITLE EIGHT
Of the special bankruptcies

Chapter I
Of the commercial bankruptcy of Merchants that provide public services granted under concessions

Article 237.- The Merchant that, by virtue of a concession title, provides a federal, state, or municipal public service, may be declared in commercial bankruptcy.

Article 238.- The commercial bankruptcies that the preceding article refers to shall adhere to the laws, regulations, concession titles, and other provisions that regulate the concession and the public service in question, applying the provision of this Law only in what does not oppose them.

Article 239.- For effects of this chapter, the government, office, or other public entity that grants concessions for the provision of public services shall be understood as the grantor.

Article 240.- The granting authority shall propose to the judge all that is relative to the appointment, removal, and substitution of the bankruptcy conciliator and the liquidator that participate in the commercial bankruptcies that this chapter refers to, as well as to supervising the activities of the same. When the special circumstances of the case justify it, the granting authority may establish a remuneration regime different from what is provided in article 333 of this Law.

Article 241.- Once the commercial bankruptcy of a Merchant is declared pursuant to this chapter, and at any other time starting from this declaration, the granting authority may determine the separation of whoever performs the administration of the Merchant's company and appoint a person to assume it. The former, when it is considered necessary for the continuity and security of the provision of the public service.

Paragraph amended FOG 01-10-2014

In those cases, the granting authority shall communicate its determination to the judge, who shall take, without delay, all the measures necessary for the person appointed by the granting authority to take possession of the Merchant's company. The occupation shall be made pursuant to the formalities provided in articles 180 to 182 of this ordinance.

Article 242.- Any agreement proposed in terms of Title Five of this Law must be notified to the granting authority, which may veto it in the term provided in article 162 of this Law.

Article 243.- If the liquidator proposes, with the previous agreement of the granting authority, an alienation procedure in terms of articles 205 and 206 of this ordinance, it may only be objected to by:

- I. Half of the Admitted Creditors;
- II. Admitted Creditors that jointly represent at least fifty percent of the total amount of the recognized credits, or
- III. Conservators that jointly represent at least fifty percent of the total amount of recognized credits.

Article 244.- In all the cases in which the sale of the Merchant's company includes the transfer of the concession title, the operation must have the previous approval of the granting authority, who shall verify that the acquirer complies with the requisites established in the applicable provisions to be in the condition to provide the public service.

Chapter II
Of the commercial bankruptcy of Financial Institutions

Denomination of Chapter amended FOG 01-10-2014

Article 244 Bis.- For effects of what is set forth in this Chapter, the following shall be understood as:

- I. Financial Institution: the entity that the federal laws grant such nature to. Credit institutions, auxiliary credit organizations, and the persons that perform auxiliary credit activities shall be excluded.
- II. Supervisory Committee: that which pursuant to the applicable provisions is responsible for the supervision and surveillance of a Financial Institution.

Article added FOG 01-10-2014

Article 245.- The commercial bankruptcy of Financial Institutions shall be governed by what is provided in this Law, except for what is provided in the financial laws that regulate their organization and functioning.

The determination of generalized non-compliance with the payment obligations that Chapter II of Title One of this law refers to, whenever attributable to Financial Institutions, must be made pursuant to the accounting registry norms that the competent financial authority issues under the financial laws that regulate its organization and functioning.

The commercial bankruptcy of the credit institutions shall be governed by what is provided for judicial liquidation and other applicable norms in the Credit Institutions Law.

Article amended FOG 01-10-2014

Article 246.- Only the Supervisory Committee may demand the declaration of commercial bankruptcy of a Financial Institution, in terms of the applicable provisions.

Starting from the date when the commercial bankruptcy claim of a Financial Institution is presented, the corresponding Supervisory Committee, when it is deemed convenient, may request for the bankruptcy judge to order said Financial Institution to keep its offices for attention to the public closed and suspend performance of any kind of operation or service.

The judge may adopt, *ex officio*, or at the request of the Supervisory Committee, the provisional measures necessary for the protection of the workers, facilities, and assets of the institution, as well as the interests of the creditors.

Article amended FOG 01-10-2014

Article 247.- Once the commercial bankruptcy claim has been received, the judge shall summon whoever has been entrusted with the administration of the Financial Institution, granting them a term of nine days to answer the claim. In his/her/its answer to said claim, the party in charge of the administration must offer the evidence that this law authorizes.

The day subsequent to when the judge receives the answer, he/she shall notify the plaintiff so that within a term of three days, he/she/it may declare what is in his/her/its best interest and, as applicable, present his/her/its evidence.

Article amended FOG 01-10-2014

Article 248.- With the answer to the complaint, documentary evidence and the opinions of experts shall only be admitted when presented in writing. Whoever presents the opinion of an expert must accompany said writ with information and documents that attest to the experience and technical knowledge of the corresponding expert. Under no circumstances shall an expert be summoned for interrogation.

The judge may order the other evidentiary proceedings that he/she deems convenient, which must be carried out within a maximum term of ten days.

Article 249.- When the commercial bankruptcy of a Financial Institution is declared, the procedure shall commence in the bankruptcy stage in all the cases.

Article amended FOG 01-10-2014

Article 250.- It shall correspond to the Supervisory Committee to proposition the judge for the appointment, removal, or substitution, as applicable, of the liquidator of the commercial bankruptcy of the Financial Institution.

Article amended FOG 01-10-2014

Article 251.- The National Commission for the Protection of Users of Financial Services (CONDUSEF) may appoint up to three conservators, who shall have the obligation to represent and protect the rights and interests of the creditors of the institution declared in commercial bankruptcy.

Article 252.- The alienation proposals presented to the liquidator, with the approval of the Supervisory Committee, may be objected to by the Financial Institution, and the judge shall determine what is pertinent.

Article amended FOG 01-10-2014

Article 253.- Repealed.

Article repealed FOG 01-10-2014

Chapter III Of the commercial bankruptcy of the auxiliary credit institutions

Article 254.- The commercial bankruptcy of the organizations and persons that perform auxiliary credit activities shall be governed by what is set forth in this Law, except for what is provided in the Credit Organizations and Auxiliary Activities General Law.

The determination of generalized non-compliance with payment obligations that chapter II of Title One of this Law refers to, must be made pursuant to the accounting registration standards that the competent financial authority issues under the financial laws that regulate the organization and functioning of the relevant entity. .

Article amended FOG 01-10-2014

Article 255.- Without prejudice to what is provided in article 21 of this Law, the National Banking and Securities Commission (CNBV) may also claim the declaration of commercial bankruptcy of an auxiliary credit organization and of any company that performs auxiliary credit activities, provided it is supervised by said Commission.

Once the claim is admitted, the judge shall order the notification of the National Banking and Securities Commission and shall adopt, either acting *ex officio* or at the request of the plaintiff or of the mentioned commission, the provisional measures that are necessary for the protection of the interests of the creditors, workers, facilities, and assets of the company in question.

Article amended FOG 01-10-2014

Article 256.- Once the commercial bankruptcy claim has been received, the judge must summon whoever is entrusted with the administration of the company in question, granting them a term of nine days to answer. In its answer to the complaint, the party in charge of the administration must offer the evidence that this Law authorizes.

Paragraph amended FOG 01-10-2014

The day subsequent to when the judge receives the answer to the complaint, he/she shall give notice of said complaint to the plaintiff so that within a term of three days, the plaintiff may declare what is in his/her/its best interest and, as applicable, offer additional evidence.

Article 257.- With the answer to the complaint, documentary evidence and the opinions of experts shall only be admitted when presented in writing. Whoever presents the opinion of an expert must accompany said writ with information and documents that attest to the experience and technical knowledge of the corresponding expert. Under no circumstances shall an expert be summoned for interrogation.

The judge may order the other evidentiary administrative law proceedings that he/she deems convenient, which must be carried out within a maximum term of ten days.

Within the five days following the expiration of the term that the second paragraph of article 256 of this law refers to, the judge shall issue the corresponding judgment.

Article 258.- Once the commercial bankruptcy has been declared, the National Banking and Securities Commission, in the defense of the interests of the creditors, may request that the procedure be commenced in the bankruptcy stage, or the early termination of the conciliation stage, in which case the judge shall declare the bankruptcy *ipso jure*.

Article 259.- It shall correspond to the National Banking and Securities Commission to proposition the judge for the appointment, removal, or substitution, as applicable, of the bankruptcy conciliator or of the liquidator of the commercial bankruptcy of the relevant company.

Article amended FOG 01-10-2014

Article 260.- The National Commission for the Protection of Users of Financial Services may appoint up to three conservators, who shall have the obligation of representing and protecting the rights and interests of the creditors of the company declared in commercial bankruptcy.

Article amended FOG 01-10-2014

Article 261.- The alienation proposals presented by the liquidator, with the approval of the National Banking and Securities Commission, may be objected to by the company in question, and the judge shall determine what is pertinent.

Article amended FOG 01-10-2014

TITLE NINE

Of the termination of the commercial bankruptcy

Only Chapter

Of the termination of the commercial bankruptcy

Article 262.- The judge shall declare the commercial bankruptcy concluded in the following cases:

- I. When an agreement is approved in terms of Title Five of this Law;
- II. If the integral payment of the Admitted Creditors were carried out;
- III. If a payment were made to the Admitted Creditors through pro rata share of the Merchant's obligations, and there were no more goods to alienate;

IV. If it is shown that the Estate is insufficient, even to cover the credits that article 224 of this Law refers to;

Subsection amended FOG 01-10-2014

V. In the bankruptcy stage, when composition by the Merchant and the Admitted Creditors that represent the majorities that article 157 of this Law refers to is approved and the composition deed provides for the payment of all the Admitted Creditors, even of those that did not subscribe said deed, or

Subsection added FOG 12-27-2007, Amended FOG 01-10-2014

VI. At any time that the Merchant and the totality of the Admitted Creditors request it.

Subsection amended FOG 12-27-2007 (moved down)

Article 263.- The bankruptcy conciliator, the liquidator, any Admitted Creditor, or any conservator may request for the judge to terminate the commercial bankruptcy for the causes that subsections III and IV of the preceding article refer to.

Article 264.- If the commercial bankruptcy were terminated for the causes indicated in subsections III or IV of article 262 of this Law, any Admitted Creditor that within the two years following its termination, proves the existence of goods that are at least sufficient to cover the credits that article 224 of this Law refers to, may obtain the reopening of the commercial bankruptcy.

The commercial bankruptcy shall continue from the point that it was interrupted.

Article 265.- The commercial bankruptcy termination judgment shall be notified through the Judicial Bulletin or in the court's premises.

Article 266.- The commercial bankruptcy termination judgment shall be subject to appeal by the Merchant, any Admitted Creditor, and the Public Prosecutor's Office as well as by the inspector, the bankruptcy conciliator, or the liquidator in the same terms as the commercial bankruptcy judgment.

TITLE TEN

Of ancillary proceedings, motions, and enforcement measures

Chapter 1

Ancillary proceedings and motions

Article 267.- For the study of and decisions on various issues that may arise during the processing of the commercial bankruptcy, and that do not have a special procedure provided, proceedings shall be brought by the interested party through ancillary proceedings before the judge, observing the following processes:

- I. The initial ancillary statement shall be served during the next five days to the party or parties interested in the issue. Any party that does not reply shall be deemed to have positively confessed the facts argued by the other.
- II. In the initial ancillary statement on the claims and the answer to it, the parties shall offer evidence, expressing the points that shall be dealt with and that are not unrelated to the issue addressed in the ancillary proceedings;
- III. Once the term that the first subsection refers to has elapsed, the judge shall issue a summons for a hearing on allegations and presentation of evidence that must be held within the following ten days;
- IV. When the parties offer the testimonial and expert evidence, they shall present, along with its submittal, a copy of the interrogatories pursuant to which the witnesses must be

examined, or the questionnaire for the experts, indicating the name and domicile of the witnesses and, as applicable, of each party's expert. The judge shall order for a copy to be delivered to each of the parties, so that they may formulate said questions in writing, or verbally ask questions when the hearing takes place. No more than three witnesses shall be admitted for each event;

- V. When the expert evidence is brought, the judge shall appoint an expert, or as many experts as he/she deems convenient, without prejudice of the fact that each party may also appoint an expert, so that he/she may associate with the expert appointed by the judge or render a report separately;
- VI. So that the parties may render their evidence in the cited hearing, the officials or authorities have the obligation to issue the copies and documents requested as soon as possible to the others, with the warning that in case of not doing so, they shall be subject to the enforcement measures that the judge considers convenient, and those documents that were not prepared in due time, for the lack of interest in their presentation, shall not be received, and
- VII. Once the hearing is concluded, without the need for a summons, the judge shall issue the relative interlocutory judgment within a term of three days.

The ancillary proceedings brought in terms of this Law shall not suspend the main procedure.

Article 268.- When this law does not provide for the motion to appeal, the motion for revocation shall proceed, which shall be processed pursuant to the provisions of the Commercial Code.

Chapter II Of the enforcement measures

Article 269.- To ensure compliance with his/her determinations, the judge may employ, at his/her discretion, any of the following enforcement measures;

- I. Penalty of an amount of one hundred and twenty to five hundred days of the general minimum wage valid in the Mexican Federal District when committing a transgression, which may be duplicated in case of recidivism;
- II. The assistance of law enforcement and the breakage of locks if it were necessary, and
- III. Arrest for up to thirty-six hours.

If the case demands a greater sanction, the competent authority shall be informed.

Article 270.- When, in the exercise of the powers granted in the preceding article, the judge requests the assistance of law enforcement, the competent authorities shall be obligated, under their strict responsibility, to provide such assistance with the widest scope and duration that is necessary.

TITLE TEN BIS Liability of the administrators

Title added FOG 01-10-2014

Article 270 Bis.- The members of the board of directors, as well as the relevant employees of the Merchant, shall be susceptible to liability consistent with indemnifying the damages and losses caused to the Merchant whenever they have caused financial losses to the Merchant, and the Merchant has fallen under generalized non-compliance in the payment of its obligations that articles 10, 11, and 20 Bis of this Law refer to, whenever any of the following events take place:

- I. When they vote in the sessions of the board of directors or take determinations related to the Merchant's property, with a conflict of interest;

- II. When they knowingly favor a determined shareholder or group of shareholders of the Merchant, in detriment of the other shareholders;
- III. When without a legitimate cause, by virtue of their employment, post, or commission, they obtain economic benefits for themselves or they obtain them in favor of third parties, including a determined shareholder or group of shareholders;
- IV. When they generate, disseminate, publish, provide, or order information, knowing that it is false;
- V. When they order or cause the omission of the registry of the operations carried out by the Merchant, or alter or order the alteration of registrations to hide the true nature of the executed operations, affecting any concept of the financial statements;
- VI. When they order or agree to the recording of false data in the accounting records of the Merchant. It shall be presumed, unless otherwise evidenced, that any data included in the accounting is false whenever the authorities, in the exercise of their powers, request information related to the accounting records and the Merchant does not have such information and the information that supports the accounting records cannot be attested to;
- VII. When they destroy, modify, or order the destruction or alteration, in whole or in part, of the accounting systems or records of any documents which are the source for the accounting entries of the Merchant, before the expiration of the legal term set forth for their keeping and with the purpose of concealing their records or evidence;
- VIII. When they alter or order the modification of any active or passive accounts or of the contracts' conditions, to make or to order the registration of non-existing transactions or expenditures, to exaggerate those expenditures that are real, or to willfully commit any action that is illegal or forbidden by the Law, generating in any of such events, a debt, breach, or harm to the Merchant's property for their own economic benefit, either directly or through a third party or parties, including the registration of liabilities in favor of the persons indicated in articles 116 and 117 of this Law, or
- IX. When they, in general, carry out any acts that are deceitful, in bad faith, or illegal pursuant to this Law or other laws.

The liability that consists in indemnifying the damages and losses caused due to the acts, events, or omissions that the above subsections of this article refer to, shall be a joint liability for the guilty parties that adopted the decision and shall be enforceable for the damages or losses caused. The corresponding indemnification must cover the damages and losses caused to the Merchant and, as applicable, the removal of the guilty parties from their post shall proceed.

The affected Merchant may in no case agree to or provide in its corporate bylaws, benefits or exclusions of liability that limit, release, substitute, or offset the obligations for the liability that this legal precept refers to; it may only contract insurance, bonds, or guarantees that cover the amount of the indemnification for the damages and losses caused, except in the case of acts that are deceitful, in bad faith, or illegal pursuant to this Law and other applicable provisions.

For the effects of this article, relevant employees shall be understood as the general director of a company that is subject to this Law, as well as the individuals that occupying a position, post, or commission in it, knowingly adopt, order, or execute the acts, omissions, or conducts in question.

Article added FOG 01-10-2014

Article 270 Bis 1.- The liability action consisting of indemnifying the damages and losses that derive from the acts, omissions, or conducts that the preceding article refers to, shall be exclusively in

favor of the Merchant that meets the conditions provided in article 10 of this Law and, consequently, of the Estate. The foregoing shall be without prejudice of the criminal action corresponding to any crimes committed.

The liability action may be exercised:

- I. By the Merchant, and
- II. By the shareholders of the company in question that, individually or jointly, have shares with voting rights, even if they are limited or restricted, or without voting rights, that represent twenty five percent or more of the capital stock of the company.

The plaintiff may compromise in trial in respect of the amount of the indemnification for damages and losses, provided that the terms and conditions of the corresponding judicial agreement are previously submitted for the approval of the bankruptcy conciliator or liquidator, as applicable. The lack of said formality shall be a cause for relative nullity.

The exercise of the legal actions that this article refers to shall not be subject to the fulfillment of the requisites established in articles 161 and 163 of the Business Associations Law. In any case, said legal actions must include the total amount of the liabilities in favor of the Merchant and not only the personal interest of the plaintiff or plaintiffs.

The legal actions whose purpose is to demand responsibility in terms of this article, shall expire in five years counting from the day when the event that caused the property damage in question took place, as referred to in article 270 Bis.

In any case, the persons that, under the judge's discretion, executed the action that this provision refers to with recklessness or in bad faith, shall be sentenced to the payment of costs in terms of what is established in the Commercial Code.

Article added FOG 01-10-2014

Article 270 Bis-2.- The members of the board of directors and the relevant employees shall not incur, individually or jointly, in liability for the damages or losses caused to the Merchant when property damage has been caused, derived from the acts, omissions, or conducts that they execute or decisions that they adopt, when acting in good faith, when any of the following exclusions of liability takes place:

- I. They comply with the requisites that the applicable law or the corporate bylaws establish for the approval of the issues that the board of directors deals with;
- II. They make decisions or vote in the board of directors sessions based on the information provided by relevant employees, the legal entity that provides the services of external auditing, or independent experts, whose nature and credibility provides no reason for doubt;
- III. They select the most adequate alternative to the best of their knowledge and understanding or, the possible property damage to the Merchant was not foreseeable, in either case, based on the information available at the time of the decision, or
- IV. They fulfill the agreements of the shareholders' meeting, provided these do not violate the law.

Article added FOG 01-10-2014

TITLE ELEVEN
Criminal aspects of commercial bankruptcy

ONLY CHAPTER
Of crimes in a commercial bankruptcy situation

Article 271.- The Merchant declared in commercial bankruptcy through a final judgment shall be penalized with a penalty of three to twelve years in prison for any deceitful act or conduct performed before or after the declaration of commercial bankruptcy that causes, or worsens, the generalized non-compliance with the payment of his/her/its obligations.

Paragraph amended FOG 01-10-2014

It shall be assumed, unless there is evidence to the contrary, that the Merchant has deceitfully caused or worsened the generalized non-compliance with the payment of his/her/its obligations when the merchant keeps his/her/its accounting in such a way that does not allow for his/her/its true financial condition to be known; or alters, falsifies, or destroys it.

The judge shall take into account, to individualize the penalty, the amount of the loss caused to the creditors and its number.

Article 271 Bis.- When the Merchant has been declared in commercial bankruptcy by a final judgment, prison of three to twelve years shall be imposed on the members of the board of directors, the sole administrator, the chief executive officer, the relevant employees that article 270 Bis refers to, or the legal representatives of the Merchant that, through the modification of the active or passive accounts, or the conditions of the contracts, record or order for inexistent expenses and operations to be recorded with knowledge of such circumstance, or deceitfully perform any illegal or prohibited act or transaction that damages the corresponding Merchant's property in their own benefit, either directly or through a third party, or in benefit of third parties, including the registration of liabilities in favor of any of the persons indicated in articles 116 and 117 of this Law.

The penalty that this article refers to shall be of one to three years in prison when it has been evidenced that the damage has been repaired and the loss that was caused to the Merchant has been compensated.

No criminal charges shall be brought for the crime provided in this article when the involved persons act in terms of what is established in article 270 Bis-2 of this Law, as well as in compliance with the laws that regulate the acts or conducts that the first paragraph of this article refers to.

Article added FOG 01-10-2014

Article 272.- The Merchant against which a commercial bankruptcy procedure is brought shall be penalized with a penalty of one to three years of prison when, at the request of the judge of the commercial bankruptcy, the Merchant does not put his/her/its accounting, at the disposal of the person that the judge appoints within a term granted by the bankruptcy judge. The former, unless the Merchant shows that it was impossible to present it due to Acts of God or force majeure.

Article 273.- When the Merchant is a legal entity, the criminal liability shall fall on the members of the board of directors, the managers, officers, managers, or liquidators of the Merchant that are the perpetrators of or participants in the crime.

Article 274.- Whoever on his/her own or through another person requests the recognition of a non-existent or simulated credit during the commercial bankruptcy procedure, shall be penalized with one to nine years in prison.

Article 275.- The crimes committed during a commercial bankruptcy shall be prosecuted by criminal complaint. The Merchant and each of his/her/its creditors shall have the right to complain, the latter even if any of the other creditors has desisted from the complaint or has granted a pardon.

Article 276.- In the commercial bankruptcy crimes, the criminal judge shall not rule on the remedy for damages to the injured party, a matter that corresponds to the judge of the commercial bankruptcy.

Article 277.- The crimes committed during a commercial bankruptcy by the Merchant, by persons that acted on his/her/its behalf and on by third parties, may be liable for prosecution without waiting for the conclusion of the commercial bankruptcy and without prejudice of the continuation of it.

The decisions of the judge that rules on the commercial bankruptcy are not binding to the criminal jurisdiction. No previous determination of the nature of the relevant crimes shall be necessary to prosecute these offenses.

TITLE TWELVE **Of cooperation in international procedures**

Chapter I **General Provisions**

Article 278.- The provisions of this Title shall be applicable in the cases where:

- I. A Foreign Court or a Foreign Representative requests assistance in the Mexican Republic in relation to a Foreign Procedure;
- II. Assistance is requested in a Foreign State in relation to a procedure that is being processed with adherence to this Law;
- III. A Foreign Procedure and a procedure in the Mexican Republic with adherence to this Law are being processed simultaneously and in respect of the same Merchant, or
- IV. The creditors or other interested persons, who are in a Foreign State, have interest in requesting the opening of a procedure or in participating in a procedure that is being processed with adherence to this Law.

Article 279.- For the purposes of this Title:

- I. Foreign Procedure shall be understood as the collective legal procedure, either judicial or administrative, including that of provisional nature, which is processed in a foreign State with adherence to a law relative to the commercial bankruptcy, bankruptcy, or insolvency of the Merchant and in virtue of which the goods and businesses of the Merchant are subject to the control or supervision of the Foreign Court, for the effects of its reorganization or liquidation;
- II. Principal Foreign Procedure shall be understood as the Foreign Procedure that is processed in the State where the Merchant has its main interests;
- III. Non-Principal Foreign Procedure shall be understood as a Foreign Procedure that is processed in a State where the Merchant has an establishment such as those described in subsection VI of this article;
- IV. Foreign Representative shall be understood as the person or body, even when appointed provisionally, who is empowered in a foreign procedure, to administer the reorganization or liquidation of the goods or business of the Merchant, or to act as a representative of the Foreign Procedure;

- V. Foreign Court shall be understood as the judicial authority, or the authority of any other nature, that is competent for the effects of controlling or supervising a Foreign Procedure, and
- VI. Establishment shall be understood as any place of operations where the Merchant exercises an economic activity with human and material resources or services in a non-transitory manner.

Article 280.- The provisions of this Title shall be applied when international treaties signed by Mexico do not stipulate other provisions, if there is no international reciprocity in place.

Article 281.- The duties that this Title refers to, relative to the recognition of Foreign Procedures and in matters of cooperation with Foreign Courts, shall be exercised in accordance with the provisions of this Law, by the judge, the Institute, or the person that the Institute appoints.

Article 282.- The inspector, the bankruptcy conciliator, or the liquidator shall be empowered to act in a foreign State, to the extent in which the applicable foreign law allows it, in representation of a commercial bankruptcy that was opened in the Mexican Republic in accordance with this Law.

Article 283.- None of what is set forth in this Title may be interpreted in a sense that is contrary to what is set forth in Titles I to XI and XIII of this Law, or in any other way that is contrary to fundamental principles of Law that rule in the Mexican Republic. Consequently, the judge, the Institute, the inspector, the bankruptcy conciliator, or the liquidator shall refuse to adopt a measure when it is contrary to what is set forth in such Titles or when it may violate the aforementioned principles.

Article 284.- None of what is set forth in this Title shall limit the powers that the judge, the Institute, the inspector, the bankruptcy conciliator, or the liquidator may have to provide additional assistance to the Foreign Representative in accordance with other legal provisions in force in Mexico.

Article 285.- In the interpretation of the provisions of this Title, their international origin and the need to promote the uniformity of their application and the observance of good faith must be taken into account.

Chapter II

Of the access of the foreign representatives and creditors to the Mexican courts

Article 286.- Subject to the provisions of this Law, all Foreign Representatives shall be authorized to appear directly before the Judge in the procedures that this Law regulates.

Article 287.- The mere fact of the presentation of a request by a Foreign Representative before a court of the Mexican Republic, in accordance with the provisions of this Title, does not suppose the submission of the former, or that of the goods or businesses of the Merchant abroad, to the jurisdiction of the Mexican courts for any effect other than the original request.

Article 288.- Any Foreign Representative shall be empowered to request the opening of a commercial bankruptcy in accordance with this Law, if the conditions for the opening of said procedure are met.

Article 289.- Commencing from the recognition of a Foreign Procedure, the Foreign Representative shall be empowered to participate in any commercial bankruptcy that was opened in accordance with this Law.

Article 290.- Except for what is set forth in the second paragraph of this article, foreign creditors shall enjoy the same rights as national creditors in respect of the opening of a procedure in this State and of their participation in it, in accordance with this Law.

What is set forth in the first paragraph of this article shall not affect the order of preference of the credits in a commercial bankruptcy declared in accordance with this Law, unless an inferior

priority/preference than that of the unsecured creditors were assigned to the credits of the foreign creditors.

Article 291.- Provided that in accordance with this Law, a procedure were notified to the creditors that reside in the Mexican Republic, that notification must be made to the foreign creditors whose domicile is known and that do not have a domicile within the national territory. The judge must order for the pertinent legal measures to be taken to the ends of notifying all the creditors whose domicile is not yet known.

Said notification must be made to each of the foreign creditors separately, unless the judge considers that another form of notification is more appropriate in the particular circumstances of the case. Neither a letter rogatory nor any other formality shall be required.

When foreign creditors are to be notified of the opening of a procedure, the notification must also:

- I. Indicate a term of forty-five calendar days for the presentation of the credits claims and indicate the place where that presentation shall take place;
- II. Indicate if the creditors with recognized credits have to present those credits, and
- III. Include any other information required for that notification pursuant to the Mexican Laws and the other relevant determinations of the judge.

Chapter III Of the recognition of a foreign procedure and available relief

Article 292.- The Foreign Representative may request the recognition of the Foreign Procedure in which it was appointed before the judge.

All recognition requests must be presented along with:

- I. A copy certified by the Foreign Court of the determination through which the Foreign Procedure is declared open and the Foreign Representative is appointed;
- II. A certificate issued by the Foreign Court where the existence of the Foreign Procedure and the appointment of the Foreign Representative is attested to, or
- III. In the absence of evidence pursuant to subsections I and II, by any other evidence admissible by the judge of the existence of the Foreign Procedure and the appointment of the Foreign Representative.

All recognition requests must be presented along with a declaration in which the information of all the Foreign Procedures open regarding the Merchant that the Foreign Representative is aware of are duly indicated.

The judge must demand that all documents presented in a foreign language supporting a recognition request be accompanied by their translation to Spanish.

Likewise, the Merchant must share its Domicile for the effects of delivering summons. The procedure shall be processed as an ancillary proceeding between the Foreign Representative and the Merchant, with the intervention, as applicable, of the inspector, the bankruptcy conciliator, or the liquidator.

Article 293.- When the recognition of a foreign procedure is requested in respect of a Merchant

that has an Establishment in Mexico, the provisions of Chapter IV of Title One of this Law must be observed, including those relative to the imposition of injunctive reliefs and precautionary measures.

The judgment that article 43 of this statute refers to shall also include the declaration that the Procedure or Foreign Procedure in question is recognized.

The commercial bankruptcy shall be governed by the provisions of this Law.

Article 294.- If the Merchant does not have an Establishment in the Mexican Republic, the procedure shall be processed between the Foreign Representative and the Merchant.

The trial shall be processed following the provisions that are included in Title Ten of this Law for the ancillary proceedings. The person that asks for the recognition must indicate the domicile of the Merchant for effects of the service of process.

Article 295.- If the determination or the certificate referred to in the second paragraph of article 292 of this Law indicates that the Foreign Procedure is a procedure such as those described in subsection I of preceding article 279 and that the Foreign Representative is a person, or an organization, in accordance with subsection IV of the mentioned article 279, the judge may assume that it is so.

Paragraph amended FOG 01-10-2014

The judge shall be empowered to assume that the documents that are presented to him/her in support of the recognition request are authentic, whether or not they are legalized.

Unless there is evidence to the contrary, it shall be assumed that the corporate Domicile of the Merchant or its regular residence, if it is the case of an individual, is that of the center of its main interests.

Article 296.- Except for what is set forth in article 281 of this Law, a recognition shall be granted to a Foreign Procedure when:

- I. The Foreign Procedure is a legal procedure in the sense of subsection I of article 279 above;
- II. The Foreign Representative that requests the recognition is a person or an organization in the sense of subsection IV of the cited article 279;
- III. The request complies with the requisites of article 292, 293, and 294 of this Law, as applicable, and
- IV. The request has been presented to the competent court.

The Foreign Procedure shall be recognized:

- I. As Principal Foreign Procedure, if it is being processed in the State where the Merchant has the center of its principal interests, or
- II. As Non-Principal Foreign Procedure, if the Merchant has an establishment in the territory of the State of the foreign court of the nature stated in subsection VI of the aforementioned article 279.

Article 297.- Starting from the time when the recognition request of a Foreign Procedure is presented, the Foreign Representative shall inform the judge without delay of:

- I. All important changes in the situation of the recognized Foreign Procedure or in the appointment of the Foreign Representative, and
- II. All other Foreign Procedure that is processed in respect of the same Merchant and that the Foreign Representative is aware of.

Article 298.- From the presentation of a recognition request up to when that request is determined, the judge may—at the request of the inspector, the bankruptcy conciliator, or the liquidator, all of whom act at the request of the Foreign Representative, and when the relevant measures are necessary and urgent to protect the goods of the Merchant or the interests of the creditors—grant injunctive reliefs and precautionary measures, including the following:

- I. Suspending all means of alienation of the Merchant's property;
- II. For the person appointed by the Institute to be able to appoint the administrator or executor of all or part of the Merchant's properties that are on national territory, to protect or preserve the value of those goods that, by the nature or concurrent circumstances, are perishable, susceptible to depreciation, or are threatened by any other cause, and said appointment may fall on the Foreign Representative, and
- III. Applying any relief provided in subsection II, IV, and VI of the first paragraph of article 300 of this Law.

For the adoption of the injunctive reliefs and precautionary measures that this article refers to, the provisions of this statute relative to the precautionary measures must be observed, as applicable.

Unless the reliefs granted in accordance with this article are extended pursuant to what is provided in subsection V of the first paragraph of article 300 of this Law, they shall be left without effect when a determination is issued on the recognition request.

The judge may refuse all relief provided in this article when that relief affects the development of a Principal Foreign Procedure.

When the Merchant has an establishment within the Mexican Republic, to request the injunctive reliefs and precautionary measures that this article refers to, it shall be necessary to demand the recognition of the relevant Foreign Procedure.

Article 299.- Commencing from the recognition of a Principal Foreign Procedure:

- I. All measures of alienation of the Merchant's goods shall be suspended, and
- II. All right to transfer or levy the Merchant's property shall be suspended, as well as any other method to dispose of said goods.

The scope, the amendment, and the extinction of the effects of a stay and suspension referred to in the first paragraph of this article shall be subject to what is established in Chapter I of Title Three of this statute, regarding the suspension of the alienation procedures during the period of Conciliation.

Article 300.- Commencing from the recognition of a Foreign Procedure, if it were necessary to protect the property of the Merchant or the interests of the creditors, the Foreign Representative may urge the inspector, the bankruptcy conciliator, or the liquidator, so that they may request all appropriate relief from the judge, including the following:

- I. Suspending all means of alienation of the Merchant's goods, as long as said alienation

has not been suspended in accordance with subsection I of the first paragraph of article 298 of this Law;

- II. Suspending the exercise of the right to transfer or levy the Merchant's goods and to dispose of said goods in any other manner, as long as that right has not been not suspended in accordance with article 299 above;
- III. Disposing of the presentation of evidence or the supply of information in respect of the properties, businesses, rights, obligations, or responsibilities of the Merchant;
- IV. Entrusting to the Foreign Representative, the inspector, the bankruptcy conciliator, or the liquidator, the administration or sale of all or part of the Merchant's goods that are on national territory;
- V. Extending all provisional remedies granted in accordance with the first paragraph of the cited article 298, and
- VI. Granting any other relief that, pursuant to Mexican legislation, may be granted to the inspector, the bankruptcy conciliator, or the liquidator.

Commencing from the recognition of a Foreign Procedure, the Foreign Representative may urge the inspector, the bankruptcy conciliator or the liquidator, so that they may entrust the Foreign Representative or another person appointed by the Institute with the distribution of all or part of the Merchant's goods that are on national territory, provided the judge ensures that the interests of the creditors with domicile in Mexico are sufficiently protected.

When issuing the reliefs provided in this article to the representative of a Non-Principal Foreign Procedure, the judge must ensure that the relief agreed on in this way concerns goods that, in accordance with the Mexican Laws, are to be administered in the framework of the Non-Principal Foreign Procedure or that concern the information required in that Non-Principal Foreign Procedure.

Article 301.- When granting or refusing relief in terms of articles 298 or 300 of this Law or when modifying or leaving that relief without effects based on the third paragraph of this article, the judge must ensure that the interests of the creditors and other interested persons, including the Merchant, are duly protected.

The judge may subject all relief decreed in accordance with articles 298 or 300 of this Law to the conditions that he/she judges convenient.

At the request of the Foreign Representative, or of any person affected by a relief decreed pursuant to the cited articles 298 or 300, or acting *ex officio*, the judge may modify or leave the relief without effect. The former shall be processed as an ancillary proceeding and with a hearing of the inspector, the bankruptcy conciliator, or the liquidator if there were any.

Article 302.- Commencing from the recognition of a Foreign Procedure, the Foreign Representative shall be authorized to ask the inspector, the bankruptcy conciliator, or the liquidator to begin the recovery of goods that belong to the Estate and to raise the nullity of the acts executed in fraud of creditors that Chapter VI of Title Three and articles 192 and 193 of this Law refer to.

Article 303.- From the recognition of a Foreign Procedure, the Foreign Representative may be authorized to intervene in the procedures that articles 83 and 84 of this statute refer to.

Chapter IV

Of cooperation with courts and foreign representatives

Article 304.- In the issues indicated in article 278 of this Law, the judge, the inspector, the bankruptcy conciliator, or the liquidator must cooperate, in the exercise of his/her duties and to the extent possible, with the foreign courts and representatives.

The judge, the inspector, the bankruptcy conciliator, or the liquidator shall be empowered, in the exercise of his/her duties, to communicate directly without the need for letters rogatory or other formalities, with the foreign courts or representatives.

Article 305.- The cooperation referred to in article 304 may be put into practice through any appropriate means, and particularly through:

- I. The appointment of a person or an organization so that it may act under the direction of the judge, the bankruptcy conciliator, the inspector, or the liquidator;
- II. The communication of information through any means that the judge, the inspector, the bankruptcy conciliator, or the liquidator considers appropriate;
- III. The coordination of the administration and supervision of the goods and businesses of the Merchant;
- IV. The approval or the application by the courts of the agreements relative to the coordination of the procedures, and
- V. The coordination of the procedures that are being processed simultaneously in respect of the same Merchant.

Chapter V

Of parallel procedures

Article 306.- The effects of the recognition of a Principal Foreign Procedure and the declaration of a foreign Merchant in a condition of commercial bankruptcy, in respect of the establishment that it has in the Mexican Republic, and the effects of the recognition of a Principal Foreign Procedure, in respect of a Merchant that only has goods within the Mexican Republic, shall be limited to the Merchant's establishment that is located inside the Mexican Republic, to the extent required for the cooperation and coordination provided in articles 304 and 305 of this Law, to other properties belonging to the Merchant that, in accordance with Mexican Law, must be managed in this procedure.

Article 307.- When a Foreign Procedure and a local procedure in accordance with this Law are being processed simultaneously and in respect of a same Merchant, the judge shall collaborate and coordinate his/her actions with those of the other procedure, pursuant to what is set forth in articles 304 and 305 of this statute, as follows:

- I. When the procedure processed in Mexico is in course at the time of presenting the recognition request of the Foreign Procedure:
 - a. All relief granted in accordance with the articles 298 or 300 above must be compatible with the procedure processed in Mexico, and
 - b. If the Foreign Procedure is recognized in Mexico as a Principal Foreign Procedure, article 306 of this law shall not be applicable;

- II. When the procedure processed in Mexico starts after the recognition of the Foreign procedure, or once the recognition request has been presented:
 - a. Any relief that is in force in accordance with the mentioned articles 298 or 300 shall be reexamined by the judge and modified, or revoked, in case of being incompatible with the procedure in Mexico, and
 - b. If the Foreign Procedure is recognized as a Principal Foreign Procedure, the stay or suspension referred to in the first paragraph of the aforementioned article 298 shall be modified or revoked in accordance with the second paragraph of article 298, in case of being incompatible with the procedure opened in Mexico, and
- III. When granting, extending, or modifying a relief granted to a representative of a Non-Principal Foreign Procedure, the judge must ensure that such relief affects properties that, in accordance with the Mexican Law, must be administered in the Non-Principal Foreign Procedure, or concerns information required for this procedure.

Article 308.- In the cases included in the preceding article 298 in which more than one Foreign Procedure is processed in respect of one Merchant, the judge shall ensure cooperation and coordination in accordance with what is set forth in articles 304 and 305 of this Law, and the following rules shall be applicable:

- I. All relief granted in accordance with the cited articles 298 or 300 to a representative of a Non-Principal Foreign Procedure, once a Principal Foreign Procedure has been recognized, must be compatible with the latter;
- II. When a Principal Foreign Procedure is recognized after the recognition or request for recognition of a Non-Principal Foreign Procedure, all relief in force in accordance with the mentioned articles 298 or 300, must be reexamined by the judge, and modified or left without effect in case of being incompatible with the Principal Foreign Procedure, and
- III. When, once a Non-Principal Foreign Procedure has been recognized, recognition is granted to another Non-Principal Foreign Procedure, the judge must grant, modify, or leave all relief that proceeds without effect, in order to facilitate the coordination of the procedures.

Articles 309.- Unless there is evidence to the contrary, the recognition of a Principal Foreign Procedure shall create the assumption that the Merchant incurred in generalized non-compliance of its obligations to the effects of opening a procedure in accordance with this Law.

Article 310.- Without prejudice of the rights of the holders of credits with special privileges, secured with collateral on property or on property rights, a creditor that received a partial collection in respect of its credit in a procedure processed in a foreign State, in accordance with a norm relative to the insolvency, may not receive a new payment in connection with the same credit in an insolvency procedure that is processed in accordance with this Law regarding the same Merchant. The former, unless the dividend received by the other creditors of the same category is proportionately inferior to the collection already received by the first mentioned creditor.

TITLE THIRTEEN

Of the Federal Institute of Commercial Bankruptcy Experts

Chapter I

Of the Nature and Powers and Duties

Article 311.- The Federal Institute of Commercial Bankruptcy Experts was created as an auxiliary body of the Federal Judiciary Board, with technical and operational autonomy, with the following

powers and duties:

- I. To authorize the registration in the corresponding registry of the persons that fulfill the requisites necessary to carry out duties of inspector, bankruptcy conciliator, and liquidator in commercial bankruptcy procedures;
- II. To establish and maintain the registries of the inspectors, bankruptcy conciliators, and liquidators;
- III. To revoke, in the cases in which it proceeds pursuant to this Law, the authorization to carry out the duties of inspector, bankruptcy conciliator, or liquidator in commercial bankruptcy procedures;
- IV. To appoint the persons that shall perform the duties of inspector, bankruptcy conciliator, or liquidator, in each commercial bankruptcy from among those persons registered in the corresponding registries;
- V. To establish, through general provisions, random procedures for the appointment of the inspectors, bankruptcy conciliators, and liquidators;
- VI. To create and apply the public procedures of selection and updating for the authorization to act as inspector, bankruptcy conciliator, or liquidator, having to previously publish the corresponding criteria in the **Federal Official Gazette**;
- VII. To establish the applicable regime for the remuneration of the inspectors, bankruptcy conciliators, and liquidators for the services that they provide in commercial bankruptcy procedures;
- VIII. To supervise the rendering of the services performed by the inspectors, bankruptcy conciliators, and liquidators, in commercial bankruptcy procedures;
- IX. To act as a consulting body for the inspector, bankruptcy conciliator, and liquidator, and, as applicable, to other jurisdictional bodies in charge of the application of this Law, in its capacity as a commercial bankruptcy body. The former, in what relates to the criteria of interpretation and application of this Law's provisions, always with the purpose of achieving the ends established in the second paragraph of Article 1 of this statute. The opinions issued by the Institute in exercise of this power and duty shall not be mandatory;

Subsection added FOG 01-10-2014

- X. To promote the training and continuing education of the inspectors, bankruptcy conciliators, and liquidators registered in the corresponding registries;

Subsection amended FOG 12-27-2007 (moved up)

- XI. To carry out and support analyses, studies, and investigations related to its duties;*Subsection amended FOG 12-27-2007 (moved up)*

- XII. To publish or make known its duties, objectives, and procedures, as well as the provisions it issues pursuant to this Law;

Subsection amended FOG 12-27-2007 (moved up)

- XIII. To produce and report statistics relative to commercial bankruptcies;

Subsection amended FOG 12-27-2007 (moved up)

XIV. To issue general rules necessary for the exercise of the powers and duties indicated in subsections IV, V, VII, and XII of this article; *Subsection amended FOG 12-27-2007 (moved up)*

XV. To inform the Congress of the Union of the performance of its duties every semester, and

Subsection amended FOG 12-27-2007 (moved up)

XVI. The others granted by this Law.

Subsection amended FOG 12-27-2007 (moved up)

Article 312.- The Merchant that faces economic or financial problems may resort to the Institute to the effect of choosing a bankruptcy conciliator from among those that are already registered in the Institute's registry, so that he/she may act as an amiable compositor between the Merchant and his/her/its creditors. Any creditor that has an expired and unpaid credit in its favor may also resort to the Institute to report such situation and request a list of bankruptcy conciliators from it.

The Institute must notify the petitioner in writing, within the fifteen calendar days following the date of the corresponding request, of the list that the preceding paragraph refers to. The fees of the bankruptcy conciliator shall be attributable to the petitioner.

In no case shall the Institute be responsible for the acts performed by the bankruptcy conciliator that the Merchant or, as applicable, any creditor elected.

Chapter II Of the organization

Article 313.- The Institute shall be entrusted to an Executive Board which shall be supported by the administrative structure determined pursuant to the authorized budget.

Article 314.- The Executive Board shall be integrated by the General Director of the Institute and four members, appointed by the Federal Judiciary Board at the proposal of its Chairperson; the appointments of said members must aim to ensure a multi-disciplinary integration of the members of the Board, covering the administrative, accounting, economic, financial, and legal fields.

Article 315.- The General Director of the Institute shall be in his/her post for six years and the members for eight years, and they shall be substituted in a staggered manner and may be appointed for more than one period.

Article 316.- The members of the Executive Board must fulfill the following requisites:

- I. Be a Mexican citizen in full exercise of his/her rights;
- II. Have recognized probity;
- III. Have labored for at least seven years in high responsibility, consulting, teaching, or research posts in the administrative, accounting, economic, financial, or legal fields related to the purpose of this Law;

- IV. Not have been convicted by final judgment for an intentional crime that merits corporal punishment; or disqualified from performing a position, post, or commission in the public service or in the financial system, or from exercising commerce;
- V. Not be a spouse, be a female or male concubine, or have any kinship to the fourth degree through blood or to the second degree through marriage, or have civil kinship with any other member of the Executive Board, and
- VI. Not have any pending litigation against the Institute.

Article 317.- The vacancy of a member of the Executive Board shall be covered through a new appointment pursuant to what is set forth in article 314 of this Law. If the vacancy takes place before the termination of the member's respective period, the person appointed shall remain in his/her post only for the remainder of the ongoing period.

Article 318.- The members of the Executive Board may only be removed when any of the following circumstances takes place:

- I. Non-compliance with their duties or negligence in the performance of the same;
- II. Mental or physical incapacity that prevents the correct exercise of their duties for more than six months;
- III. Performance of a position, post, or commission different from what is provided in article 302 of this Law;
- IV. No longer being Mexican citizens or no longer meeting one of the requisites indicated in subsection IV of article 316 of this Law;
- V. Not fulfilling the agreements of the Executive Board or deliberately overreaching or neglecting their powers and duties;
- VI. Using, in their own benefit or that of third parties, the confidential information that they have accessed due to their post, or disclosing the mentioned information without the authorization of the Executive Board;
- VII. Deliberately Submitting false information to the Executive Board, and
- VIII. Being absent from their duties for more than five days without the authorization of the Executive Board or without reason of force majeure or another justified reason. The Executive Board may not authorize absences for more than three consecutive or accumulated months in one calendar year.

Article 319.- The Federal Judiciary Board shall be competent to rule over the existence of the causes for removal indicated in the preceding article, being able to do so at the request of at least two of the members of the Executive Board of the Institute.

Article 320.- The members of the Executive Board may not, during the time of their post, accept or exercise any other position, post, or commission, except for those that are not remunerated, such as teaching or working in public or private social assistance institutions.

Article 321.- The Executive Board has the following powers, which may not be delegated:

- I. To issue the general rules that this law refers to;
- II. To approve the basic administrative structure of the Institute such as, as applicable, the

location of the regional headquarters;

- III. To approve the organization and procedure manuals and, in general, the internal regulations of the Institute;
- IV. To periodically evaluate the activities of the Institute;
- V. To request the necessary information from the General Director of the Institute to carry out its evaluation activities;
- VI. To appoint the secretary of the Executive Board from among the highest ranking public officials in the Institute, pursuant to the internal regulations, and
- VII. To resolve the other issues that the General Director of the Institute or any member of the Executive Board itself considers must be approved by the Board.

Article 322.- The ordinary sessions of the Executive Board shall take place at least every three months. The former, without prejudice that meetings of the Board may be called by the General Director of the Institute or through a request to the General Director formulated by at least two of the members of the Executive Board, when the Executive Board deems that there are important reasons for a meeting.

Article 323.- The Executive Board shall hold sessions validly with the attendance of at least three of its members. Determinations shall be made by a majority of votes of the present members, and the General Director of the Institute shall have the tie-breaking vote in case of a tie.

Article 324.- The General Director of the Institute shall have the following powers and duties:

- I. To manage the Institute;
- II. To represent the Institute;
- III. To fulfill and enforce the determinations made by the Executive Board and to publish/announce them when this proceeds;
- IV. To appoint the personnel of the Institute;
- V. To submit the proposal of basic administrative structure of the Institute for the approval of the Executive Board, as well as the establishment and the headquarters of the regional offices;
- VI. To submit the programs, as well as the norms for organization and functioning of the Institute, for the consideration of the Executive Board, and
- VII. The others that this Law and other statutes grant him/her.

Chapter III Of inspectors, bankruptcy conciliators, and liquidators

Article 325.- The persons interested in performing the duties as inspector, bankruptcy conciliator, or liquidator in commercial bankruptcy procedures must request their registration in the respective registry of the Institute, pursuant to the provisions provided in this Chapter.

Article 326.- To be registered as an inspector, bankruptcy conciliator, or liquidator, the interested persons must present their request in writing to the Institute, with the documents that attest to the fulfillment of the requisites established in the following subsections:

- I. Have at least five years of relevant experience, in matters of administration of companies and/or financial, legal, or accounting consulting;
- II. Not currently have a position, post, or commission in the Public Administration, nor be part of the Legislative or Judicial Powers, in any of the three branches of government;
- III. Have recognized probity;
- IV. Fulfill the selection procedures that the Institute applies, as well as the updating procedures that the same determines, and
- V. Not have been convicted through final judgment for an intentional crime that merits corporal punishment; nor be disqualified from performing a position, post, or commission in the public service, in the financial system, or from exercising commerce;
Amended FOG 12-27-2007; The then last paragraph was repealed from the article

Article 327. The inspectors, bankruptcy conciliators, and liquidators must guarantee their correct performance in each commercial bankruptcy that they are appointed to, through the guarantee determined by the Institute, through general provisions.

Article 328.- The persons that meet any of the following conditions may not act as inspectors, bankruptcy conciliators or liquidators in the relevant commercial bankruptcy procedures:

- I. Being a spouse, female or male concubine, or family member to the fourth degree through blood or to the second degree through marriage, of the Merchant subject to commercial bankruptcy, of any of the creditors, or of the judge before whom the procedure was brought;
- II. Being in the same situation that the subsection above refers to, in respect of the members of the boards of directors, whenever the Merchant is a legal entity and, as applicable, of the unlimitedly liable partners;
- III. Being a lawyer, attorney-in-fact, or authorized person of the Merchant, or of any of its creditors in a pending trial;
- IV. Having or having had, during the six months immediately prior to their appointment, a labor relation with the Merchant or with any of the creditors, or providing or having provided during the same period, independent professional services that imply subordination;
- V. Being a partner, lessor, or tenant of the Merchant or of any of the creditors, in the process that they are appointed to, or
- VI. Having direct or indirect interest in the commercial bankruptcy, or being a close friend or enemy of the Merchant or any of its creditors.

The incompatibility that subsection VI refers to shall be subject to full judicial discretion.

Article 329.- The inspectors, bankruptcy conciliators, or liquidators that meet any of the conditions provided in the preceding article must excuse themselves; to the contrary, they shall be subject to the administrative sanctions that are applicable pursuant to this Law and those determined by the Institute to the effect. The foregoing, without prejudice that the judge acting by law, or the Merchant or any creditor or conservator through the judge, may petition the Institute for a substitution in the post, from the time when they have knowledge of the event, independently of the criminal liability in which the inspectors, bankruptcy conciliators, or liquidators may incur.

Article 330.- In the event that once the procedure has started, a sudden impediment takes place,

the inspector, bankruptcy conciliator, or liquidator must immediately report it to the Institute; to the contrary, the legal sanctions that the preceding article refers to, shall be applicable to him/her.

In any case, the inspector, bankruptcy conciliator, or liquidator that meets the conditions provided in the paragraph above must remain in the exercise of his/her duties until the person who shall substitute him/her is appointed. The former, having to deliver the information and documents that he/she has had access to and the Merchant's goods that he/she has in his/her power due to his/her duties.

Article 331.- The inspector, bankruptcy conciliator, and liquidator may only excuse themselves from their appointments when there is a legal impediment, or if there is sufficient cause, at the discretion of the Institute, who shall act immediately, with the purpose of avoiding damage to the bankruptcy procedure.

Article 332.- The following are obligations of the inspector, bankruptcy conciliator, and liquidator:

- I. To exercise the duties that this Law entrusts to them with probity and diligence, in the terms that the same establishes;
- II. To supervise and surveil the correct performance of the persons that assist them in carrying out their duties;
- III. To carry out the procedural actions that this Law imposes in a clear and orderly fashion, putting the relevant information in a clear and orderly manner at the disposal of any interested creditors and the Merchant, at the cost of the creditor that made the corresponding written request;
- IV. To render accounts of their management before the judge with the regularity established in this law;
- V. To maintain the appropriate confidentiality in respect of the industrial secrets, procedures, patents, and trademarks, that may come to their knowledge due to their performance, in terms of what is set forth in the legislation applicable to industrial or intellectual property, as well as the nature/content of the procedural actions that in terms of this Law they are obligated to carry out;
- VI. To abstain from disclosing or using the information obtained in the exercise of their duties for their own benefit or that of third parties;
- VII. To provide the Institute with all kinds of facilities for the inspection and supervision of the exercise of their duties;
- VIII. To comply with the general provisions issued by the Institute, and To comply with the other obligations that this or other laws establish.

Article 333.- The inspector, bankruptcy conciliator, and liquidator, as well as their assistants, shall have the right to collect fees for carrying out the duties that this Law entrusts to them. The regime applicable to the fees shall be determined by the Institute through general rules, pursuant to the following:

- I. They shall be considered ordinary operation expenses of the Merchant, therefore, by equating the event established in article 75, their payment must not be interrupted by whoever is in charge of the administration, notwithstanding the stage in which the bankruptcy procedure is in;

Subsection amended FOG 12-27-2007

- II. They shall be paid in the terms determined by the Institute, which shall consider what is provided in the last paragraph of this article, in terms of the time in which they must be paid, and

Subsection amended FOG12-27-2007

- III. They shall be in accordance with the conditions of the labor market and aimed at achieving the registration of ideal and duly qualified persons for the performance of their duties in the registry that the following Chapter refers to.

In any case, the remuneration of the bankruptcy conciliator and liquidator shall be connected with their performance.

Chapter IV **Of the registration of the inspectors, bankruptcy conciliators, and liquidators**

Article 334.- The Institute shall keep the registry of the inspectors, bankruptcy conciliators, and liquidators updated, and these shall be differentiated in accordance with the categories determined through general provisions.

Only the persons that are registered in the corresponding registry may act as inspectors, bankruptcy conciliators, and liquidators, except for what is set forth in articles 147 and 174 of this Law.

Article 335.- The appointment of the inspectors, bankruptcy conciliators, and liquidators for commercial bankruptcy procedures shall be made through the random procedures determined by the Institute or through general provisions.

Article 336.- The Institute shall impose a warning, temporary suspension, or cancellation of their registration as administrative sanctions for inspectors, bankruptcy conciliators, and liquidators, in accordance with the seriousness of the transgression committed against what is set forth in this Law.

Article 337.- The Institute may determine the cancellation of the registration of inspectors, bankruptcy conciliators, and liquidators, when:

- I. They do not perform their duties adequately;
- II. They do not satisfy any of the continuous education procedures specified by the Institute;
- III. They are convicted through a final judgment, for an intentional crime that merits corporal punishment, or are disqualified from having a position, post, or commission in the public service or the financial system, or from exercising commerce;
- IV. They currently have a position, post, or commission in the Public Administration, or are part of the Legislative or Judicial Powers in any of the three branches of government;
- V. They refuse to perform the duties that are assigned to them in terms of this Law in any commercial bankruptcy that they were assigned to without there being enough cause at the discretion of the Institute for their refusal, or
- VI. They were sentenced through a final judgment to the payment of damages or losses derived from a commercial bankruptcy that they were assigned to.

Article 338.- The Executive Board of the Institute shall resolve on the warning, the temporary suspension, or the cancellation of the registration of the inspectors, bankruptcy conciliators, and

liquidators, granting a hearing to the interested party. No motion shall proceed against the determination issued by the Executive Board.

TITLE FOURTEEN
Of commercial bankruptcy with a previous restructuring plan

Title added FOG 12-27-2007

Article 339.- The request for a commercial bankruptcy with a restructuring plan shall be admitted when:

- I. The request meets all the requisites ordered in article 20 of this Law;
- II. The request is subscribed by the Merchant with the holders of at least the simple majority of the total outstanding debts.

For the admission of the commercial bankruptcy with a restructuring plan, it shall be enough for the Merchant to manifest, under oath, that the persons that sign the file represent at least the simple majority of the total debts;

Subsection amended FOG 01-10-2014

- III. The Merchant manifests, under oath, that:
 - a. It currently meets one of the conditions of articles 10 and 11 of this Law, explaining the reasons, or
 - b. It is imminent that it will meet any of the conditions of articles 10 and 11 of this law, explaining the reasons.

Subparagraph amended FOG 01-10-2014

Imminence shall be understood as an unavoidable period of ninety days, and

Subparagraph amended FOG 01-10-2014

- IV. The request is accompanied by a plan to restructure the Merchant's liabilities, signed by the creditors referred to in subsection II.

Article added FOG 12-27-2007

Article 340.- The Merchant and the creditors that subscribe the commercial bankruptcy request with a restructuring plan may ask the judge for the injunctive reliefs and precautionary measures included in article 37 of this Law and the Commercial Code.

Article added FOG 12-27-2007

Article 341.- If the filing for a commercial bankruptcy with a restructuring plan meets all the foregoing requisites, the judge shall issue a judgment that declares the commercial bankruptcy with a restructuring plan without it being necessary to appoint an inspector.

Article added FOG 12-27-2007

Article 342.- The commercial bankruptcy judgment must meet all the requisites that this Law demands, and commencing from that moment, the commercial bankruptcy with a restructuring plan shall be processed as an ordinary commercial bankruptcy. The former, with the only exception being that the Merchant or, as applicable, the bankruptcy conciliator must present the restructuring plan attached to the request for a vote and subsequent judicial approval.

Article added FOG 12-27-2007. Amended FOG 01-10-2014

TRANSITORY

ONE.- This Law shall take effect the day following its publication in the **Federal Official Gazette**.

TWO.- The Bankruptcy and Suspension of Payments Law published in the **Federal Official Gazette** on April 20, 1943, is repealed, and all the other legal provisions that oppose what is set forth in this Law are repealed or amended.

THREE.- The references that other laws or provisions make to the status or to the procedures of bankruptcy and of suspension of payments, shall be understood as referring to commercial bankruptcy.

FOUR.- State-owned public administration entities that are not incorporated as business associations shall not be declared in commercial bankruptcy.

Mutual insurance and surety institutions and companies, bonding institutions, of reinsurance institutions, and refinancing institutions, shall be governed by what is set forth in their special laws.

FIVE.- The procedures for bankruptcy and suspension of payments that were commenced before this Law became effective shall continue to be ruled by the Bankruptcy and Suspension of Payments Law published in the **Federal Official Gazette** on April 20, 1943.

SIX.- Within the thirty calendar days subsequent to when this Law takes effect, the Institute must be established, and within the sixty calendar days following its establishment, it must issue the regulatory provisions provided in the same Law.

If a file or claim is presented for the declaration of commercial bankruptcy of a Merchant without what is set forth in the first paragraph of this article being fulfilled, said file or claim shall be suspended until the establishment of the Institute has been concluded and the corresponding regulations have been issued.

SEVEN.- The appointment of the members of the Executive Board of the Institute shall be made within the thirty calendar days subsequent to when this Law takes effect. The Executive Board must begin its duties within the five calendar days following the appointment of its members.

The period of the first General Director of the Institute shall conclude on December 31, 2003. The periods of the first four members shall conclude on December 31 of the years 2000, 2002, 2004, and 2006, respectively.

EIGHT.- What is set forth in article 87 shall only be applied to the stipulations included in contracts executed after this Law takes effect.

NINE.- Within the five years following when it takes effect, this Law shall not be applied to the Merchants that, on the date that this Law takes effect, have a liability that, calculated as the sum of the nominal value of each credit on the date of its contracting, does not exceed its equivalent in five hundred thousand UDIs, unless they voluntarily and in writing accept to submit to this Law.

ARTICLE TWO.-.....

TRANSITORY

ONLY ARTICLE.-.....

Mexico, Federal District, on April 27, 2000. – Rep. **Francisco Jose Paoli Bolio**, Chairman.- Sen. **Enrique Gonzalez Pedrero**, Acting Vice Chairman.- Rep. **Marta Laura Carranza Aguayo**, Secretary.- Sen. **Raul Juarez Valencia**, Secretary.- Signatures.”

In compliance with the provisions set forth in article 89, subparagraph I, of the Political Constitution of the United Mexican States, and for its due publication and abidance, I am issuing the present Executive Order in the residence of the Federal Executive Power in Mexico City, Federal District, on May eighth of the year two thousand.- **Ernesto Zedillo Ponce de León**- Signature.- The Internal Affairs Secretary, **Diódoro Carrasco Altamirano**- Signature.

TRANSITORY ARTICLES OF EXECUTIVE ORDERS OF AMENDMENTS

EXECUTIVE ORDER through which various provisions of the Business Reorganization Law are amended, added, and repealed.

Published in the Federal Official Gazette on December 27, 2007

ONLY ARTICLE.- Articles 10, subsection II and subparagraphs b), c), and d) of the second paragraph; 15, fourth paragraph; 18; 20, first paragraph and subsections III and IV of the second paragraph; 23, subsection II; 24, current first paragraph; 26, third and fourth paragraphs; 30, first paragraph and subsection II; 31, first paragraph, subsection III and the last paragraph; 34, second paragraph; 40, second paragraph; 41; 43, subsections III and VI; 44; 45, first paragraph; 48, first and third paragraphs; 49, second paragraph; 59; 60, first paragraph; 75, first paragraph; 121; 122, subsection I; 128, second paragraph; 130, first paragraph; 136, first paragraph; 145, third paragraph; 172; 177, first paragraph; 224, subsections III and IV; and 333, subsections I and II **are amended**; the following **are added**: articles 15 with a penultimate paragraph, the subsequent one moving up in the order; 20, with subsections V and VI and a last paragraph; 24 with a first paragraph, the current one moving up to be the second paragraph; 47, with a second paragraph; 177, with a second paragraph; 262, with a subsection V, the current V passing to be subsection VI; 311, with a subsection IX, the subsequent ones moving up in their order and a Title Fourteen which shall be denominated "Of commercial bankruptcy with a previous restructuring plan" shall **be added** that includes articles 339, 340, 341, and 342 and articles 224, subsection V and 326, last paragraph are **repealed**, all from the Business Reorganization Law, to be as follows:

....

TRANSITORY

Only.- This Executive Order shall become effective the day following its publication in the Federal Official Gazette.

Mexico, Federal District, on October 2, 2007. Rep. **Ruth Zavaleta Salgado**, Chairperson. – Sen. **Santiago Creel Miranda**, Chairperson.- Rep. **Maria Eugenia Jimenez Valenzuela**, Secretary.- Sen. **Adrian Rivera Perez**, Secretary.- Signatures."

In compliance with the provisions in set in article 89, subparagraph I, of the Political Constitution of the United Mexican States, and for its due publication and abidance, I am issuing the present Executive Order in the residence of the Federal Executive Power in Mexico City, Federal District, on December twentieth of the year two thousand seven.- **Felipe de Jesus Calderon Hinojosa**.- Signature.- The Internal Affairs Secretary, **Francisco Javier Ramirez Acuña**.- Signature.

EXECUTIVE ORDER through which various provisions in financial matters are amended, added, and repealed and the Financial Groups Law is issued.

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COMMERCIAL BANKRUPTCIES

ARTICLE TWENTY SIX.- Articles 1, second paragraph; 7; 15; 17; 20, first and second paragraphs, and subsections V and VI; 22, first paragraph and subsection VI; 26, first paragraph; 28; 29, first paragraph; 37, second paragraph; 41; 43, subsections V and VIII; 47 first paragraph; 48, third paragraph; 59; 61; 63; 64, subsections II and III; 71, subsection VII and its subparagraphs a) c) and d); 78; 105, first paragraph; 112; 116, subsection II; 117, subsections I to IV; 129; 145, second and third paragraphs; 147 second paragraph of subsection I and first paragraph of subsection II; subsection I of the first paragraph of article 157; 161; 163, first paragraph; 165, second paragraph; 166; 167, subsections II and III; 174, subsection II; 190, subsections II and III; 197; 208, first paragraph; 209; 210, third paragraph; 214; 217, subsections III and IV; 219 last paragraph; 222; 224, subsections I and II; 241, first paragraph; 262, subsection V; 271, first paragraph; 295, first paragraph; 339 subsections II and III, subparagraphs a) and b) and 342 **are AMENDED**; and subsections III Bis and IV Bis to article 4; article 15 Bis; subsections VII to IX to article 20; article 20 Bis; a third and four paragraph to article 21; a fourth paragraph to article 23; article 23 Bis; a second paragraph to article 29, the current second paragraph passing to be the third; a fourth and fifth paragraph to article 37; a subsection IV to article 64, the current IV passing to be V; a subparagraph e) to subsection VIII of article 71; a fourth, fifth, and sixth paragraph to article 75; a third paragraph to article 84; article 113 Bis; a third paragraph to article 122; a fifth and sixth paragraph to article 145; a second paragraph to article 147, the current second paragraph passing to be the third; a fourth paragraph to article 153; a second and third paragraph to article 157; article 161 Bis; article 161 Bis 1, subsection II Bis to the first paragraph and the third paragraph to article 165; article 166 Bis; subsection IV of article 167; a second paragraph to article 173; a second paragraph to article 175; a second and third paragraph to article 184; subsection IV to article 190; a third paragraph to article 210, the current paragraph third passing to be the fourth; subsection V to article 217; article 222 Bis; the TITLE TEN BIS “Liability of the administrators,” made up of articles 270 Bis to 270 Bis-2; 271 bis **are ADDED** and the second paragraph of article 47 **is REPEALED**, all from the **Business Reorganization Law**, to be as follows:

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Transitory Provisions

ARTICLE TWENTY-SEVEN.- In relation to the amendments that Article **Twenty-Six** of this Executive Order refers to, the following shall be followed:

- I. The Federal Judiciary Board, in the exercise of the powers that the Federal Judicial Power Law grants it, shall issue the general agreements that it considers necessary to the effect of establishing the basis and correct functioning of the processing of the trial through electronic means in a term of one hundred and eighty calendar days starting from when this Executive Order takes effect.
- II. The commercial bankruptcy procedures that began before this Executive Order took effect, shall continue to be governed by the Business Reorganization Law valid on the referred to validity date.

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ARTICLE THIRTY-TWO.- The denomination of Chapter II of Title Eight and articles 245; 246; 247; 249; 250; 252; 255; 256, first paragraph; 259; 260 and 261 **are AMENDED**, article 244 Bis and a third paragraph to article 245 **are ADDED**, and article 253 of the **Business Reorganization Law** is **REPEALED**, to be as follows:

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Transitory Provisions

ARTICLE THIRTY-FIVE. In relation to the amendments that Articles Thirty-One to Thirty-Four of this Executive Order refer to, the following shall be followed:

- I. The transgressions and crimes committed before the date when this Executive Order becomes valid shall be penalized pursuant to the law in force at the time when the cited transgressions and crimes were committed.

Concerning the administrative procedures that are being processed, the interested party may opt for their continuation pursuant to the valid procedure during its initiation or for the application of the provisions applicable to the administrative procedures that are stipulated through this Executive Order.

- II. While the Ministry of Finance, the National Banking and Securities Commission, Banco de México, and the Institute for the Protection of Bank Savings issue the general provisions that the articles that this Executive Order amends or adds refer to, those issued before it becomes effective shall continue being applicable in what does not oppose what is provided in the same.
- III. The special commercial bankruptcy procedures of commercial banks that commenced before this Executive Order took effect shall continue to be governed by the Business Reorganization Law published in the Federal Official Gazette on May 12, 2000.
- IV. banks shall have a term of one hundred and twenty days starting from when this Executive Order takes effect to amend their corporate bylaws and the titles that represent their capital stock, pursuant to what is set forth in the same. As for the amendment of the corporate bylaws, these must be submitted for the approval of the National Banking and Securities Commission.
- V. The commercial banks that when this Executive Order takes effect are in a liquidation or commercial bankruptcy procedure, may agree with the Management and Transfer of Properties Agency to substitute the duties derived from trusts in terms of article 185 of the Credit Institutions Law that by virtue of this Executive Order is amended.
- VI. The commercial banks must carry out the corporate acts necessary to expressly provide, in their corporate bylaws and in the shares that represent their capital stock, what is set forth in articles 29 Bis 13 to 29 Bis 15 of the Credit Institutions Law, during a maximum term of sixty calendar days, counting from when this Executive Order takes effect.
- VII. The commercial banks must provide, in the contracts that they execute further on, commencing from when this Executive Order takes effect, as well as in the other relative documentation, the restrictions indicated in subsections IV) and V) of article 29 Bis 14 of the Credit Institutions Law.

- VIII. When the laws, regulations, executive orders, agreements, or other legal instruments mention the commercial bankruptcy or bankruptcy of credit institutions, the reference must be understood as made to the procedures provided in Title Seven, Chapter II, Section Two of the Credit Institutions Law.
- IX. The amendment to the seventh paragraph of article 73 Bis of the Credit Institutions Law included in this Executive Order shall not be applicable to the amount of the transactions or credits attributable to related persons, executed before this Executive Order takes effect, until they are restructured or renewed.

Due to the foregoing, commercial banks may only execute the following after this Executive Order takes effect: transactions attributable to related persons for an amount that does not exceed the percentage provided in the seventh paragraph of article 73 Bis of the Credit Institutions Law, once the transactions referred to in the paragraph above have been considered.

What is set forth in the first paragraph of this article shall only apply in respect of the amount that, before this Executive Order takes effect, was already disposed of by the borrower, in the cases of revocable loans and credits; or the totality of the amount of said loan or credit, in the case of irrevocable loans or credits executed before it becomes effective.

- X. The Board of Governors of the Institute for the Protection of Bank Savings shall issue the general provisions that article 22 of the Bank Savings Protection Law refers to within a term that may not exceed twelve months counting from when this Executive Order takes effect. Until said provisions are issued, the institutions must follow the procedure established in the provisions published in the Federal Official Gazette on May 31, 1999.

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TRANSITORY

ONLY. This Executive Order shall become effective the day following its publication in the Federal Official Gazette, except for what is provided in ARTICLES TWENTY-FIVE, subsection I; THIRTY, subsections IV and VI; FORTY, subsections I and II and; FIFTY, subsections I and II, which shall become effective on the dates established in said provisions.

Mexico, Federal District, on November 26, 2013. Rep. **Ricardo Anaya Cortes**, Chairman. – Sen. **Raul Cervantes Andrade**, Chairman.- Rep. **Javier Orozco Gomez**, Secretary.- Sen. **Maria Elena Barrera Tapia**, Secretary.- Signatures.”

In compliance with the provisions in set forth in article 89, subparagraph I, of the Political Constitution of the United Mexican States, and for its due publication and abidance, I am issuing the present Executive Order in the residence of the Federal Executive Power in Mexico City, Federal District, on January ninth, two thousand fourteen.- **Enrique Peña Nieto**.- Signature.- The Internal Affairs Secretary, **Miguel Osorio Chong**.- Signature.