

NATIONAL BANK OF MOLDOVA

DECISION
on the approval of the Regulation
on consolidated supervision of banks

No 101 of 16.04.2020
(in force as of 01.01.2021)

Official Monitor of the Republic of Moldova No 118-123 Art. 463 of 22.05.2020

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REGISTERED:
by the Ministry of Justice
of the Republic of Moldova
No 1562 of May 8, 2020

Pursuant to Article 5 paragraph (2), 59 paragraph (1), 116, 121 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 consolidated supervision of banks (attached).
2. This Decision shall be published in the Official Monitor of the Republic of Moldova and shall enter into force from 01.01.2021.

CHAIRMAN
OF THE EXECUTIVE BOARD

Octavian ARMAȘU

No 101. Chișinău, April 16, 2020.

Approved
by the Decision of the Executive Board
of the National Bank of Moldova
No 101 of April 16, 2020

REGULATION on consolidated supervision of banks

This Regulation transposes:

- Art.11 (1)-(3); Art.13 (1), (2); Art.14 (1), (3); Art.18 (1)-(6), (8); Art.19 and Art.24 (1) of Regulation No 575/2013 of the European Parliament and of the Council of June 26, 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648 /2012 (Text with EEA relevance), published in the Official Journal of the European Union L 176 of June 27, 2013, as last amended by Regulation (EU) 2019/630 of the European Parliament and of the Council of April 17, 2019;

- Art.108 (2) (3) and Art.111 (1)-(3) of Directive 2013/36/EU of the European Parliament and of the Council of June 26, 2013 on annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (Text with EEA relevance), published in the Official Journal of the European Union L 182 of June 29, 2013, as last amended by Directive (EU) 2018/843 of the European Parliament and of the Council of May 30, 2018.

Chapter I SUBJECT MATTER, SCOPE

1. This Regulation establishes:

1) the level of application of the prudential requirements laid down in Title III of Law No 202/2017 on the activity of banks (hereinafter: Law No 202/2017) in the conditions of supervision on a consolidated basis, as well as the exceptions and derogations from the application of these requirements;

2) the consolidation perimeter (scope of prudential consolidation), including situations where certain group entities will not be included in the scope of consolidation;

3) the consolidation methods;

4) the requirements for the supervision of intragroup transactions with mixed-activity holding companies;

5) the information necessary for the National Bank to exercise supervision on a consolidated basis.

2. The terms, definitions and expressions used in this Regulation shall have the meanings provided in Law No 202/2017.

3. For the purposes of this Regulation, the following terms shall have the following meanings:

participation – means the ownership, direct or by way of control, of 20 % or more of the voting rights or capital of an undertaking.

significant transaction - any transaction exceeding 5% of the bank's eligible capital determined in accordance with the Regulation on large exposures of banks, approved by the Decision of the Executive Board of the National Bank of Moldova No 109/2019.

4. Banks, legal entities of the Republic of Moldova, shall be subject to supervision on a consolidated basis by the National Bank of Moldova, if they are in the situations referred to in Article 109 of Law No 202/2017.

Chapter II

LEVEL OF APPLICATION OF PRUDENTIAL REQUIREMENTS UNDER THE CONDITIONS OF CONSOLIDATED SUPERVISION

5. Without prejudice to the obligations to comply with prudential requirements at the individual level, the parent banks in the Republic of Moldova shall, on the basis of consolidated financial statements and prudential reporting, in accordance with the methods set out in Chapter IV, fulfill the conditions relating to:

1) the own funds requirements and capital requirements set out in Articles 60-61 of Law No 202/2017 and by the normative acts issued in application of these provisions;

2) the requirements on large exposures set out in Article 74 of Law No 202/2017 and by the normative acts issued in its application;

3) the liquidity requirements provided in Article 76 paragraph (2) of Law No. 202/2017 and the normative acts issued in its application;

4) the leverage ratio indicator requirements set out in Article 77 of Law No 202/2017 and the normative acts issued in its application;

5) the publication requirements set out in Article 91 paragraph (1) of Law No 202/2017 and the normative acts issued in its application;

6) the internal risk capital adequacy assessment process and the internal liquidity adequacy assessment process set out in Articles 78 - 79 of Law No 202/2017.

6. Without prejudice to the obligations to comply with prudential requirements at the individual level, banks, legal entities in the Republic of Moldova, controlled by a parent financial holding company or parent mixed financial holding company, shall comply with the requirements referred to in point 5, on the basis of the consolidated financial statements and prudential reports of that financial holding company or mixed-financial holding companies, according to the methods provided in Chapter IV.

7. If several banks, legal entities of the Republic of Moldova and of other states, are controlled by a parent financial holding company at the level of another state, the provisions of item 6 shall apply only to the bank which is supervised on a consolidated basis by the National Bank of Moldova, according to the provisions of item 4.

8. Parent banks at the level of the Republic of Moldova and banks, legal entities of the Republic of Moldova, which are subsidiaries of parent financial holding companies or parent mixed financial holding companies at the level of the Republic of Moldova or at the level of another State and which are subject to supervision on a consolidated basis exercised by the National Bank of Moldova, shall comply with the requirements set out in Article 38 of Law No 202/2017, in order to ensure that their systems, processes and arrangements are consistent and integrated at group level and that any data and information relevant for the purposes of supervision can be provided.

Chapter III

SCOPE OF PRUDENTIAL CONSOLIDATION

9. The bank's prudential scope of consolidation includes:

1) subsidiaries and/or affiliated entities, legal entities in the Republic of Moldova or other states, which are banks, investment firms, non-banking financial institutions;

2) the parent undertaking established in the Republic of Moldova or in other states, which is a financial holding company or a mixed financial holding company, provided that the parent undertaking does not have any subsidiaries in the Republic of Moldova; or if it has such bank subsidiaries in the Republic of Moldova whose total balance sheet assets are lower than the balance sheet assets of the respective bank.

10. If a bank, a legal entity of the Republic of Moldova, is a subsidiary of a parent bank from another state and is subject to supervision on a consolidated basis by the National Bank of Moldova, the prudential consolidation perimeter shall not include the parent bank located in another state or its subsidiaries.

11. In the consolidated statement of the parent undertaking, drawn up for prudential purposes, underlying the calculation of the elements necessary to comply with the prudential requirements at consolidated level, as stipulated in Chapter II, include, according to the consolidation methods provided in Chapter IV, the subsidiaries and/or associated entities which are banks, investment firms, non-banking financial institutions, legal entities from the Republic of Moldova or other states.

12. A bank/investment firm or non-bank financial institution, which is a subsidiary or an associated entity, will not be included by the parent undertaking in the scope of prudential consolidation where the total value of the off-balance-sheet credit assets and liabilities of that entity concerned is less than the lower of the following two values:

1) the equivalent in MDL of EUR 10 million;

2) 1% of the total assets and off-balance-sheet (conditional) credit assets and liabilities of the parent company or of the company that has a stake in the associate entity.

13. The National Bank of Moldova, in the context of the supervisory function, may decide as a bank/investment company, a non-banking financial institution which is a subsidiary or an associate entity, not to be included in the prudential consolidation perimeter in the following cases:

1) where the entity is located in another State where there are legal impediments to the transfer of information, necessary for the exercise of supervision on a consolidated basis by the National Bank of Moldova;

2) where the entity has only a negligible interest in respect of the objectives of banking supervision;

3) when, the consolidation of the financial situation of the entity in question would be inadequate or misleading from the perspective of the supervisory objectives of banks, legal entities of the Republic of Moldova.

The National Bank of Moldova will inform the bank about the decision on the entities to be included in the scope of consolidation, indicating a reasonable timeframe for compliance with these requirements.

14. Where more than one entity meets the criteria provided in points 12 and 13 subpoint (2), those entities shall be included in the consolidation to the extent that, as a whole, they represent a non-negligible interest in relation to the supervisory objectives set.

Chapter IV

CONSOLIDATION METHODS USED FOR PRUDENTIAL PURPOSES

15. The prudential consolidation methods in this Chapter shall be applied on the basis of International Financial Reporting Standards (IFRS), taking into account the provisions of this Regulation.

16. For the purposes of supervision on a consolidated basis of banks, legal entities of the Republic of Moldova, all subsidiaries of the parent undertaking which are banks, non-banking financial companies or investment firms, legal entities of the Republic of Moldova or other states, will

be consolidated by the global method of accounting consolidation (the accounting consolidation method provided by *IFRS 10*).

17. In the case of participations, other than those referred to in item 16, in banks, financial companies and investment firms, the equity method (accounting consolidation method provided by the International Accounting Standard (*SIC*) 28) shall be used for their inclusion in the consolidated financial statements of the parent undertaking, unless the National Bank of Moldova decides otherwise on the basis of item 18. The application of this method shall not constitute the inclusion of the entities concerned in supervision on a consolidated basis.

18. The National Bank of Moldova has the right to decide, in the context of the supervisory function, on the inclusion in the scope of prudential consolidation and the method of consolidation to be applied, so that it allows a correct assessment of the prudential requirements at consolidated level, taking into account the risks induced by these entities on the supervised bank at consolidated level. The National Bank of Moldova will inform the bank about the consolidation method to be applied and the entities to be included in the scope of consolidation, as well, indicating a reasonable timeframe for compliance with these requirements.

19. The National Bank of Moldova, in the performance of its supervisory function, is entitled to decide on the method in which the consolidation is carried out, where entities are linked to each other by a relationship other than a participation, i.e. a relationship in which:

1) the entity together with one or more entities are led on a single basis, by virtue of a contract concluded with that entity or of the provisions of the statutes or other constitutive act of those entities, or

2) the administrative, management or supervisory bodies of one or more entities are mostly made up of the same persons.

20. The National Bank of Moldova, in performing the supervisory function, shall be entitled to decide whether certain entities should be included in the consolidated financial statements of the parent undertaking in the following cases:

1) a bank exercises significant influence over one or more banks, non-banking financial companies or investment firms, without having an ownership interest in these entities;

2) two or more banks, non-banking financial companies or investment firms are operated on a single basis, without it being necessary to be established on a contractual or statutory basis.

Chapter V

INTRAGROUP TRANSACTIONS

WITH MIXED-ACTIVITY HOLDING COMPANIES

21. Banks, legal entities in the Republic of Moldova, subsidiaries of a mixed-activity holding company must have adequate risk management processes and internal control mechanisms, including rigorous accounting and reporting procedures, to properly identify, measure, monitor and control their transactions with the mixed-activity holding company and its subsidiaries.

22. Banks shall inform the National Bank of Moldova of any significant transaction with entities referred to in point 21, other than the one that is reported as large exposure under the Regulation on large exposures of banks, approved by the Decision of the Executive Board of the National Bank of Moldova No 109/2019. The respective information shall be submitted to the National Bank of Moldova through the electronic communication channel and shall include, at least: the transaction date, the detailed purpose/transaction argumentation, counterparty data (name, address), transaction amount and currency.

23. The processes, arrangements, and procedures referred to in point 21, as well as significant transactions, shall be subject to supervision by the National Bank of Moldova.

Chapter VI

PROVISION OF INFORMATION

24. Each bank, legal entity of the Republic of Moldova, shall submit to the National Bank of Moldova, no later than 10 days from the date on which, in accordance with Article 109 of Law No 202/2017, is subject to supervision on a consolidated basis by the National Bank of Moldova, a list of entities included in the consolidated financial statements of the bank or financial holding company, as appropriate, accompanied by a diagram of the group's management structure, with a reference to how the responsibilities are shared within it. For each entity the following information shall be provided:

- 1) name and country of origin;
- 2) field of activity;
- 3) subscribed and paid-up share capital;
- 4) the share of the entity's capital and voting rights held directly or indirectly by the parent company and other entities within the group, as well as the description of any other means of exercising control or significant influence;
- 5) the treatment of that entity in accordance with the applicable accounting provisions in force when the consolidated financial statements are prepared, the method used for inclusion in the consolidated financial statements, and the justification for applying that method.

25. Banks which, in accordance with Article 109 of Law No 202/2017, are subject to supervision on a consolidated basis by the National Bank of Moldova shall submit to the National Bank of Moldova, within 10 days, a diagram of the scope of prudential consolidation. For each of the entities included in this area the following information and documents shall be submitted, as appropriate:

- 1) the authority responsible for the individual supervision of the entity, if applicable;
- 2) the standards applicable in the supervision on an individual basis of the entity;
- 3) in the case of subsidiaries, shall be indicated the existence of agreements or any other acts limiting the liability of the parent undertaking to the share held in the capital of the subsidiary.

26. In the case of banks, non-banking financial institutions, investment firms in one of the situations referred to in item 19, any information necessary to describe the relationships established between the banks included in the scope of prudential consolidation and the entities referred to in item 20, sub-item 1) shall be provided.

27. For each of the entities included in the scope of consolidation in accordance with item 9, but which, on the basis of items 12 and 13, have been excluded and are therefore not included in the consolidated financial statements of the bank or financial holding company, the banks shall submit, in addition to the information set out in item 26, the information set out in item 28.

28. The banks subject to supervision on a consolidated basis by the National Bank of Moldova shall notify the National Bank of Moldova of any change in the information provided under this Chapter, no later than 10 days from the date of its occurrence.

29. A subsidiary bank, a legal entity of the Republic of Moldova, which has not been included in the supervision on a consolidated basis exercised by a competent authority of another state, shall notify the National Bank of Moldova of this fact within no more than 10 days from the date on which the decision not to be included in the scope of consolidation was made, providing the reason for the non-inclusion.