*Published in the Official Monitor of the Republic of Moldova no.360-371 of 25.12.2020, art.1443*

**EU**

**EXECUTIVE BOARD OF**
**THE NATIONAL BANK OF MOLDOVA**

# DECISION no. 274
**of 10 December 2020**
***(in force since 30.03.2021)***

**REGISTERED:**
**by the Ministry of Justice**
**of the Republic of Moldova**
**no. 1610 of December 16, 2020**

**for aproval of Regulation on Leverage for Banks**

Pursuant to Article 27 par. (1) letter c), art.44 letter a) of the Law no.548/1995 on the National Bank of Moldova (republished in the Official Monitor of the Republic of Moldova, 2015, nr.297-300, art.544), with subsequent amendments, Article 77 of the Law no.202/2017 on the activity of banks (Official Monitor of the Republic of Moldova, 2017, no.434-439, art.727), with subsequent amendments, the Executive Board of the National Bank of Moldova

**DECIDES:**

1. To approve the Regulation on Leverage for Banks (here enclosed).

2. This Decision shall enter into force on 30 March 2021.

**Chairman**
**of the Executive Board**

**Octavian ARMAȘU**

Approved by the
Decision of the Executive Board of
the National Bank of Moldova
no.274 of 10 December 2020

# REGULATION
# ON LEVERAGE FOR BANKS

The current regulation transposes art.4 points 93 and 94, art.429, art.429a, art.429b and art.430 of the Regulation no. 575/2013 of the European Parliament and of the Council as of 26 June 2013 on the prudential requirements for credit institutions and investment firms and amending Regulation (EU) no. 648/2012, published in the Official Journal of the European Union no. L 176 as of 27 June 2013, as amended and supplimented by the Commission Delegated Regulation (EU) 2015/62 of the Commission of 10 October 2014 supplementing Regulation (EU) no. 575/2013 of the European Parliament and of the Council amending Regulation (EU) no. Regulation (EC) No 575/2013 of the European Parliament and of the Council as regards the leverage ratio (Text with EEA relevance) published in the Official Journal of the European Union no. L f 11 of 17 January 2015.

## Chapter I. GENERAL PROVISIONS

1. This Regulation establishes for banks legal entities in the Republic of Moldova, as well as subsidiaries in the Republic of Moldova of banks from other states (hereinafter - "banks") the method of calculating the leverage, the methodology for determining its elements, as well as the cases and conditions in which the National Bank of Moldova grants approvals for the exclusion from the application of certain exposures.

2. Banks shall comply individually with the obligations set out in this Regulation.

3. Banks shall comply, in accordance with the methods set out in Chapter IV of the Regulation on consolidated supervision of banks, approved by NBM Decision of the Executive Board of the National Bank of Moldova (hereinafter DEB of the NBM) No. 101/2020, with the requirements of this Regulation on the basis of their consolidated situation.

4. Terms and expressions used in this Regulation, shall have the meanings provided in Law no. 202/2017 on theaActivity of banks (hereinafter - Law no. 202/2017) and in the regulatory acts of the NBM which have been issued for the purpose of the above mentioned law.

5. For the purposes of this Regulation, the following definitions shall apply:

1) „leverage" means the relative size of a bank's assets, off-balance sheet liabilities and contingent liabilities to pay, or to deliver or to provide collateral, including obligations from received funding, made commitments, derivatives or repurchase agreements, but excluding obligations wich can only be enforced during the liquidation of a bank, compared to the own funds of that bank;

2) „securities or commodities lending or borrowing transactions" mean any transaction in which a bank or its counterparty transfers securities or commodities against appropriate collateral, subject to a commitment that the borrower will return equivalent securities or commodities at some future date or when requested to do so by the transferor, that transaction being securities or commodities lending for the bank transferring the

securities or commodities and being securities or commodities borrowing for the bank to which they are transferred.

6. Banks shall calculate their leverage ratio in accordance with the provisions of paragraphs 7-29 of this Regulation.

## Chapter II. CALCULATION OF LEVERAGE RATIO

7. The leverage ratio shall be calculated by dividing the capital measure by the bank's total exposure measure and shall be expressed as a percentage.

Leverage ratio = Tier 1 own funds / total exposure measure X 100%

Banks shall calculate the leverage ratio at the reference date established in paragraph 3 of Instruction no. 117/2018 on the submission by banks of COREP reports for supervision purposes.

8. For the purposes of paragraph 7, the capital measure shall be the Tier 1 own funds.

### *Section 1. General provisions for the elements of the total exposure measure*

9. The total exposure measure shall be the sum of the exposure values of:
1) assets referred to in Section 2, unless they are deducted when determining the capital measure referred to in paragraph 8;
2) derivative financial instruments (hereinafter - DFI) referred to in section 3;
3) add-ons for counterparty credit risk of repurchase transactions, securities or commodities lending or borrowing transactions, long settlement transactions and margin lending transactions (hereinafter referred to as SFT (securities financing transactions)), including those that are off-balance sheets referred to in section 4;
4) off-balance sheet items referred to in section 5.

10. The National Bank of Moldova (hereinafter - NBM) may grant a bank approval for exclusion from the total exposure measure the exposures that can benefit from the treatment laid down in paragraphs 19-22 of the Regulation on treatment of banks credit risk using standardised approach approved by DEB of the NBM no.111 of 24.05.2018 (hereinafter - Regulation no.111 /2018). The NBM may grant the respective approval only if all the conditions set out in paragraph 20 of Regulation no. 111/2018 are met and where it has granted the prior approval laid down in paragraphs 19-22 of Regulation no. 111 /2018.

11. By way of derogation from paragraph 16 subparagraph 4), banks may determine the exposure value of cash receivables and cash payables to SFTs with the same counterparty on a net basis only if all of the following conditions are met:
1) the transactions have the same explicit final settlement date;
2) the right to set off the amount owed to the counterparty with the amount owed by the counterparty is legally enforceable in all the following situations:
a) in the normal course of business;
b) in the event of default, in the event of insolvency and in the event of bankruptcy;
3) the counterparties intend to settle net, settle simultaneously, or the transactions are subject to a settlement mechanism that results in the functional equivalent of net settlement.

For the purposes of subparagraph 3) of this paragraph, a settlement mechanism results in the functional equivalent of the net settlement if, on the settlement date, the net result of the cash flows of the transactions under that mechanism is equal to the single net amount under net settlement.

12. Banks determine the exposure value of contracts listed in Annex no.1 of the Regulation on the treatment of the market risk according to the standardised approach approved by DEB of NBM no.114 /2018 (hereinafter - Regulation no.114 /2018) and of credit DFI , including those that are off-balance sheet, in accordance with Section 3.

13. Where a bank that is a clearing member of a qualified CCP guarantees to the qualified CCP the performance of a client that enters directly into DFI transactions with that qualified CCP, the bank shall include in the exposure measure the exposure resulting from the guarantee as DFI exposure, in accordance with section 3.

14. Fiduciary assets on the balance sheet may be excluded from the leverage ratio total exposure measure, provided that those assets meet the criteria for non-recognition set out in international financial reporting standard IFRS 9, and, where applicable, the criteria for non-consolidation set out in the international financial reporting standard IFRS 10.

15. The NBM may approve a bank to exclude from the total exposure measure exposures that meet all of the following conditions:
1) they are exposures to a public sector entity;
2) they are treated in accordance with paragraph 42 of Regulation no. 111/2018;
3) they arise from deposits which the bank is legaly obliged to transfer to the public sector entity referred to in subparagraph 1) for the purpose of funding general interest investments.

***Section 2. Exposure value of assets***

16. Banks shall determine the exposure value of assets, excluding contracts listed in Annex 1 of Regulation no. 114/2018 and credit DFI, in accordance with the following principles:
1) the exposure values of assets means exposure values in accordance with paragraph 5 of Regulation no. 111/2018;
2) phisical or financial collateral, guarantees or credit risk mitigation purchased shall not be used to reduce exposure values of assets;
3) loans shall not be netted with deposits;
4) SFT shall not be netted.

***Section 3. Exposure value of DFI***

17. Banks shall determine the exposure value of contracts listed in Annex 1 of Regulation no. 114/2018 and the credit DFI, including those that are off-balance sheet, in accordance with the method of marking on the market as set out in Chapter III of the Regulation on the treatment of banks' counterparty credit risk approved by NBM DEC no. 102 / 2020 (hereinafter - Regulation no. 102/2020). Banks shall apply paragraphs 68-70 of Regulation no.102/2020 for the determination of potential future credit exposure for credit DFIs. When determining the potential future credit exposure of credit DFIs, banks shall apply the principles laid down in paragraphs 68-70 of Regulation no. 102/2020 to all their credit DFIs, not only those assigned to the trading book.

When determining the exposure value, banks may take into account the effects of contracts for novation and other netting arrangements in accordance with paragraphs 51-52 of Chapter VI of Regulation no. 102/2020. Cross-product netting shall not apply.

18. Where the provision of collateral related to DFI contracts reduces the amount of assets under the applicable corresponding IFRS standard, banks shall return to (reverse) that reduction, so that the exposure value does not take into account the related collateral value.

19. In addition to the treatment laid down in paragraph 17, for written credit DFIs, banks shall include in the exposure value the effective notional amounts referenced by the written credit DFIs reduced by any negative fair value changes that have been incorporated in their Tier 1 own funds 1 in respect to the written credit DFIs. The resulting exposure value may be further reduced by the effective notional amount of a purchased credit DFI on the same reference name provided that all of the following conditions are met:
1) for single name credit DFIs, the credit DFIs purchased must be on a reference name which ranks pari passu with or is junior to the underlying credit event on the senior reference asset would result in a credit event on the subordinated assets;
2) where a bank purchases protection on a pool of reference names, the purchased protection may offset sold protection on a pool of reference names only if the pool of reference entities and the level of subordination in both transactions are identical;
3) the remaining maturity of the credit DFI purchased is equal to or greater than the remaining maturity of the written credit DFI;
4) in determining the additional exposure value for written credit DFI, the notional amount of the purchased DFI is reduced by any positive fair value change that has been incorporated in Tier 1 own funds with respect to the purchased credit DFI ;
5) for tranched products, the credit DFI purchased as protection is on a reference obligation which ranks equal to the underlying reference obligation of the written credit DFI.

Where the notional amount of a written credit DFI is not reduced by the notional amount of a purchased credit DFI, banks may deduct the individual potential future exposure of that written credit DFI from the total potential future exposure determined according to paragraph 17 of this Regulation in conjunction with paragraph 21 or paragraphs 68-70 of Regulation no. 102/2020 as applicable. In case that the potential future credit exposure shall be determined in conjunction with paragraph 62 sub-paragraph 2) of Regulation no.102/2020, PCEgross may be reduced by the individual potential future exposure of the written credit DFI, with no adjustment made to the NGR.

20. Banks shall not reduce the written credit DFI effective notional amount where they buy credit protection through a total return swap and record the net payments received as net income, but do not record any offsetting deterioration in the value of the written credit DFI reflected in their Tier 1 own funds.

21. In case of purchased credit DFIs on a pool of reference entities, banks may recognize a reduction according to paragraph 19 on written credit DFIs on individual reference names only if the protection purchased is economically equivalent to buying protection separately on each individual names in the pool. If a bank purchases a credit DFI on a pool of reference names, the bank may only recognize a reduction on a pool of written credit

DFIs when the pool of reference entities and the level of subordination in both transactions are identical.

22. By way of derogation from paragraph 17, banks may use the initial exposure method set out in Chapter IV of Regulation no. 102/2020 to determine the exposure value of the contracts listed in paragraphs 1) and 2) of Annex no. 1 to Regulation no. 114 / 2018 only where they also use the respective method for determining the exposure value of those contracts for the purposes of meeting the own funds requirements set out in Chapter VII of the Regulation on own funds of banks and capital requirements approved by DEC of NBM no.109 / 2018 (hereinafter - Regulation no.109/2018).

***Section 4. Counterparty credit risk add-on for SFT***

23. In addition to the exposure value of SFT, including those that are off-balance sheet exposures in accordance with paragraph 16, banks shall include in the exposure measure an add-on for the counterparty credit risk, determined in accordance with paragraphs 24 or 25, as applicable.

24. For the purposes of paragraph 23, for transactions with a counterparty which are not subject to a master netting agreement that meets the conditions laid down in paragraph 43 of the Regulation on credit risk mitigation techniques of banks approved by DEC of the NBM no. 112 of 24.05.2018 (hereinafter Regulation no. 112/2018), the add-on (Ei *) shall be determined on a transaction-by-transaction basis in accordance with the following formula:

$$E_i^* = \max\{0, E_i - C_i\}$$

where:
Ei is the fair value of the securities or cash lent to the counterparty under transaction i;
Ci is the fair value of cash or securities received from the counterparty in the transaction i.

25. For the purposes of paragraph 23, for transactions with a counterparty that are the subject of a master netting agreement that meets the conditions laid down in paragraph 43 of Regulation no. 112/2018, the add-on for those transactions (Ei *) shall be determined on an agreement-by-agreement basis in accordance with the following formula:

$$E_i^* = \max\left\{0, \left(\sum_i E_i - \sum_i C_i\right)\right\}$$

where:
Ei is the fair value of the securities or cash lent to the counterparty for the transactions subject to master netting agreement i;
Ci is the fair value of cash or securities received from the counterparty subject to master netting agreement i.

26. By way of derogation from paragraph 23, banks may use the simple method of financial guarantees provided for in paragraphs 75-83 of Regulation no. 112/2018, subject to a 20% floor for the applicable risk weight, to determine the add on for SFT, including those that are off-balance sheet. Banks may use this method only where they alsp use it for

determining the exposure value of those transactions for the purpose of meeting the own funds requirements as set out in Chapter VII of Regulation no. 109/2018.

27. Where sale accounting is achieved for a repurchase transaction under its applicable IFRS standard, the bank shall return to (reverse) all sales-related accounting entries.

28. Where the bank acts as an agent between two parties in SFT, including those that are off-balance sheet, the following apply:
1) where the bank provides an indemnity or guarantee to a customer or counterparty limited to any difference between the value of the security or cash that the customer has lent and the value of collateral that the borrower has provided, the bank shall include in the exposure measure the add-on determined in accordance with paragraph 24 or 25, as applicable;
2) where the bank does not provide any indemnity or guarantee to any of the involved parties, the transaction shall not be included in the exposure measure;
3) where the bank is economically exposed to the underlying security or cash in the transaction beyond the exposure covered by the add-on, the bank shall include also in the exposure measure an exposure equal to the full amount of the security or cash.

***Section 5. Exposure value of off-balance sheet items***

29. Banks shall determine the exposure value of off-balance sheet items, excluding contracts listed in Annex no. 1 of Regulation no. 114/2018, credit DFI, SFT, in accordance with paragraph 6 of Regulation no. 111/2018. However, banks shall not reduce the nominal value of those items by specific credit risk adjustments.
The exposure value of the low risk off-balance sheet items referred to in paragraph 6 subparagraph 4) of Regulation No 111/2018 shall be subject to a floor equal to 10% of their nominal value.

***Section 6. Reporting requirement***

30. Banks shall submit to the NBM all necessary information on the leverage ratio indicator and its components in compliance with this chapter in accordance with the requirements established by the Instruction on the submission by banks of COREP reports for supervision purposes, approved by DEB of the NBM no.117 /2018. The NBM shall take into account this information when undertaking the supervisory review referred to in art.100 of Law no. 202/2017.

## Chapter III. PROCEDURE FOR THE ISSUE OF APPROVALS BY THE NATIONAL BANK OF MOLDOVA

31. This chapter applies to approvals issued by the NBM in accordance with paragraphs 10 and 15.

32. In order to issue the approval according to paragraph 10, the bank shall submit to the NBM an application for this purpose in which it will indicate the information on holding the prior approval provided in paragraphs 19-22 of Regulation no. 111/2018 .

33. In order to issue the approval according to paragraph 15, the bank submits to the NBM an application to which are attached the necessary documents confirming the fulfillment by the bank of the conditions established in the respective paragraph.

34. The application, as well as the documents mentioned in paragraphs 32 and 33 shall be submitted to the NBM in Romanian and shall be signed by the person authorized by the bank.

35. If the set of documents is not complete, the NBM notifies the bank in writing about this fact within 5 working days from the date of submission of the application and informs the bank about the need to present the missing documents within 10 working days from the date of information.

36. If the bank does not present the missing documents within the term provided in paragraph 35, the NBM informs the bank about the termination of the administrative procedure within 3 working days from the expiration of the granted term.

37. Within 30 days from the date of receipt of the complete set of acts and information in accordance with this chapter, the NBM shall issue the appropriate approval or reject the application, informing the bank in writing of its decision. The NBM may set a longer deadline for issuing the decision, which shall not exceed 90 days, under the conditions of the Administrative Code, with the information of the bank.

38. If the acts and information submitted in accordance with this chapter are insufficient to take a decision on the application for approval, the NBM is entitled to request the submission of additional acts.

39. The bank is obliged to present the additional acts within 10 working days from the date of notification, during which the term provided in paragraph 37 is suspended.

40. If the application for approval is rejected, the grounds on which the application is rejected shall be indicated. The following are considered as grounds for rejecting the application for approval of the NBM:
1) following an evaluation of all the documents held, the NBM decides that the requirements for obtaining such approval are not met and / or
2) presentation to the NBM of erroneous, inauthentic and / or contradictory information.

41. The bank is entitled to apply the provisions established in the approvals starting with the date of issuance of the respective approval, or from another date indicated in the approval.