

THE FRENCH BANKING NATIONALIZATION LAW

In France, as in a number of other European countries, State control of the credit system has made considerable progress since the war. The nationalization of the Bank of France, supported by the two socialist parties and enacted under the de Gaulle Government by law of December 2, 1945, is part of a more comprehensive plan to introduce State ownership and State supervision of financial institutions. This law also provides for the nationalization of the four large deposit banks which operate on a national scale, imposes special controls over all business banks with total assets exceeding 500 million francs, and strengthens the regulation and supervision of banks in general. The new legislation which, in regard to the nationalization of banks, went into effect on January 1, 1946, does not, however, complete the process of nationalization. A recent proposal by the Finance Minister for the nationalization of the two largest business banks is now before the National Constituent Assembly. On April 24 the Assembly decreed nationalization of 45 of the largest insurance companies. The Government's nationalization program also extends to various lines of production. A translation of the law as published in the Journal Officiel of December 3, 1945, is given below.

LAW NO. 45-015 OF DECEMBER 2, 1945,
REGARDING THE NATIONALIZATION OF
THE BANK OF FRANCE AND THE LARGE
BANKS AND REGARDING THE ORGANI-
ZATION OF CREDIT

The National Constituent Assembly has adopted,

The President of the Provisional Government of the Republic promulgates the following law:

TITLE I

NATIONALIZATION OF THE BANK OF FRANCE

Art. 1. As from January 1, 1946, the Bank of France shall be nationalized.

It shall continue to exercise the exclusive privilege of issue of bank notes for the entire metropolitan territory.

The shares of the Bank shall be transferred to the State which shall hold them in ownership. The directors (conseillers) and auditors (censeurs) appointed by the shareholders shall cease to exercise their functions as of December 31, 1945.

Art. 2. The shareholders shall receive registered negotiable bonds delivered by the Bank, the redemption value of which shall be equal to the liquidation value of the share as determined by a commission composed of the president of the financial section of the Council of State, as president, a counsel at the Court of Accounts, and a representative of the shareholders appointed by the Minister of Finance. The liquidation value, however, shall not exceed the average quoted price during the period September 1, 1944, to August 31, 1945; also it shall not exceed the buying price for shares traded on the stock exchange between September 1, 1945, and the date on which the liquidation value shall have been fixed.

The specifications of the bonds and the conditions under which they are to be amortized in not more than 50 years shall be fixed by a decree of the Minister of Finance. However, the rate of interest allowed may not exceed two per cent,¹ it being understood that interest rates for 1945 and 1946 shall not be higher than the dividend rate for 1944.

Payment of interest shall be assured by the Bank under a guarantee of the Treasury. Amortization shall be at the charge of the Treasury.

Bonds delivered in exchange for shares which had been classified as real property shall acquire the same status under similar conditions.

In all cases where legislative or regulatory provisions authorize the investment or reinvestment of funds in shares of the Bank of France, such investment or reinvestment may be effected in bonds issued under the present article.

Proceeds of any sales of more than 20 shares must be deposited in a blocked account opened in the name of the seller at the Bank of France. The conditions under which this blocking operates and its duration shall be fixed by a decree of the Minister of Finance after consultation with the National Credit Council.²

Art. 3. The composition of the general council, the statutes of the Bank of France, and the system of taxes and royalties applicable thereto shall be modified and completed by a law before February 28, 1946.

The Bank shall continue to be governed by the principles of commercial law insofar as they do not conflict with the Bank's own laws and statutes.

¹ The rate of interest was changed from two to three per cent in accordance with law No. 46-626 of Apr. 8, 1946.

² This entire paragraph was abrogated by law No. 46-626 of Apr. 8, 1946.

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TITLE II

CREDIT INSTITUTIONS

Art. 4. There shall be three categories of banks: deposit banks, business banks (*banques d'affaires*), and long- and medium-term credit banks.

All banks shall place themselves in one of these categories by a declaration made to the Banking Control Commission within three months after promulgation of the present law. They shall have a year in which to conform to the rules applying to their category, unless exemptions or delays have been granted by the Banking Control Commission.

All are subject to control as provided in articles 12 to 15 below.

Art. 5. Deposit banks are banks which receive from the public demand deposits or deposits for not more than two years. They shall not continue to hold, in enterprises other than banks, financial agencies, or mortgage companies necessary to their operation, participations greater than 10 per cent of the capital of such enterprises. They shall not employ, in the form of participation and of real-estate investments, deposits received from the public except by authorization given by the deposit committee of the National Credit Council.

Business banks are those whose principal activity consists in taking participations and in the management of participations in enterprises and which receive demand deposits or time deposits for one year or less only from their personnel, from their partners or silent partners, or from enterprises in which they have an actual cash investment of 15 per cent of the registered capital or of which they promoted the establishment by taking a participation equal to 15 per cent of the initial capital.

The category of long- and medium-term credit banks consists of establishments of this type, placed under the control of the State and operating under statutes determined by a law. Their President, General Manager, or Governor is appointed by the State. Banks specializing in medium- and long-term credit which do not correspond to this description are considered business banks.

Art. 6. According to provisions set forth in articles 7 to 10 below, the *Crédit Lyonnais*, the *Société Générale pour Favoriser le Développement du Commerce et de l'Industrie en France*, the *Comptoir National d'Escompte de Paris*, and the *Banque Nationale pour le Commerce et l'Industrie* shall be nationalized.

TITLE III

NATIONALIZATION OF THE LARGE DEPOSIT BANKS

Art. 7. As from January 1, 1946, the full ownership of the banks named in art. 6 of the present law, with all their assets, shall be transferred to the State which shall indemnify the shareholders in the manner provided in art. 8 below.

On the same date, the powers of the boards of directors (*conseils d'administration*) shall end, and new directors appointed in accordance with art. 9 of the present law, shall start to exercise their functions.

For the period between the date of the promulgation of the present law and January 1, 1946, the Minister of Finance shall appoint for each of the nationalized banks a Government commissioner who shall attend all the meetings of the board of directors and of the committees appointed from its membership, as well as any general meetings of the shareholders. He shall have the right of absolute veto over all decisions of the board of directors or the committees appointed from its membership.

Art. 8. The shares of the nationalized institutions shall be transferred to the State as of January 1, 1946.

The banks named in art. 6 of the present law shall deliver to the shareholders, in exchange for their shares, registered dividend-bearing scrip which, beginning with the year 1946, shall be entitled to a dividend fixed each year by the board of directors. Such dividend, however, shall not be less than the dividend distributed on the shares for the year 1944. This minimum shall be considered as part of the banks' cost of operation and shall be guaranteed by the State.

Beginning January 1, 1947, the State shall repurchase each year at least 1/50 of the dividend-bearing scrip outstanding at that date. The repurchase price shall be equal to the average quoted price of the share on the Paris stock exchange during the period from September 1, 1944, to October 31, 1945. However, the shares acquired on the stock exchange between September 1, 1945, and the date of the promulgation of this law may not be exchanged against scrip representing a higher reimbursement price than the buying price of the shares mentioned.

Shareholders of the nationalized banks against whom a judicial inquiry has been opened, or those

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who are summoned before a court of justice, a civic chamber, a military tribunal, a committee for confiscation of illegal profits, may not receive the repurchase compensation provided for in this article, nor may they dispose of their holdings before decision by the competent judicial or administrative authority.

The proceeds of any sales, partial or total, of certificates for dividend-bearing scrip representing a reimbursement price of more than 200,000 francs must be deposited in a blocked account, opened at the Bank of France, under conditions set forth in art. 2.²

Art. 9. As from January 1, 1946, the nationalized banks shall be managed by boards of directors composed as follows:

(a) Four directors shall be appointed by the Minister of National Economy upon the advice of the Ministers in charge of the departments of Industrial Production and Agriculture from among persons actively engaged in industry, commerce, or agriculture upon nomination by the most representative professional organizations;

(b) Four directors shall be appointed by the most representative employees' unions under conditions stipulated by an order of the Ministers of Finance and of Labor. Two of these shall belong to the staff and employees of the nationalized bank;

(c) Two directors shall be appointed by the Minister of Finance to represent the Bank of France or the public or semi-public credit institutions, and two others shall be chosen by him from among persons having extensive banking experience.

The Minister of Finance shall give his approval to the choice of the chairman elected by the board of directors and of the general manager if there is one.

No member of Parliament shall be a director of a nationalized bank. The same restriction shall apply to bank officials in active service, except as regards the directors in category (c) above. No one shall be a director in several nationalized banks. A person who has served as a member of the Government may not be named director if he has not ceased exercising government functions for at least five years.

The directors shall assume the responsibilities and the obligations set forth in the laws in force concerning stock companies. They shall be re-

munerated in accordance with the statutes of the companies of which they are directors.

Art. 10. The nationalized institutions shall continue to operate under commercial law and shall be subject to the taxes applicable to the banking business in particular and to stock companies in general.

The auditors other than those who are presented by the employees' committee shall be appointed by the Minister of Finance.

The powers of the general meetings of shareholders are exercised—with reservations as to the preceding provisions—by the Banking Control Commission upon the reports of the board of directors and the auditors.

TITLE IV

CONTROL OF BUSINESS BANKS

Art. 11. A Government commissioner shall be appointed by the Ministers of National Economy and of Finance, on the proposal of the National Credit Council, for each business bank organized in the form of stock company and whose balance sheet total and outside liabilities (engagements hors bilan) exceed 500 million francs. A Government commissioner may be named in the same manner for banks or financial institutions of which these business banks have or acquire control.

The commissioner shall be assisted by a control committee composed of:

A representative of the most representative commercial and industrial organizations,

A representative of the most representative employees' unions,

A representative of public or semi-public financial institutions, appointed jointly, on the proposal of the aforementioned organizations, by the Ministers of National Economy, of Finance, and of Labor.

The Government commissioner shall attend all meetings of the board of directors and committees constituted within the board, as well as all general meetings of shareholders. He shall have access to all records of the bank. He may exercise his veto over any decision contrary to the national interest which is taken by the board of directors, by one of its committees, or by the general meeting. He may present to the board of directors any measures which seem to him to be in the general interest and, in particular, those which conform to the wishes or decisions of the National Credit Council.

The bank may, within eight days, appeal the

² See footnote on p. 483.

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decision of the Government commissioner before the National Credit Council which is required to give its advice within ten days.

No bank may invoke the presence of the Government commissioner to escape civil or penal liabilities which it may have incurred.

No law suit may be brought against the Government commissioner by third persons unless he is personally to blame, in which case the matter shall be referred to the administrative jurisdiction.

The commissioner appointed by the Minister of National Economy shall be given full powers on proposal of the National Credit Council.

TITLE V

MANAGEMENT OF CREDIT

Art. 12. There shall be created a National Credit Council under the presidency of a Minister appointed by the Government who may delegate his powers to the Governor of the Bank of France, vice-president ex-officio.

In addition to the president or vice-president, the National Credit Council shall include 38 members, to wit:

Seventeen representatives of the country's principal activities:

Ten appointed by decree of the Minister of National Economy, to wit; two on proposal of the General Confederation of Agriculture; five on proposal respectively of the agricultural cooperatives, the consumer cooperative group, the producer cooperative group, the National Center for Foreign Trade, and the Assembly of Presidents of Craft Unions (*Chambres de Métier*), two, of whom one shall be an industrialist, on proposal of the Assembly of Presidents of Chambers of Commerce, and one on proposal of the Union of Chambers of Maritime Commerce. Seven proposed by the most representative labor unions of whom three, appointed by the Minister of National Economy, shall represent the general interests of these organizations, and four, appointed by the Minister of Labor, shall represent the staff and employees of banks:

Seven representing the Ministries of National Economy, of Industrial Production, of Public Works and Transportation, of Agriculture, of Reconstruction and Town Planning, of Colonies, and of the body charged with the preparation of the Plan;

Seven representatives appointed by the Minister

of Finance because of their financial or banking competence, of whom three shall represent the nationalized banks, two the non-nationalized banks on proposal of the Professional Banking Association, one to represent the agencies for financing foreign trade and one to be the *Syndic* of the Paris Stock Brokers' Association.

Seven representatives of public or semi-public financial institutions:

The General Manager of the *Caisse des Dépôts et Consignations*;

The Governor of the *Crédit Foncier de France*;

The President-General Manager of the *Crédit National*;

The General Manager of the *Caisse Nationale de Crédit Agricole*;

The Manager of the *Caisse Centrale de la France d'Outre-Mer*;

The Manager of the Association (*Chambre Syndicale*) of the *Banques Populaires*;

The Manager of Postal Check Division at the Ministry of Posts, Telegraphs, and Telephones.

The National Credit Council shall set up four committees: committee for deposits, committee for short-term credit, committee for medium- and long-term credit, committee for foreign trade.

The Manager of the Treasury shall attend all meetings of the National Credit Council and its committees.

Art. 13. The National Credit Council shall recommend to the Minister of Finance all measures designed to increase bank or savings bank deposits, to suppress hoarding of currency, to promote the use of cashless payments, and to mobilize liquid funds in the general interest.

It shall participate in the working out of all plans designed to further banking concentration and the reduction in general expenses of the banking business through improved organization and methods. It shall propose a scale of service charges for private and for nationalized banks.

It shall propose to the Minister of Finance the allotment of available funds to be reserved for the needs of the Treasury, and for the capital issues intended for metropolitan France, the overseas territories, and foreign countries.

It shall propose measures designed to insure the guarantee of deposits and the safety of investments.

It shall be consulted on all questions affecting the State's direct or indirect financial assistance, such as participations, subsidies, fiscal advantages, guar-

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antees of successful outcome, and letters of approval.

It shall study the means and techniques to be used in the State's financial transactions, appropriate to the nature of the contemplated operations.

It shall be consulted by the Minister of National Economy regarding general credit policy with a view especially to the financing of reconstruction and of the plan for the modernization of the national economy, and of import and export projects.

For this purpose it shall receive from the Minister of National Economy and from the bodies entrusted with the preparation of the economic modernization program all information necessary to enable it to draw up suitable investment plans as well as to establish priorities to be given to long-term issues and investments raised by public subscriptions. It shall control the activities of statistical and information services in the field of credit.

It shall give advice on all directives concerning distribution of credit and on all questions submitted to it by the Minister of National Economy or the Minister of Finance.

It may propose to the Minister of National Economy the creation of regional credit councils, the composition and powers of which shall be fixed by decree.

It shall study the nationalization of the banks which, by virtue of expansion of their deposits or of their business or by the extension of their branches over the entire territory, have assumed the same characteristics as the banks nationalized by the present law. It shall invite the Government to lay before Parliament a plan to nationalize banking institutions other than those named in art. 6 of the present law.

It shall exercise, through the intermediary of the Bank of France, all powers formerly entrusted to the Permanent Committee on Banking Organization which shall be dissolved on the date of the promulgation of the present law.

The National Credit Council shall obtain from all the Ministerial Departments, from the Banking Control Commission, and from the Bank of France all documents necessary to the completion of its mission.

It shall be required to meet once a month at the call of the president or vice-president. It shall submit to the Ministers of National Economy and of Finance, in the course of the first quarter of each year, a report on the credit situation and all the problems relating thereto.

Art. 14. A decree by the Ministers of National Economy and of Finance shall fix, within three months, and on proposal of the National Credit Council, the fundamental rules governing the operation of the nationalized institutions. A second decree issued in the same manner shall fix the fundamental rules for the non-nationalized institutions. These two decrees mentioned above shall provide in particular:

The rules for setting up and publishing balance sheets of the credit institutions;

The rules applicable to banking operations;

The rules for the composition of banking portfolios;

The obligations of credit institutions in connection with the issue and conversion of public securities;

The incompatibilities attaching to the exercise of the banking profession in regard to both the members of the managements provided for and the personnel of the credit institutions.

Art. 15. The Banking Control Commission shall be composed in the following manner: The Governor of the Bank of France, president, the President of the Financial Section of the Council of State, the Manager of the Treasury in the Ministry of Finance, the Manager in charge of credit in the Ministry of National Economy, and one representative of the most important bank employees' federation.

It shall exercise all powers of investigation, of control, and of discipline as set forth in the acts known as laws of June 13 and 14, 1941. Its powers shall extend to the financial institutions.

It may appoint a liquidator for all enterprises and establishments which have been stricken off the register of banks, or which cease to be registered, or which, without having been inscribed on the list of banks or registered, have been notified of a decision requiring them to terminate their operations within a given time.

Whenever the administration, the management, or the supervision of a bank or of a financial institution, for any reason can no longer be performed by the persons duly authorized for these duties the Commission, or, subject to its ratification, its president may appoint to the said bank or financial institution a temporary administrator to whom shall be transferred all powers necessary for the administration, the management, or the supervision.

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The Banking Control Commission shall assume functions in connection with the nationalized banks as set forth in the last paragraph of art. 10 of the present law and to this effect shall be joined by three members of the National Credit Council, elected by the latter.

All decisions of the Control Commission shall be reported to the National Credit Council.

TITLE VI

MISCELLANEOUS PROVISIONS

Art. 16. The Government shall be authorized, within a period of six months, by decree in the form of a public administrative regulation adopted on proposal of the Minister of Finance and the Minister of National Economy upon the advice of the National Credit Council, to take all measures necessary to organize the distribution of long-term credits required for the modernization of the nation's equipment in industry, commerce, agriculture, and the handicrafts. To this effect it may in particular either promote the creation of new institutions, medium or long term, or provide for the amendment of the statutes or the reorganization of existing institutions, particularly of the *Crédit National*, the *Caisse Nationale des Marchés de l'Etat*, and of the *Caisse Nationale de Crédit Agricole*.

Art. 17. The Government shall be authorized within a period of six months, by decree in the form of public administrative regulation adopted on proposal of the Minister of Finance and of the Minister of National Economy and upon the advice of the National Credit Council, to take any measures designed to improve the conditions of credit and of credit insurance necessary to develop the foreign trade of France. For this purpose it may in particular provide for the creation of new special agencies for export or import credits, and propose to Parliament the amendment of the statutes or the reorganization of existing agencies, with particular reference to the *Banque Nationale Française du Commerce Extérieur* and to all administrative or government-subsidized bodies concerned with export and import credit insurance.

Art. 18. Notwithstanding the provisions in arti-

cles 7 and 8 preceding, the shareholders of the nationalized deposit banks shall hold a general meeting, in the course of the year 1946, on convocation of the board of directors in office until December 31, 1945, with the sole purpose of receiving the reports of the board and the commissioners, of approving the accounts for 1945, of fixing the dividend for that year without, however, being able to distribute any reserve, and of discharging from further liability the management whose powers terminate December 31, 1945.

Art. 19. No change shall be made in the regulations affecting the employees of the nationalized banks, including the Bank of France, as to the manner of hiring and discharging and of compensation.

In case of release due to changes resulting from the application of the present law, the personnel may receive compensation for discharge in addition to their claim to retirement pension.

Before March 31, 1946, the manner of reclassifying the personnel so released shall be prescribed by a public administrative regulation.

All who participate in any way either in the direction, management, or the control of the nationalized banks, or in the control of non-nationalized banks, shall be held to professional secrecy.

Art. 20. All acts and conventions adopted in connection with the execution of the present law shall be exempt from stamp and registration taxes.

Art. 21. All measures contrary to the present law shall be abrogated.

Art. 22. Decrees in the form of public administrative regulations adopted on proposal of the Minister of Finance shall determine all conditions under which the present law is to be applied.

The present law, deliberated and adopted by the National Constituent Assembly, shall be executed as a law of the State.

Done at Paris, December 2, 1945.

C. DE GAULLE.

By the President of the Provisional Government of the Republic:

The Minister of Finance,

R. PLEVEN.