

## CONSOLIDATED TEXT: "Last updated on 01/01/2016"

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Up until the publication of Royal Decree-Act 12/1995, of 28 December, on urgent budgetary, fiscal and financial matters, Instituto de Crédito Oficial (created by Act 13/1971, of 19 June, on the organization and regime of official credit) was regulated by article 127 of Act 33/1987, of 30 December, on Central Government Budget for 1998, and by those provisions of the abovementioned Act of 1971 that had not been repealed.

With the publication of Act 25/1991, of 21 November, which established a new organization for credit institutions with public state capital, the regulatory framework applicable to ICO, as specified in the preceding paragraph, proved to be insufficient given the new purposes and functions that Instituto de Crédito Oficial would have to unavoidably assume in the immediate future, once the previous credit official scheme had disappeared.

These obsolete regulations reasonably justified the inclusion, within the urgent measures on budgetary, fiscal and financial matters implemented by Royal Decree-Act 12//1995, of 28 December, of an updated regulation for the new Instituto de Crédito Oficial, recognising, as was already the case in previous provisions, its condition as State Finance Agency.

When regulating the nature and legal regime of ICO, the Sixth Additional Provision of the aforementioned Royal Decree-Act 12/1995 laid down that the Bylaws were one of the rules that was to comprise its legal regime and, to that effect, its First Final Provision granted a mandate to the Government to regulate by Royal Decree, following a favourable report by the Ministry of Economy and Finance, all those aspects not covered in the Royal Decree-Act and, particularly, those concerning its governing and management bodies.

As the Bylaws of Instituto de Crédito Oficial have not yet been approved in accordance with the foregoing, the passing of Act 6/1997, of 14 April, on organization and operation of the General State Administration, has a significant impact on this matter, as this Act includes the laudable intention of streamlining the structure of the so-called State's Institutional Administration, establishing in the Third Transitory Provision, the need to adapt independent agencies and other public-sector bodies to it, in a process that is to be completed within two years following the date on which such Act enters into force.

Given that this involves adapting a State Company of those contemplated in article 6.1(b) of the General Budgetary Act into a public business entity, such adaptation has to be effected by Royal Decree, as this adequacy rule does not contain any amendments as to the regime included in Act 6/1997, on personnel, contracting and fiscal regime.

Therefore, the need to adapt the regulations of Instituto de Crédito Oficial to the provisions of the Act on Organisation and Operation of the General State Administration, and the urgency of addressing the lack of development of the Sixth Additional Provision of Royal Decree-Act 12/1995, of 28 December, suggest that the general regulations that are to set up the activity of Instituto de Crédito Oficial in the future, should be approved as soon as possible.

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Dofia Natalia Álvarez Vicens, Traductora-Intérprete Jurada de inglés nombrada por el Ministerio de Asuntos Exteriores y de Cooperación, certifica que la que antecede es traducción fiel y completa al inglés de un documento redactado en español. En Madrid, a 29 de enero de 2016.



Thus, this Royal Decree is issued in compliance with the legal mandates contained in the Act on Organisation and Operation of the General State Administration, and in Royal Decree-Act 12/1995, by including in its wording the adequacy rules to that Act, the text of the Bylaws of Instituto de Crédito Oficial, a derogating provision and a final provision, complementing ICO's new regulation, which is hereinafter structured as a public business entity.

In light of the above, on the proposal of the Ministers of Economy and Finance, and Public Administrations, in accordance with the Council of State and following deliberation by the Council of Ministers at its meeting held on 30 April 1999,

I RULE:

**Sole Article.**

The Bylaws of Instituto de Crédito Oficial annexed to this Royal Decree are hereby approved.

**Sole Repeal Provision.**

Any provisions of equal or lower status that may be in contradiction with this Royal Decree are hereby repealed.

Royal Decree 2434/1985, of 4 December, on settlements due to losses to official bodies resulting from exceptional credits and compensation payments for interest rate differentials to repair damage caused by flooding; and Royal Decree 2435/1985, of 4 December, on settlements due to disruptions to official bodies resulting from credits and guarantees given to companies undergoing rationalisation are hereby expressly declared in force.

**First Final Provision.**

The Ministers of Economy and Finance, and Public Administrations are hereby empowered to dictate, within the scope of their respective competences, all provisions and measures deemed necessary to develop and implement this Royal Decree.

**Second Final Provision.**

This Royal Decree shall take effect on the day following its publication in the Official State Gazette ("Boletín Oficial del Estado").

In Madrid, 30 April 1999.

JUAN CARLOS R.

The first Vice-President of the Government and Minister of the Presidency,  
FRANCISCO ÁLVAREZ-CASCOS FERNÁNDEZ

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## ANNEX

### Bylaws of Instituto de Crédito Oficial

#### TITLE I

##### Nature and legal regime of Instituto de Crédito Oficial

###### Article 1. Nature and legal regime.

1. Instituto de Crédito Oficial is a corporate State-owned entity of those contemplated in article 43.1.b) of Act 6/1997, of 14 April, on Organisation and Operation of the General State Administration, ascribed to the Ministry of Economy and Finance through the Secretariat of State for Economy; it has the legal nature of credit institution, and the consideration of State Finance Agency, with its own legal personality, assets and treasury, as well as management autonomy in the fulfilment of its purposes.

2. The strategic management of Instituto de Crédito Oficial, as well as the assessment and control of the results of its activity, are incumbent upon the Secretariat of State for Economy.

3. Instituto de Crédito Oficial will be ruled by the provisions of Act 6/1997, of 14 April, on Organisation and Operation of the General State Administration, by the Sixth Additional Provision of Royal Decree-Act 12/1995, of 28 December, on urgent measures on budgetary, fiscal and financial matters, by the applicable provisions of the General Budgetary Act 47/2003, of 26 November, by these Bylaws and, in relation to matters not provided for in the abovementioned rules, by the specific regulations of credit institutions and the general ones of the private civil, mercantile and labour laws.

#### TITLE II

##### Purposes and functions of Instituto de Crédito Oficial

###### Article 2. Purposes.

The purposes of Instituto de Crédito Oficial are the support and promotion of economic activities contributing to the growth and improvement in the distribution of national wealth and, in particular, of those that, due to their social, cultural, innovating or environmental transcendence, deserve to be fostered.

In order to fulfil these purposes, Instituto de Crédito Oficial will act with full respect towards the principles of financial equilibrium and adaptation of means to such purposes.

###### Article 3. Functions.

The functions of Instituto de Crédito Oficial are:

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1. To contribute to palliate the economic effects arising from situations of severe economic crisis, natural catastrophes or other similar events, pursuant to instructions from the Council of Ministers or the Government's Delegate Commission for Economic Affairs.

2. To act as instrument for the implementation of certain economic policy measures, following the fundamental guidelines established by the Council of Ministers, the Government's Delegate Commission for Economic Affairs or the Minister of Economy and Finance, and subject to the rules and decisions approved to that respect by its General Board.

These transactions shall be carried out pursuant to banking criteria and according to the following principles:

a) They will be instrumented fundamentally and preferentially as medium or long term loans aimed at financing real investments.

b) Their approval will require the implementation of the necessary provisions to safeguard, in all ICO's activities, the principle of financial equilibrium.

For the formalisation of its transactions, irrespectively of their function, ICO may use the mediation of financial institutions, entering into appropriate cooperation agreements with them.

#### **Article 4. Other functions.**

In order to comply with the purposes assigned to it by article 2 above, Instituto de Crédito Oficial may develop, without prejudice to the competences of the different Ministerial Departments and entities and bodies ascribed to them, other activities, including the following:

1. To formalise, manage and administer funds, subsidies, credits, endorsements or other guarantees, contributions and any financial instruments at the service of its purposes, being able, to that effect, to carry out any type of financial asset operations.

Such activities include the formalisation, management and administration of the loans extended by the General State Administration through Instituto de Crédito Oficial.

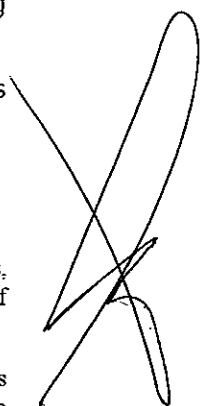
2. To establish agreements with public institutions, both national and international, for the channelling and administration of subsidies and financial instruments related to its lending activity.

3. To take direct stakes in financial companies, subject, if applicable, to the provisions of article 169 of Act 33/2003, of 3 November, on Public Administration Holdings. Instituto de Crédito Oficial may not take direct stakes in non financial companies, unless it acquires them as a result of the in-court or out-of-court execution of certain guarantees, in which case it will proceed to realise the asset by applying opportunistic criteria.

4. To provide financial advice to any public or private entities regarding matters related to the purposes pursued by Instituto de Crédito Oficial.

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**NATALIA ÁLVAREZ VICENS**  
TRADUCTORA-INTÉRPRETE JURADA DE INGLÉS  
**SWORN TRANSLATOR**  
C/. Malvaloca, 4 - 28023 Madrid  
Tel. 91 357 23 30 - Móvil 620 128 671  
e-mail: alvarezvicens.natalia@gmail.com

## TITLE III

### Bodies of Instituto de Crédito Oficial

#### CHAPTER I

##### General provision

#### Article 5. Determination of the bodies of Instituto de Crédito Oficial.

1. The bodies of ICO are:

- a) The General Board.
- b) The Chairman.

2. Instituto de Crédito Oficial's ordinary management is incumbent upon the organic units in which it is structured, which will report to the General Managers or directly to the Chairman.

Within the same scope of ordinary management, the Operations Committee is established, with the composition and competences that are developed in article 15.

#### CHAPTER II

##### On the General Board

#### Article 6. Regime of the General Board.

1. Instituto de Crédito Oficial will be governed by a General Board, which will be in charge of the top management of its administration and management.

2. The General Board shall be formed by the entity's Chairman, who will also chair the Board, and ten Members, and will be assisted by its Secretary and, if applicable, its Vice Secretary.

3. The appointment and cessation of the General Board Members corresponds to the Council of Ministers, through an Agreement, at the proposal of the Minister of Economy and Competitiveness. They shall be elected from among persons of recognised standing and professional competence in the areas of activity of Instituto de Crédito Oficial.

4. The appointment of the members shall be carried out as follows:

a) Four of its members shall be independent, meaning those who are not employees in service of the Public Sector.

The term of office of independent members shall be of three years, after which they may only be reappointed once.

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C/. Malvaloca, 4 - 28023 Madrid  
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e-mail: alvarezvicens.natalia@gmail.com

b) Six of its members shall be elected from among the highly qualified employees in service of the Public Sector. A maximum of two members will come from the Ministry of Finance and Public Administrations, and at least two public members will come from the Ministry of Economy and Competitiveness.

5. Independent members must meet the following eligibility requirements:

a) To be persons with good repute and commercial and professional competence, meaning those who have proven to maintain personal, commercial and professional standards so as not to cast doubt on their capacity to ensure sound and prudent management of the entity.

b) To have appropriate knowledge and experience in the areas of expertise of Instituto de Crédito Oficial, meaning those that have the necessary qualifications and level of training, particularly in those areas, and practical experience from previous occupations during sufficiently long periods.

c) To be in a position to commit to the good governance of Instituto de Crédito Oficial, having to deal with the presence of potential conflicts of interest and with the need to devote sufficient time to fulfil duties.

d) Not to perform self-employed or employed activities that involve effective competence, both actual or potential, with Instituto de Crédito Oficial or that, in any other way, may give rise to an ongoing conflict with the interests of Instituto de Crédito Oficial.

e) Not to be linked to a commercial or employment relationship, or hold office as manager or member of the Board of Directors of credit institutions; financial credit establishments; investment service companies; collective investment companies, venture capital entities, other closed-end type collective investment companies and their management companies; subsidiaries or companies belonging to the same group.

This also applies to staff, managers or those who hold representative positions within associations in the sectors concerned, or associations of employers, professionals and others the scope of which is associated with the business activities performed by Instituto de Crédito Oficial.

The assessment of such requirements shall be made by the Chairman of Instituto de Crédito Oficial, taking into account the criteria set out in articles 30-32 of Royal Decree 84/2015, of 13 February, implementing Act 10/2014, of 26 June, on governing, supervision and solvency of credit institutions. In order to perform such assessment, the Chairman of Instituto de Crédito Oficial may request the candidates any information that he deems necessary.

If the assessment of the candidate's suitability proves to be negative, the appointment shall not be made. In the case of potential unanticipated events with any appointed members, the Chairman of Instituto de Crédito Oficial shall adopt the relevant measures to clarify the circumstances identified in order to, if applicable, request a proposed early dismissal to the Minister of Economy and Competitiveness.

6. The members of the General Board shall exercise their duties pursuant to the following principles:

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a) To act always in the best interests of Instituto de Crédito Oficial in the exercise of their duties.

b) To keep secret any confidential information, data, reports or records to which they have had access in exercising their duties, even when they have ceased to hold office. An exception is made for those cases where the law enables communication or disclosure to third parties or that may be requested or have to be forwarded to different administrative or judicial authorities and, if applicable, to those that result from compliance of the principle of administrative hierarchy. In such case, the information must be delivered in accordance with the provisions of the law.

c) To abstain from participating in the deliberations and in the voting agreements or decisions where a related person may have a conflict of interests, both direct or indirect. Conflict of interest is understood for these purposes as established in article 11.2 of Act 3/2015, of 30 March, which regulates the exercise of the senior staff of the General State Administration.

7. Members of the General Board shall leave office:

a) By resignation accepted by the Minister of Economy and Competitiveness.

b) On expiry of their term of office, in the case of independent members.

c) Cessation, in the case of public sector members.

d) Permanent disability.

e) In the case of members that are employees in service of the public sector, due to unexpected incompatibility in accordance with Act 53/1984, of 26 December, on incompatibilities of employees in service of the Public Administration and, where appropriate, with Act 3/2015, of 30 March, which regulates the exercise of the senior staff of the General State Administration.

f) In the case of independent members, due to unexpected lack of suitability for the position, in accordance with the provisions of section 5.

g) Through separation agreed by the Council of Ministers, following the initiative taken by the Minister of Economy and Competitiveness, due to serious breach of office duties, including the duty of confidentiality or privacy of inside information, and incurring in a conflict of interests pursuant to section 6.

8. The General Board may appoint a Vice Chairman from among the members who are employees in service of the public sector. The Vice Chairman will replace the Chairman in case of absence, illness or vacancy.

9. General Managers and other qualified members of ICO's staff, with the approval or summons to that respect by the Chairman or the Board itself, may attend the meetings of the General Board with speaking but without voting rights.

#### **Article 7. Competences of the General Board.**

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1. The representation and management of Instituto de Crédito Oficial, and, in particular, with this list not intending to be of a limitative nature, will correspond to the General Board:

a) To issue the internal regime and operating rules of the Board itself in all matters not covered by these Bylaws.

b) To propose to the Minister of Economy and Finance the amendment of these Bylaws.

c) To approve ICO's Annual Accounts, the Notes to the Accounts and the Management Report.

d) To approve rules and decisions, following the fundamental guidelines established by the Council of Ministers, the Government's Delegate Commission for Economic Affairs, or the Minister of Economy and Finance, for the implementation of certain economic policy measures.

e) To approve the cooperation agreements that must be entered into by and among ICO and other bodies or entities to the different public organisations of Spain and the European Union, as well as with any others, public or private, and national or foreign.

f) To approve the creation of or participation by ICO in financial companies directly or indirectly related to its activities.

g) To decide on the execution and conditions of the operations inherent in the entity's activity and those directly or indirectly related to it and, in particular, to grant, modify and terminate loan operations, as well as to authorise the issue of securities, the granting of loans and the granting of endorsements and guarantees of any type and class.

h) To authorise any act of administration, disposal or strict domain on any type of assets.

i) To approve on a yearly basis, and referring to 31 December on the preceding year, the inventory of assets and rights, own or ascribed to ICO.

j) To agree to take any legal or administrative actions or exercise any remedies that correspond to the entity for the defence of its interests before the Courts of Justice and other Public Administrations.

k) To decide on such matters as may be submitted to it by the Chairman.

2. The General Board may delegate duties, with a temporary or permanent nature, on its Delegate Commissions, the Chairman and the Operations Committee, in the terms it may consider appropriate.

The duties referred to in letters a), b), c) and d) of number 1 above may not be delegated.

In the events of delegation of duties corresponding to letters g), h) and j), the General Board shall be authorised for their development in the delegation of duties it grants.

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## **Article 8. Delegate Commission of the General Board.**

At the Chairman's proposal, the General Board may establish within itself Delegate Commissions, with a permanent or occasional character, and with such composition, attributions, regime of meetings and requirements for resolutions, as it may consider more convenient for the better administration of ICO.

## **Article 9. Regime of calls, constitution and adoption of resolutions at the General Board.**

1. The General Board shall meet, having been duly called and at the Chairman's initiative, or at the request of at least half of its Members, as many times as considered necessary for the correct operation of the entity and, generally, once every month.

2. Except in cases of urgency in the Chairman's opinion, the call of the General Board shall be made at least 48 hours in advance, and the Agenda will be provided in it.

3. The General Board shall be validly established when the meeting is attended by a simple majority of its members, either present or represented.

The members of the General Board may grant their representation to the Chairman or to any other Member; representation must be notified to the Chairman in writing.

4. Resolutions will be passed by majority of the present and represented Members. In case of tie-up, the Chairman will have the casting vote.

5. Notwithstanding the foregoing, for the passing of resolutions relating to ICO's business financial asset and liability transactions, each of the independent Members shall have two votes.

6. For the passing of resolutions relating to the exercise of the Board's powers pursuant to article 7(2), voting by representation shall not be allowed.

7. The relevant minutes shall be raised including the resolutions passed at each meeting, and said minutes shall be approved at the same meeting or at the following meeting held, as determined by the General Board.

8. When, in situations or urgent need, the meeting of the General Board were not possible due to lack of quorum, the Chairman may adopt the decisions reserved to the Board's competence. In this case, the Chairman shall inform the Board, on its first meeting, on the resolutions adopted, for their ratification.

9. All matters not regulated in this provision on the regime of constitution and operation of the General Board of Instituto de Crédito Oficial, shall be governed as determined by Collegiate Bodies in Chapter II, Title II of Act 30/1992, of 26 November, on the Legal Regime of the Public Administration and Ordinary Administrative Procedures, and in Chapter IV, Title II of Act 6/1997, of 14 April, on Organisation and Operation of the General State Administration.

## **Article 10. Remuneration of the members of the General Board.**

The members of the General Board, its Secretary and the Vice Secretary will be exclusively entitled to economic compensation for attending its sessions, in accordance

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with Royal Decree 462/2002, of 24 May, on reimbursement of expenses incurred during the performance of duties.

### CHAPTER III

#### On the Chairman

##### Article 11. Appointment.

The Chairman of Instituto de Crédito Oficial shall be appointed by Royal Decree agreed upon at the Council of Ministers at the proposal of the Minister of Economy and Finance.

##### Article 12. Chairman's competences.

1. The following is incumbent upon the Chairman of the entity:

a) To represent Instituto de Crédito Oficial and its General Board before any type of persons and entities.

b) To manage ICO's actions, ensuring compliance on its part with the applicable regulations and with the main guidelines established by the Council of Ministers, the Government's Delegate Commission for Economic Affairs and the Minister of Economy and Finance.

c) To ensure compliance with these Bylaws.

d) To manage the General Board's actions, call its meetings, establish the agenda, chair and manage its debates, settle tie-ups with his casting vote and close sessions.

e) To implement the resolutions adopted by the General Board.

f) To appoint and remove ICO's General Managers and Deputy Managers, the Secretary of the Board and, if applicable, its Vice Secretary.

g) To hold the office of Head of Staff of Instituto de Crédito Oficial.

h) To formulate ICO's Annual Accounts and submit them to the General Board for their approval.

i) To inform the General Board on the evolution of operations and the financial situation of Instituto de Crédito Oficial, on a quarterly basis or when the General Board requests any type of information.

j) To order expenses and payments exceeding the own sphere of any unity of the entity.

k) To determine ICO's human resources structure at any time.

l) To submit to the Government, for its approval, the programme of ICO's activities, investment and funding, as well as other legally compulsory plans and budgets, informing the General Board.

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m) To perform all other duties assigned to him by these Bylaws, those delegated expressly to him by the General Board, as well as those not assigned to the said Board.

n) The Chairman shall be ICO's contracting body.

2. The Chairman may delegate some of his functions on the Vice Chairman, the members of the Board, the Operations Committee, the General Managers and officers in charge of the units into which the entity is structured, as well as to grant, within the sphere of his competences, own or delegate, such special or general powers of attorney as he may consider convenient.

3. The duties delegated on the Chairman by the General Board, and those specifically assigned to him by letters f) and h) of section 1 of this article, are not liable to delegation.

## CHAPTER IV

### On the Secretary of the General Board

#### Article 13. Appointment and competences.

1. The Secretary of the General Board, who shall hold a degree in Law, will be appointed by the Chairman from among ICO's staff, and will attend the meetings, with speaking but without voting rights.

2. It is incumbent upon the General Board's Secretary to issue the call for its meetings, raise minutes on the main points of its debates, as well as on the contents of resolutions, which will be recorded on the Minutes Book, and the Secretary may certify them by means of the relevant certificates.

3. The Secretary must ensure compliance with the provisions of these Bylaws in the procedures of adopting resolutions, and with the lawfulness, in general, of all resolutions passed by the Board.

4. ICO's Chairman may appoint a Vice Secretary, who will assist the Secretary in the Board's sessions and other functions, being allowed to issue certificates on the resolutions approved by the Board. Likewise, he will replace the Secretary in the event of absence, vacancy or illness.

## CHAPTER V

### On other bodies

#### Article 14. General Managers and other units' responsible officers

1. There will be four General Managers, who will report directly to the Chairman.

2. The appointment and removal of General Managers, whose labour relationship with ICO will be instrumented by a senior management contract, is also decided by ICO's Chairman.

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ICO's Chairman is also in charge of appointing other heads of Instituto de Crédito Oficial's Management Units, with the internal level of Deputy Managers, as well as of their removal and the determination of their labour regime.

3. Selection of Instituto de Crédito Oficial's managerial personnel, as referred to in this article, will be effected pursuant to article 55.2.a) of Act 6/1997, attending to the experience in the performance of jobs entailing responsibility in public or private management.

#### **Article 15. The Operations Committee.**

1. In the scope of Instituto de Crédito Oficial's management, an Operations Committee will be created which, under the chairmanship of ICO's chairman, will be formed by a minimum of 5 members and a maximum of 15, all of them appointed by the Chairman from among the entity's staff.

2. ICO's General Managers will be members ex officio of said Committee.

3. The Chairman shall appoint also a Secretary, with speaking but without voting rights, from among the entity's staff. In case of absence of the Secretary, he will be replaced by the youngest member of the Committee.

4. The Operations Committee will have decision-making and advisory competences in such terms and within such limits as may be delegated by the General Board or the Chairman.

5. In the Chairman's absence, the Committee shall be chaired by the General Manager with the greatest length of service in office and, in case of equal length of service, by the oldest member.

6. The performance of the Operations Committee will be governed by internal rules approved by the Committee itself, with the Chairman's approval.

### TITLE IV

#### **Personnel**

#### **Article 16. Applicable regulations.**

Non managerial staff at the service of Instituto de Crédito Oficial will be governed by the provisions of the Workers' Statute and other provisions regulating labour relationships, as established in article 55 of Act 6/1997, of 14 April, on Organisation and Operation of the General State Administration. Pursuant to it, their selection will be carried out by public call on the basis of the principles of equal opportunities, merit and ability.

### TITLE V

#### **Economic regime of Instituto de Crédito Oficial**

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### **Article 17. Networth and own resources.**

1. Instituto de Crédito Oficial will have, for complying with its purposes, its own assets, different from those of the State, consisting of a set of assets, rights and obligations of which it is holder.

2. Management of Instituto de Crédito Oficial's own assets will abide by the provisions of Act 33/2003, of 3 November, on Public Administration Holdings. With regard to the assets and rights acquired by ICO as a consequence of its credit activities, for the purpose of returning them to the legal estate, ICO shall be empowered to sell them pursuant to the principles set out in Act 33/2003, of 3 November, on Public Administration Holdings.

3. Instituto de Crédito Oficial is bound by the provisions concerning credit institutions, with the exception of rules covering risk concentration limits and those standards as shall be established in the regulations.

### **Article 18. Annual Accounts.**

Within a period of four months following the closing of the financial year, the Chairman will submit to the General Board, for its approval, a proposal on application of results, the Annual Accounts, the Notes to the Accounts and the Management Report. Within the month following their approval, the General Board shall submit said documents to their consideration by the Minister of Economy and Competitiveness, who is to approve the application of results, following a non binding report of the Ministry of Finance and Public Administrations, within ten days from its request.

Likewise, the Chairman will forward the Accounts and documentation mentioned above to the Office of the Comptroller ("Intervención General") of the State Administration, for their submission to the Court of Auditors ("Tribunal de Cuentas") as provided for in the General Budgetary Act.

### **Article 19. Application of results.**

Profit obtained by Instituto de Crédito Oficial will be applied in accordance with the following order:

a) To establish the necessary reserves so that the addition of its own resources is not lower than that corresponding as per the rules regulating own resources at credit institutions.

b) To make allocations to the Provision Fund referred to in section 4 of the Sixth Additional Provision of Royal Decree-Act 12/1995, of 28 December, when thus instructed by the Minister of Economy and Competitiveness.

c) To establish the voluntary reserves that, at the proposal of ICO's Chairman, may be approved by the Minister of Economy and Competitiveness.

d) To being credited to the Public Treasury.

### **Article 20. Provision Fund.**

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1. The Provision Fund of Instituto de Crédito Oficial, created by the Sixth Additional Provision of Royal Decree-Act 12/1995, with an initial allowance of 25,000 million pesetas, will be provided for in the future, in addition to income generated from them or from recoveries of credit facilities covered by a provision or declared by bad debts, through the application of surplus results from Instituto de Crédito Oficial, as determined by the Minister of Economy and Finance, and by means of the credits carried out or authorised by the State when assuming or offsetting the Fund's losses or by means of other systems to be established.

2. The Fund will be used exclusively to offset provisions and losses suffered in the performance of the functions expressed in number two of section 2 of the Sixth Additional Provision of Royal Decree-Act 12/1995, 28 December, in the terms established in section 4 of that additional provision.

3. Reductions in the provision needs, as well as recoveries and products obtained on the part of Instituto de Crédito Oficial, when deriving from operations that were allowed for against this Fund, will be credited directly to it.

4. On a half-yearly basis, a report on its movement and balance will be forwarded to the Ministry of Economy and Finance, through the State Secretariat for Economy, as well as in all cases when the amount of the available balance has fallen below 10% of its amount at the beginning of each financial year.

## TITLE VI

### **Budgetary, intervention and financial control and accounting regime**

#### **Article 21. Applicable regime.**

The budgetary, intervention and financial control regime of Instituto de Crédito Oficial will be as established for corporate State-owned entities in the General Budgetary Act.

The accountancy of Instituto de Crédito Oficial will adjust to the regulations on credit institutions that may apply to it.

#### **Article 22. Public control.**

1. Instituto de Crédito Oficial will be subject to the control of the Office of the Comptroller ("Intervencion General") of the State Administration and of the Court of Auditors ("Tribunal de Cuentas").

2. Control of the efficiency of Instituto de Crédito Oficial is incumbent upon the Ministry of Economy and Finance, in order to verify the degree of fulfilment of objectives and the appropriate usage of the resources allocated to it.

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## TITLE VII

### Contracting

#### Article 23. Applicable regime.

1. Instituto de Crédito Oficial will adjust its contractual activity to private Law, in accordance with the consolidated text of the Public Sector Contract Act, approved by Royal Legislative Decree 3/2011, of 14 November.

2. In any case, Instituto de Crédito Oficial will adjust its contractual activity to the principles of advertising and competition, unless the nature of the operation to be carried out is not compatible with such principles.

## TITLE VIII

### Financing of Instituto de Crédito Oficial

#### Article 24. ICO's financial transactions.

1. Instituto de Crédito Oficial will raise funding in the domestic and foreign markets, through any type of financial transaction allowing it to obtain funds and manage its balance sheet.

Limits for indebtedness will be established by the State's General Budgetary Act every year.

2. Debts and obligations that may be incurred by Instituto de Crédito Oficial when raising funds will benefit, as regards to third parties, from the State's guarantee. Such guarantee is explicit, irrevocable, unconditional and direct.

3. In addition to the ones mentioned above, the financial sources of the activity of Instituto de Crédito Oficial are the income and product of its assets and the contributions by the State and other public entities, companies and associations, pursuant to the provisions of Royal Decree-Act 12/1995, as well as any others that might contribute to the funding of its activity.

4. Instituto de Crédito Oficial will ensure the transparency of its issues on the secondary market.

Issues of securities by Instituto de Crédito Oficial will be governed by the requirements set forth in articles 41.h), 38.3 and 14 of Royal Decree 1310/2005, of 4 November, which partially enacts Act 24/1988, of 28 July, on the Securities Market in relation to admittance to trading on official secondary markets, public securities offering and the prospectuses required for said offerings. Under that Royal Decree, requirements of article 38.2 and of Chapter III, Title I shall not be applicable, pursuant to the provisions of Royal Legislative Decree 4/2015, of 23 October, approving the consolidated text of the Securities Market Act.

The publication of the characteristics of each issue in the State Official Gazette ("Boletín Oficial del Estado") will replace the public deed referred to in the consolidated

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**NATALIA ÁLVAREZ VICENS**  
TRADUCTORA-INTÉRPRETE JURADA DE INGLÉS  
**SWORN TRANSLATOR**  
C/. Malvaloca, 4 - 28023 Madrid  
Tel. 91 357 23 30 - Móvil 620 128 671  
e-mail: alvarezvicens.natalia@gmail.com

text of the Securities Market Act. Characteristics of securities will be indicated in a certification issued by Instituto de Crédito Oficial.

Likewise, the debt of Instituto de Crédito Oficial instrumented by way of marketable securities shall be admitted to trading, ex officio, on organised secondary securities markets. To that purpose, said instruments will be traded, when applicable, on the book-entry of the Government Debt Market. All of which shall be done in accordance with the consolidated text of the Securities Market Act, in relation to admittance to trading on official secondary markets, public securities offering and the prospectuses required for said offerings.

5. Risks relating to Instituto de Crédito Oficial will have, to the effects provided for in the regulations on own resources of financial institutions, the same weighting as those of the General State Administration. Risks incurred in ICO's favour by financial institutions are excepted from the limits established on their concentration and on large risks.

Securities issued by Instituto de Crédito Oficial will be governed by that set forth under the second paragraph of article 50.2b) of Royal Decree 1082/2012, of 13 July, approving the implementation of Regulation for Act 35/2003, of 4 November, regulating Collective Investment Institutions.

Similarly, securities issued by Instituto de Crédito Oficial will be considered as included under the exception mentioned in article 16.4, fifth paragraph of Royal Legislative Decree 1/2000, of 29 November, approving the consolidated text of the Act on Pension Plans and Funds.

To the effects of the provisions of article 16.5 of Royal Legislative Decree 6/2004, of 29 October, approving the consolidated text on the Private Insurance Organisation and Supervisory Act, insurance companies may invest up to 100% of their technical provisions in securities issued by Instituto de Crédito Oficial.

6. Debts incurred by Instituto de Crédito Oficial when raising funds, performed outside the national territory and for non residents, will have the same fiscal regime as Government debt.

7. Under no circumstance shall Instituto de Crédito Oficial raise funds by means of deposits from public in general.

## RELATED INFORMATION

Please note that references to the Ministry of Public Administrations shall be construed as references to the Ministry of Finance and Public Administrations; references to the Ministry and the Minister of Economy and Finance shall be construed as references to the Ministry and Minister of Economy and Competitiveness; and references to the State Secretariat for Economy shall be construed as references to the State Secretariat for Economy and Business Support, in accordance with sole art. 13-15 of Royal Decree 1149/2015, of 18 December. Ref. BOE-A-2016-1.

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