

Unclassified

C(98)80/FINAL



Organisation de Coopération et de Développement Economiques  
Organisation for Economic Co-operation and Development

OLIS : 27-Jul-1998  
Dist. : 28-Jul-1998

COUNCIL

Council

**DECISION OF THE COUNCIL AMENDING ANNEX A TO THE THIRD REVISED  
DECISION OF THE COUNCIL ON NATIONAL TREATMENT**

**(adopted by the Council at its 924th Session on 23 April 1998 [C/M(98)10/PROV])**

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THE COUNCIL

Having regard to Article 5 a) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to Article 1 of the Third Revised Decision of the Council on National Treatment of 12, 13, 17 and 19 December 1991;

Having regard to the Report by the Committee on Capital Movements and Invisible Transactions and the Committee on International Investment and Multinational enterprises on Mexico's treatment of financial institutions established in non-NAFTA OECD countries [C(98)64];

DECIDES:

The exception by Mexico in Annex A to the Third Revised Decision on National Treatment concerning financial institutions shall be amended to read as follows:

*Financial institutions*

Foreign investment may participate in the following activities:

- a) ownership up to a total of 49 per cent of common stock in financial holding companies, commercial banks, securities firms, securities specialists, limited scope financial institutions, insurance companies, financial leasing companies, factoring companies, general deposit warehouses, bonding companies, foreign exchange firms, managing companies of investment companies, securities advisory companies, credit information institutions, securities rating agencies and up to 49 per cent of the fixed stock of investment companies;
- b) ownership of at least 51 per cent of the common stock in an affiliate of the following type: financial holding companies, commercial banks, securities firms, securities specialists, limited scope financial institutions, insurance companies, financial leasing companies, factoring companies, general deposit warehouses, bonding companies, *pension funds and managing companies*, and foreign exchange firms, and 99 per cent of the common stock of managing companies of investment companies and of the fixed stock in investment companies, by foreign financial institutions engaged in the same type of activities;
- c) ownership of at least 51 per cent of the common stock in a subsidiary of the following type: banks, securities firms, insurance companies, leasing companies, factoring companies and limited scope financial institutions (Sofoles) by non-resident financial institutions of the same general type of activities, subject until 31 December 1999 to:
  - 1) aggregate market share limits, of, respectively: 13.6 per cent in 1998 and 15 per cent of the net capital of banks, 18 per cent in 1998 and 20 per cent in 1999 of the global capital of securities firms, 11 per cent in 1998 and 12 per cent in 1999 of the gross solvency requirement of insurance companies for life and health, 11 per cent in 1998 and 12 per cent in 1999 of the gross solvency requirement of insurance companies for casualty, 18 per cent in 1998 and 20 per cent in 1999 of the net worth of leasing companies, 18 per cent in 1998 and 20 per cent in 1999 of the net worth of factoring companies, and 3 per cent of assets of Sofoles plus assets of banks; and 2) individual size limits of 1.5 per cent of the sector' net capital for banks, 4 per cent of the sector's global capital for securities firms, and 1.5 per

cent of the sector's solvency requirement for insurance companies for life and health and 1.5 per cent of the sector's solvency requirement for insurance companies for casualty;

- d) ownership of at least 51 per cent and up to a total of 100 per cent of the common stock of: 1) Mexican-controlled banks, subject to a requirement that the size of the institution to be acquired does not exceed 6 percent of the net capital of the banking sector; and 2) Mexican-controlled financial institutions irrespective of any individual size limits or aggregate market share limits, providing an authorisation is granted;
- e) a non-resident financial institution authorised to establish or acquire a bank or a securities firm may also establish a financial holding company, and thereby establish or acquire other types of financial institutions.

If the sum of the authorised capital of commercial banks owned and controlled by investors from OECD countries, measured as a percentage of the aggregate net capital of all commercial banks in Mexico, reaches 25 per cent, Mexico may request consultations with the OECD Member countries on the potential adverse effects arising from the presence of commercial banks of the other OECD Member countries in the Mexican market and the possible need for remedial action, including further temporary limitations on market participation. The consultation shall be completed expeditiously. In considering the potential adverse effects, the OECD Member countries shall take into account:

- 1) the threat that the Mexican payments system may be controlled by non-Mexican persons;
- 2) the effects foreign commercial banks established in Mexico may have on Mexico's ability to conduct monetary and exchange rate policy effectively; and
- 3) the adequacy of the provisions of the Codes with respect to financial services in protecting the Mexican payments system.

From 1 January 2000 to 31 December 2003, the Mexican authorities may freeze, only once and for a period of no more than three years, the aggregate market shares of subsidiaries of non-resident banks or securities firms if they exceed 25 percent of the net capital of the banking sector or 30 per cent of the global capital of the securities business sector, respectively.

Acquisitions by foreign financial institutions of other financial institutions established in Mexico require an authorisation. Affiliates of foreign financial institutions established in Mexico are not allowed to open subsidiaries, agencies or branches in another country. Until 1 January 2000, affiliates of foreign financial institutions are not allowed to issue subordinated debt, except for debentures acquired by the parent company.

Authority: FILO; Credit Institutions Law; Law for the Regulation of Financial Groups; Stock Market Law; General Law for Credit Organisations and Auxiliary Activities; Federal Bonding Institutions Law; Insurance Institutions General Law; Investment Companies Law.