PARLIAMENT OF THE REPUBLIC OF MOLDOVA

LAW ON THE ACTIVITY OF BANKS

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The Parliament adopts the following organic Law.

TITLE I
GENERAL PROVISIONS

Chapter 1
OBJECT, DEFINITIONS, SCOPE OF THE LAW AND OTHER GENERAL PROVISIONS

Article 1. Object

This Law regulates:

a) the conditions of access to and conduct of banking activity on the territory of the Republic of Moldova;

b) the prudential requirements set forth for banks under this Law and the regulations issued for its application;

c) the competences, instruments and procedures of prudential supervision of banks by the National Bank of Moldova;

d) the prudential supervision of banks conducted by the National Bank of Moldova in a manner that complies with the provisions of this law and the regulations issued for its application;

e) the requirements of disclosure to the National Bank of Moldova of information on the prudential supervision and regulation of banks.

Article 2. Scope and other general provisions

(1) The scope of this Law refers to:

a) banks, which are legal entities of the Republic of Moldova, including their foreign branches;

b) branches of foreign banks and their activity in the Republic of Moldova.

(2) For the purpose of prudential supervision of banks, the provisions of this Law shall also apply to other categories of legal entities, as follows:

a) the provisions of Chapter 2, title V shall apply to financial holding companies, mixed financial holding companies, and mixed activity holding companies, which are legal entities of the Republic of Moldova;

b) the provisions of Chapter 5, title III shall apply to bank audit enitties and audit entities providing audit to financial holding companies, mixed financial holding companies, and mixed activity holding companies, which are legal entities of the Republic of Moldova.

(3) In cases of authorization, notification and approval procedures as provided for by this Law, the provisions of Law No 160 / 2011 on Licensing of Entrepreneurial Activity shall not apply.

Article 3. Definitions

For the purposes of this Law, the following definitions shall apply:

proposed acquirer - any individual or legal entity or group of such persons acting in concert, which intends to acquire shares, by any means, directly or indirectly, including as a beneficial owner, in the share capital of a bank in view of a proposed acquisition;

proposed acquisition - the decision taken by a proposed acquirer to acquire, directly or indirectly, including as a beneficial owner, by any means, a qualifying holding in a bank's share capital or to increase its qualifying holding to the extent as to ensure that its voting rights or the participation held in the bank's share capital reaches or exceeds the level of 5%, 10%, 20%, 33% or 50%, or so that the bank becomes its subsidiary;

related to another person refers to:

a) members of the management body or, in case of banks, members that hold key positions, as defined in the regulations of the National Bank of Moldova;
b) legal entities and/or individuals who, directly or indirectly, individually or in concert, holds or controls a share equal to or higher than 1% of the bank's share capital, including their ultimate beneficial owners. If a spouse of such a party or a relative of the first degree holds or controls a holding in the bank's share capital, irrespective of its size, then that holding is considered to be held and controlled by that party;
c) any person that controls the person, is controlled by, or is under joint control with the person;
d) any entity associated with the person or is a member of a joint venture, is an associate or an entity in a joint venture of a member of the group of persons acting in concert with the person, or the entities and the person are members in a joint venture of another person;
e) persons related to the persons specified in letters a) – d);
f) the person related to an individual - spouses, relatives and affinis of the first and second degree of the individual, the spouses of the relatives and affinis mentioned above, as well as the legal entity over which the individual and/or the persons related to it hold control, or have a share in joint ventures, or exercises significant influence over it, or are the members of the management body thereof;
g) the person through which a transaction with the bank is carried out in favour of the person referred to in letters a) - f) and which is considered to be influenced by the person referred to in letters a) - f) in the context of that transaction as a result of employment, civil or other type of relationships existing between these persons, established according to the regulations of the National Bank of Moldova;
h) any other persons as defined by the National Bank of Moldova in its regulations.

insurance/reinsurance undertaking - a company providing insurance/reinsurance services, as defined in the Law No 407/2006 on Insurance;

joint venture - a contractual or other similar commitment by which two or more persons carry out an economic activity subject to joint control;

competent authority - a public authority or body officially recognized by the national law which is empowered by law to supervise banks and investment companies, where appropriate, as part of the state oversight system;

bank - a legal entity which business is to receive deposits or other repayable funds from the public and to grant credits for its own account;

ultimate beneficial owner (UBO) – an individual who ultimately holds or controls, directly or indirectly, the proposed acquirer or the direct or indirect holder of an interest ownership in the bank's share capital or voting rights;

client – any person who benefits from or has received the services of a bank, or the person with whom the bank has negotiated a transaction, even if the transaction has not been completed;

control - the relationship between a parent undertaking and its subsidiary, as defined in this Article, or a similar relationship between any individual or legal entity and an undertaking, de jure or de facto;

credit - any commitment to lend money on condition of the repayment of the loan amount, with interest and other related payments; any extension of the due date of loan; any collateral issued or any commitment to acquire a claim or other payment rights;

subordinate debt – a loan which meets cumulatively the following criteria:

a) is not guaranteed;

b) the maturity date constitutes at least 5 years. If the maturity date is not set, the loan shall be redeemable, at the sole discretion of the bank, but not earlier than 5 years from the date of granting;

c) the conditions of granting do not include incentives for early repayment by the bank;

d) the provisions regulating the subordinated debts do not establish explicitly or implicitly that the subordinate debt will or may be repaid in advance by the bank in other case than the liquidation of the bank;

e) in case of liquidation of the bank, it shall be paid after the payment of claims to all creditors of the bank, but before the payment of shareholders' claims, of former holders of quotes in the share capital of the bank against which the measures provided by law on the cancelation and issue of new shares were set, provided that they hold a claim to the bank resulting from the cancelation of shares held by them and of the holders of subordinate debts issued in the conditions of Article 52^1;

deposit – the amount of money placed with a bank, which meets the following cumulative requirements:

a) is to be returned either upon demand or upon maturity, with or without interest or any other benefit, or on terms jointly agreed upon by the depositor (the person placing the money) or his authorized representative and the bank accepting the money;

b) does not refer to a subordinate debt, a right of ownership or a service, including insurance services;

c) is confirmed by any written recording or any receipt, certificate, note or other document of the bank that accepts the money;

indirect holder / acquirer - the person, including the ultimate beneficial owner, who holds/acquires a holding in the bank's share capital through another person over whom the person exercises control;

qualifying holding - direct or indirect holding acquired in an entity, which represents at least 1% of the share capital or voting rights or which makes it possible, where holding less than 1% of the share capital or of the voting rights, to exert control over the entity's management through influencing the decision-making at general meetings or of the management body;

associate entity – the entity, in which the person is entitled to participate in the decision-making on financial and management policies of the entity, by holding, directly or indirectly, voting rights in the proportion of 20% or higher, without exercising control or joint control over those policies;

financial entity shall be considered any of the following:
a) a bank;
b) an investment company;
c) a non-banking financial company;
d) an ancillary services undertaking included in the consolidated financial statements of a bank or an investment company;
e) an insurance undertaking;
f) a reinsurance undertaking;
g) a mixed-activity holding company;
h) an insurance holding undertaking and a mixed activity insurance holding company (MAIHC);
i) a foreign company which main activity is comparable to the activity of any of the entities defined hereto.

regulated entity – a bank, an insurance/reinsurance undertaking or an investment company;

outsourcing - the use by a bank of a supplier of goods and services, which may also be an affiliated entity within a group or an entity that is external to the group, to carry out on a contractual and continuous basis the activities/operations normally carried out by the bank itself;

subsidiary - a legal entity that is owned or controlled by a parent undertaking in a way as defined under the concept of 'parent undertaking'. Branch offices of a subsidiary are considered to be subsidiaries of the parent undertaking;

ancillary services undertaking - an undertaking the principal activity of which consists in owning or managing property, managing data-processing services or any other similar activity, which is ancillary to the principal activity of one or more credit institutions (banks and/or investment firms);

parent undertaking – the legal entity that:

a) holds the majority of voting rights in another entity (subsidiary);
b) has the right to appoint or replace the majority of the members of the management body of another entity (subsidiaries) and is at the same time a shareholder/associate or a member of that entity (subsidiary);
c) has the right to exercise a dominant influence over an entity (subsidiary), whether being or not a shareholder/associate or a member thereof, by virtue of a contract executed with that entity (subsidiary) or the provisions of the bylaws of the entity (subsidiary), provided that the applicable legislation allows the entity (the subsidiary) to enter such contracts or be the subject of such provisions;
d) is a shareholder/associate or a member of an entity (subsidiary) and the majority of the members of the management body of that entity (subsidiary) who currently hold or have held their office up to the moment of publishing of the annual consolidated financial statements were appointed as a result of the exercise of the voting rights of that person; this provision does not apply if the relationship between the subsidiary and another entity falls under provisions specified under letters a), b) or c);
e) is a shareholder/associate or a member of an entity (subsidiary) and controls, by virtue of an agreement signed with other shareholders / associates or members of that entity (subsidiary), the majority of the voting rights in that subsidiary;
f) effectively exercises dominant influence over another entity (subsidiary) pursuant to the criteria set out in the regulations of the National Bank of Moldova;

close ties – a condition in which two or more individuals or legal entities are linked together in any of the following ways:

a) through acquiring a direct holding or through controlling of at least 20% of the share capital or voting rights of an entity;
b) through exercising control;
c) through a permanent control relationship established between both or all of these entities and the same third party;

management body - the bodies of a bank that are appointed in accordance with applicable law and are empowered to determine the bank's strategy, objectives and overall guiding of its activity, and to oversee and monitor the management's decision-making process as well as the individuals who effectively direct the business of the bank;

person – an individual or legal entity, group of individuals and/or legal entities, whether registered as such or not;

persons acting in concert – a group of persons, each of whom decided to exercise the rights obtained in connection with a holding acquired or to be acquired under an implicit or explicit agreement concluded between them. Unless otherwise proven, the following persons shall be deemed to be acting in concert:

a) persons who have purchased shares of a bank in conditions denoting a coordinated acquisition or a joint intention of such persons to acquire the bank's shares;
b) the following persons:

- persons who control, are controlled by or are under a joint control of another person;

- persons who are directly or indirectly parties to agreements concluded for the purpose of obtaining or jointly exercising voting rights if the shares, which make the subject of such agreements, may ensure them a controlling role;

- individuals within the legal entity, who hold management or control positions;

- persons who can appoint the majority of the members of the management bodies in a legal entity;

- any person who, under civil law, is linked to the above-mentioned individuals through a first or second degree relationship, the spouses and relatives of the person, the affinis and the spouses of the affinis of the person, as well as any company controlled by the person;

c) the parent undertaking with its subsidiaries and any of the subsidiaries of the same parent undertaking between them;

d) a legal entity with the members of its management body and any related parties, as well as those persons among themselves;

e) a person holding money in a pension fund and the person who manages that money;

f) persons who use in their economic operations financial resources provided by the same person or coming from different persons that are related parties;

g) persons who transfer the benefits obtained from their economic activity to the same person or to persons who are related parties;

h) legal entities whose lists of owners or management bodies have largely the same membership composition;

i) persons who have adopted or pursue a similar investment policy by acquiring financial instruments issued by the same issuer or the related parties thereof and/or by selling financial instruments issued by the same issuer or the related parties thereof;

j) persons whose similar manner of exercising the rights, attached to securities issued by the bank, denote a common long-term policy pursued with regard to that bank;

k) persons who, for the conduct of economic operations, have appointed or nominated as their authorized representative(s) the same person(s) who is(are) a related party(s), to represent the interests or exercise the voting rights attached to financial instruments held;

l) persons who have associated themselves in a joint venture of any legal form recognized by law, the purpose or the goal of this association being bank-related operations;

m) persons who concurrently have held or hold ownership interest in one or more legal entities, exercising control over them and pursuing a common policy;

n) persons who have jointly carried out or are engaged in economic activity;

o) other persons established by the National Bank of Moldova, according to the criteria specified in its regulations;

key personnel - staff members whose functions give them significant influence over a bank's course of development, but who are not members of its management body. Heads of important business lines, branch offices, support and control divisions can be listed among those who hold key positions. The categories of individuals to hold key positions are established by the regulations of the National Bank of Moldova;

public - any individual or legal entity which does not have the knowledge of and experience in the assessment of deposit default risk. The following persons do not fall into

this category: the government, authorities of the central, regional and local public administration, government agencies, banks, non-banking financial companies, other similar companies and any other person considered as qualified investor within the meaning of the capital market legislation;

systemic risk - the risk of a severe disturbance of a financial system, which can trigger dramatic negative consequences for the financial system and the real economy as a whole;

consolidated situation - the condition resulting from the application of the requirements of Chapter 2 Title V hereto to a bank or an investment firm as if they formed, together with one or more other entities, a single bank or investment firm;

Investment Trust Management Company (ITMC) – an Investment Trust Management Company as defined by the Law No 171/2012 on the Capital Market;

company of systemic importance – a parent bank/parent investment firm, parent financial holding company, parent mixed financial holding company or a bank/investment firm the bankruptcy or malfunctioning of which could trigger systemic risk;

investment company – an investment company as defined in Article 6 of the Law No 171/2012 on the Capital Market;

financial holding company - a non-banking financial corporation the subsidiaries of which are exclusively or mainly banks, investment companies or non-banking financial corporations, at least one of which is a bank or an investment company and is not a mixed financial holding company;

mixed financial holding company – a parent undertaking other than a regulated entity which, together with its subsidiaries, of which at least one is a regulated entity based in the territory of the Republic of Moldova, and with other entities, constitutes a financial conglomerate;

non-banking financial company (NBFC) - an undertaking other than a bank or investment company, the main activity of which is to acquire holdings or carry out one or more of the activities referred to in Article 14, paragraph (1), letters (b) - (p), including a financial holding company, a mixed financial holding company and an investment trust management company, but excluding insurance holding companies and mixed-activity holding companies;

mixed-activity holding company – a parent undertaking other than a financial holding company, a bank, an investment company or a mixed financial holding company, the subsidiaries of which include at least one bank or an investment company;

country of origin - the country in which a bank is established and licensed;

host country - the country in which a bank has opened a branch;

branch - a separate subdivision of a bank, which is legally dependent on the bank and directly carries out all or some of the specific banking transactions;

consolidating supervisor - a competent authority responsible for the exercise of supervision on a consolidated basis (on the basis of the consolidated situation) of parent banks or parent investment companies and of the banks or investment companies controlled by a parent financial holding company or parent mixed financial holding company, where these companies occupy the highest rank within a group.

[Article 3 completed by Law No 110 of 15.06.2018, in force as of 06.07.2018]

Chapter 2
POWERS OF THE COMPETENT AUTHORITY

Article 4. Banking competent authority of the Republic of Moldova

(1) The National Bank of Moldova is the banking competent authority. In this respect, the National Bank of Moldova exercises its powers of licensing, regulation and prudential supervision of banks pursuant to the provisions of the present Law, and the Law No 548/1995 on the National Bank of Moldova.

(2) The National Bank of Moldova exercises its powers of banking recovery and resolution according to the Law No 232/2016 on the Recovery and Resolution of Banks.

(3) The National Bank of Moldova shall ensure that, in the performance of its duties, the supervisory function under this law and any other functions provided for by the Law No 548/1995 on the National Bank of Moldova are separate and independent of the resolution function exercised according to the Law No 232/2016 on the Recovery and Resolution of Banks.

Article 5. Supervisory powers of the competent authority

(1) The National Bank of Moldova shall carry out the prudential supervision of banks operating on the territory of the Republic of Moldova through the instruments, measures and procedures provided for by this Law and the regulations issued for its application.

(2) The National Bank of Moldova shall supervise the activity of banks as well as, where the competent authority is responsible for the supervision on a consolidated basis, the activity of financial holding companies and mixed financial holding companies in terms of the provisions applicable thereto, to assess compliance with the prudential requirements set out in this Law and the regulations issued for its application.

(3) In exercising its powers under the law, the National Bank of Moldova shall collect and process any relevant data and information, including personal data, to assess the compliance of banks, and, if it is the competent authority responsible for the supervision on a consolidated bases, of financial holding companies and mixed financial holding companies, with the prudential requirements set out in this Law and the regulations issued for its application, and to investigate possible breaches of those requirements.

(4) In exercising functions of prudential supervision and sanctioning provided for by this Law, the National Bank of Moldova shall be invested with necessary powers and shall act independently. In this respect, the National Bank of Moldova shall have the necessary expertise, resources and operational capacity.

(5) In order to facilitate the effective prudential supervision of licensed banks, the National Bank of Moldova shall execute written agreements on coordination and cooperation with other competent authorities of the Republic of Moldova.

(6) The supervisory powers and functions conferred to the National Bank of Moldova by this law pursue the public interest in ensuring the stability and viability of the banking system.

[Art.5 supplemented by paragraph 6 by the Law no.178 of 11.11.2021, in force on 29.11.2021]

Chapter 3
INTERDICTIONS

Article 6. Interdiction to conduct activity of deposit-taking

(1) Any person, which is not a bank, is interdicted from engaging in the activity of taking deposits or other repayable funds from the public.

(2) The interdiction referred to in paragraph (1) shall not apply to taking of deposits or other repayable funds by the Government or by public local administration authorities of the Republic of Moldova, by international public bodies to which the Republic of Moldova is a party or in the express cases provided for by the legislation of the Republic of Moldova, provided that such activities are subject to regulations and supervision applicable thereto, to ensure protection of the rights of depositors and investors.

(3) No foreign bank shall carry out on the territory of the Republic of Moldova banking activities specified in Article 14, paragraph (1), letter a), except through branches operating under the license issued by the National Bank of Moldova under the present law.

(4) A foreign bank shall be able to open representative offices on the territory of the Republic of Moldova only after having notified the National Bank of Moldova in accordance with the regulations adopted by the latter. Representative offices of foreign banks shall limit their activity to spheres of information, liaison or representation, and shall not perform any of the activities authorized to banks.

Article 7. Name of a bank

(1) Any person, other than a licensed bank or a licensed branch of a foreign bank, shall be prohibited from using in its name the word "bank" or its derivatives in relation to an activity, product or service provided, unless that use is stipulated or recognized by law or by an international agreement, or when the context in which that word is used undoubtedly suggests that the person does not carry out bank-specific activities.

(2) Without prejudice to provisions of paragraph (1), the entities or branches of the group, to which a bank belongs, may use in their names the initials, the logo, the emblem, the name or other identifying features used at the group level.

TITLE II
CONDITIONS OF ACCESS TO BANKING ACTIVITY

Chapter 1
MINIMUM REQUIREMENTS FOR ACCES TO BANKING ACTIVITY

Article 8. License and the authority to issue the license

(1) In order to carry out banking activity in the Republic of Moldova, each bank shall be licensed by the National Bank of Moldova under the present Law.

(2) The National Bank of Moldova shall be invested with the exclusive right to issue licenses to banks.

(3) Minimum requirements for access to banking activity and the conditions under which the National Bank of Moldova may grant a license are specified in this chapter.

(4) The National Bank of Moldova shall license a bank provided only it is fully convinced that the bank can ensure the safe conduct of banking activity and the compliance with the requirements of prudent and sound management guaranteeing the protection of interests of depositors and other creditors as well as a good functioning of the banking system, therefore making sure that the provisions of the present law and of the regulations issued for its application are observed.

Article 9. Initial capital

(1) The National Bank of Moldova shall refuse to license a bank not having the initial capital in the amount at least equal to the minimum initial capital level established by the regulations of the National Bank of Moldova. This initial capital shall not be less than 100 million lei.

(2) When establishing a bank, the initial capital shall be made up of the share capital exclusive of the bank's establishment costs.

(3) A bank's share capital shall consist of funds paid in cash, at the time of underwriting, or of state securities in case of a bridge bank, including when the capital is to be increased. The share capital shall represent the sum of the shares' par values.

(4) Shares may be acquired, in whole or in part, against the value of government securities issued for this purpose by the Government through the Ministry of Finances in case of a systemic financial crisis, as defined by the national body responsible for the management of systemic financial crises, as well as in cases provided for by Articles 111 and 217 of the Law No 232/2016 on the Recovery and Resolution of Banks.

Article 10. Head offices of the bank

The head offices of a bank, which is a legal entity of the Republic of Moldova, shall be located on the territory of the Republic of Moldova and indicated in the bylaws of the bank. The head office is the main office where its management body is located.

Article 11. Management body of the bank

(1) The National Bank of Moldova shall license a bank provided only at least three individuals conduct the current activity of the applicant bank.

(2) The individuals who were vested with management duties as members of the management body of an applicant bank shall meet the requirements of Article 43 hereto.

Article 12. Shareholders

(1) The National Bank of Moldova shall license the applicant bank provided only the bank has submitted information on the identity of its direct and indirect shareholders, including ultimate beneficiary owners, individuals or legal entities, who are to own qualifying holdings, as well as the size of their holdings, and in the absence of qualifying holdings, the applicant bank shall provide information on the identity of the 20 largest direct and indirect shareholders, including ultimate beneficiary owners, either individuals or legal entities.

(2) The National Bank of Moldova may grant license provided only it is fully convinced that the quality of the persons referred to in paragraph (1) is in line with the provisions of Article 48, paragraph (1) and that they are capable to ensure a prudent and sound management of the bank.

(3) Pursuant to the provisions of paragraph (1), the shareholders' voting rights shall be determined in accordance with the provisions of Article 45, paragraph (7).

(4) Where there are close links between a bank and any other individual or legal entity, the National Bank of Moldova shall grant license only if those links do not prevent the exercise of its supervisory function.

(5) The National Bank of Moldova shall refuse to license a bank where the laws or regulations issued by public authorities of another state governing the activity of one or more individuals or legal entities with whom the bank has close links or where the existing impediments to the enforcement of such regulatory acts prevent the exercise of the supervisory function by the National Bank of Moldova.

(6) The National Bank of Moldova shall request banks to provide specified information required for the ongoing monitoring of their compliance with the conditions referred to in paragraphs (4) and (5) and the provisions of Article 51, paragraph (5).

Article 13. Action plan, business plan and organizational structure

Any application for a bank's license must be accompanied by its action plan, which shows the bank's ability to achieve the proposed objectives under conditions compatible with the rules of a prudent and healthy banking practice, which includes the types of activities proposed to be performed and the organizational structure of the bank and indicating the parent companies, financial holding companies and mixed financial holding companies that are part of the group. The licensing application must be accompanied by the description of the activity administration framework, the processes and the mechanisms provided in Article 38 paragraph (1)."

Article 14. Activities allowed to banks

(1) Banks may carry out the following activities falling within the scope of their license:

a) to receive deposits and other repayable funds;

b) to grant loans, including: consumer loans, real estate loan agreements, factoring with or without recourse, funding of commercial transactions (including the lump-sum business);

c) to provide financial leasing;

d) to provide payment services in accordance with the Law No 114/2012 on Payment Services and Electronic Money;

e) to issue and administer traveller's checks, bills, and other payment instruments insofar such activity does not fall under provisions of letter (d);

f) to issue bank guarantees and undertake commitments;

g) to carry out transactions on own account or on behalf of clients by using any of the following money market instruments (checks, negotiable instruments, certificates of deposit, etc.); foreign currency; futures and options contracts on financial instruments; instruments based on the exchange rate and interest rate; securities and other financial instruments;

h) to issue securities and other financial instruments, and to provide services related thereof;

i) to provide consultancy services to legal entities on social capital structure, business strategy and other business related issues, as well as consultancy and services related to mergers and acquisitions of legal entities;

j) to provide money brokerage (intermediation on interbank markets);

k) to manage portfolios and provide consultancy related thereto;

l) to hold the custody and manage financial instruments;

m) to provide information services regarding lending;

n) to provide safety deposit box services;

o) to issue electronic money in accordance with Law No 114/2012 on Payment Services and Electronic Money;

p) to carry out any other activities or services permitted by the National Bank of Moldova insofar as they fall within the scope of financial activity and are in compliance with particular legal provisions governing such activities.

(2) The scope of activities referred to in paragraph (1), letters (g) – (k) covers all financial investment services provided for under Article 33 of the Law No 171/2012 on Capital Market, where these concern the financial instruments specified in Article 4 thereof.

(3) The provisions of paragraph (1) shall be construed and applied in such a way that the activities listed in paragraph (1) cover any operations, transactions, products and services, which fall within the scope of, or are similar to, those activities, including auxiliary services thereto.

(4) Activities which, according to special laws, are subject to obtaining of specific licenses, authorizations, approvals or endorsements, shall be carried out by banks only after they have obtained the specified documents. In case that the activities referred to in paragraph (1) are regulated by special laws, the banks shall, in the performance of these activities, comply with the requirements set thereof on business operations rules.

Article 15. Restrictions for the performance of certain activities

(1) Banks shall not engage in activities other than those permitted under this Law. Banks shall not engage in the activities referred to in Article 14, paragraph (1) unless they are covered by the license.

(2) Banks shall not engage in the following activities:

a) pledging of own treasury shares on account of the bank's debts;

b) extending loans secured by shares, other equity securities or bonds issued by the bank and / or its related party, including by an entity belonging to the group to which the bank is a party.

Chapter 2
LICENSING OF BANKS

Article 16. Request for license issue

(1) Banks, which are legal entities of the Republic of Moldova, prior to engaging in banking activity, shall obtain from the National Bank of Moldova the license authorizing the carrying out of activities referred to in Article 14, paragraph (1).

(2) Banks shall be established as joint stock companies pursuant to the provisions of the Law on Joint Stock Companies and the Law hereto.

(3) In order to be licensed to carry out the permitted banking activities under Article 14 hereto, the bank shall file to the National Bank of Moldova a written request in the manner established by the regulations of the latter, enclosing the documents and information on the applicant bank regarding:

a) the bank's incorporation documents;

b) the initial capital of the future bank, in accordance with the provisions of Article 9;

c) the bank's senior management list, in accordance with the provisions of Article 11;

d) the identity of the bank's shareholders, in accordance with the provisions of Article 12;

e) the business plan for the next 3 years, according to the provisions of Article 13;

f) any other information and documents stipulated in the regulations of the National Bank of Moldova.

(4) While examining a license application, the National Bank of Moldova may request any additional documents and information related to the licensing process in case the submitted documents prove to be insufficient to assess compliance with the licensing conditions.

Article 17. Licensing procedure

(1) The National Bank of Moldova shall grant a prior approval for the establishment of a bank or shall reject the application within 5 months from the date of receipt of the license application along with documents and information laid down in Article 16, paragraph (3).

(2) Within 15 working days of receipt of the license application, the National Bank of Moldova shall notify the applicant about the list of documents and information not submitted in accordance with paragraph (1), if applicable, requesting their submission.

(3) The National Bank of Moldova may request in writing, within the term provided for in paragraph (1), but not later than 3 months from the receipt of the application, the provision of any additional documents or information where the submitted information and/or documents have proved to be insufficient, irrelevant or otherwise deficient for the applicant's assessment.

(4) The applicant shall have a period of 30 calendar days from the date of notification made under paragraph (3) to submit the requested documents and/or information, respectively to remedy the identified deficiencies, during which term a 5-month period stipulated in paragraph (1) shall be suspended. The applicant shall be able to provide on its own initiative any other information and/or documents considered relevant.

(5) Any documents or information referred to in paragraphs (3) and (4) shall be submitted no later than 30 calendar days prior to the expiry of the term within which the National Bank of Moldova has to decide on the license application.

(6) The state registration of a bank shall be performed by the Public Service Agency only after the positive decision on prior approval of the bank's establishment, issued by the National Bank of Moldova under this Article, has been submitted.

(7) Where the National Bank of Moldova has decided to grant its prior approval for the establishment of a bank, the license applicant shall submit information and documents stipulated in the regulations of the National Bank of Moldova, issued pursuant to the provisions of Article 8, paragraph (4), within 5 months of the date of notification on the prior approval decision.

(8) Where the applicant fails to submit the specified information and documents within the time limit stipulated in paragraph (7), the prior approval granted for the establishment of the bank shall become invalid.

(9) The National Bank of Moldova shall take a licensing decision no later than 2 months from the date of receipt of the information and documents pursuant to paragraph (7).

(10) The National Bank of Moldova shall be able to request in writing the provision of any additional information and documents required for the applicant's assessment and / or, if applicable, the correction of any identified deficiencies within one month of the date of receipt of the documentation laid down in paragraph (7), and the applicant shall receive one month of the date of the bank's notification for their submission. The applicant shall be able to provide on its own initiative any other documents and information deemed relevant,

which shall be submitted at least 30 calendar days prior to the expiry of the term stipulated under paragraph (9).

(11) Any information or documents submitted after the expiry of the deadline set for their submission shall not be taken into account in the assessment of the license application and shall be returned to the applicant.

(12) At any stage of the licensing process referred to in paragraphs (1) to (11), the National Bank of Moldova shall notify the applicant of its decision, indicating, where applicable, the reasons of its rejection.

(13) The Bank shall be entitled to carry out activities covered by the license from the date of its issuance.

Article 18. Pre-licensing consultation of other authorities within the licensing process

(1) Prior to licensing a bank, the National Bank of Moldova shall consult with the competent authorities of another state if:

a) the bank is a subsidiary of a bank licensed in another state;

b) the bank is a subsidiary of the parent bank licensed in another state;

c) the bank is controlled by the same persons who control a licensed bank in another state.

(2) Prior to licensing a bank, the National Bank of Moldova shall consult with the National Financial Market Commission, the competent authority in charge with the supervision of investment firms or insurers of another state if:

a) the bank is a subsidiary of an insurer or an investment company licensed in the Republic of Moldova, respectively in another state;

b) the bank is a subsidiary of the parent insurance undertaking or an investment company licensed in the Republic of Moldova, respectively in another state;

c) the bank is controlled by the same person who controls an insurer or an investment firm licensed in the Republic of Moldova, respectively in another state.

(3) The authorities referred to in paragraphs (1) and (2) shall be consulted in particular in the context of the assessment of the quality of a bank's shareholders and of the reputation and expertize of the persons involved in the management of an entity licensed by such authorities, including within the same group, who shall be responsible for the management of the bank. For this purpose, the authorities shall ensure the exchange of information that is relevant for the licensing decision, but also for the ongoing assessment of the compliance with business operations rules.

(4) In order to assess the quality of persons who filed or are related to the license application, the Office for Prevention and Combating Money Laundering, upon request, shall provide the necessary support to this effect to the National Bank of Moldova, in accordance with the legislation on the prevention and combating of money laundering and terrorism financing.

(5) Where, after having licensed a bank, the National Bank of Moldova receives the status of a competent supervisory authority to exercise supervision on a consolidated basis, it shall provide relevant competent authorities referred to in paragraphs (1) and (2) with all information related to the banking groups, including information on entities closely linked to each other, as well as information on the formal framework of the bank’s management, in particular on the legal form, governance and organizational structure of the group, where the cooperation and coordination agreements have been executed pursuant to Article 111.

(6) The exchange of information stipulated under paragraphs (1) to (5) may be carried out based on or without signing any cooperation agreements, but in any of these situations, the provisions on professional secrecy laid down in Chapter 3, Title V, shall be observed.

[Article 18 amended by Law No 160 of 26.07.2018, in force as of 17.09.2018]

Article 19. Reasons for rejecting the request for the issue of license

(1) The National Bank of Moldova shall reject a license application if:

a) the submitted documents are not drawn up in accordance with the applicable legal provisions or are incomplete and/or the information provided is insufficient to assess the compliance with the licensing conditions;

b) the bank does not have separate own funds or the initial capital is less than the minimum capital level set by the National Bank of Moldova;

c) the review of the submitted business plan demonstrates that the bank cannot ensure the achievement of the proposed objectives in compliance with the requirements of the present law and the regulations issued for its application;

c¹) finds that the administration action framework, the mechanisms and the processes provided in article 38, paragraph (1) don't allow a healthy and efficient management by the respective bank or don't allow an efficient achievement of the bank supervision by the National bank of Moldova, on an individual basis and, where appropriate, on a strenghtened basis.

d) the National Bank of Moldova is not satisfied with the quality of the members of the bank's management body, as their reputation or expertize is not adequate for the nature, scope and complexity of the bank's activity or implies the inability to ensure the required prudent and sound management of the bank, according to Article 43;

e) the National Bank of Moldova is not satisfied with the quality of direct or indirect shareholders, including the ultimate beneficial owner of the bank, as they do not meet the requirements of this law and the regulations issued for its application;

f) the close links that exist between the bank and other individuals or legal entities, or the legal provisions or administrative measures imposed by the jurisdiction of a foreign state governing one or more individuals or legal entities with whom the bank has close links, or the impediments to the application of these provisions or measures are such as to prevent the effective exercise of prudential supervision by the National Bank of Moldova;

g) prior to having obtained the license, the founders publicly announced about the Bank's operation;

h) other conditions laid down in the present law are not observed.

(2) The National Bank of Moldova shall not examine the request for the issue of license in the context of the economic needs of the market.

Article 20. Term of license. Authorized copies of the license. Fees.

(1) The license shall be issued for an indefinite term and shall be non-transferable.

(2) The bank shall be issued authorized copies of the license for each branch it intends to operate under the license.

(3) The licensing fee shall be MDL 50,000.

(4) The fee of MDL 500 shall be charged for each authorized copy of the license, reissued license/copy thereof and duplicate of license.

(5) The fees listed in paragraphs (3) and (4) shall be paid to the state budget and shall be non-reimbursable if the bank or the branch of the bank fails to commence its activity or ceases to operate.

Article 21. Register of banks

(1) The National Bank of Moldova shall maintain, in electronic form, the Register of Banks, which are legal entities of the Republic of Moldova, and of branches of banks from other states, by recording the series, number and date of issue of license, the name of the bank, the addresses of the head office of the bank, as well as of branches and representative offices of the bank, the information on any reissuing of the license, issue of copies and duplicates thereof. The National Bank of Moldova shall publish the official website, and regularly update the list of all banks that have been licensed, including the branches of banks from other states.

(2) Banks, which are legal entities of the Republic of Moldova, or the branches of banks from other states, the licenses of which have been withdrawn, shall be removed from the Register by inserting a special note to indicate the date and the number of the decision adopted on the license withdrawal. The procedure of removal does not imply the actual elimination of the bank data from the Registry.

Article 22. Withdrawal of license

(1) The National Bank of Moldova shall withdraw the license issued to a bank in the following cases:

a) the bank has not commenced its activity for which it has been authorized within one year from the date of licensing, voluntarily relinquishes the license or has ceased to carry on business for more than 6 months;

b) the license was issued based on false information or through any other illegal means;

c) the bank no longer fulfils the conditions under which the license was granted;

d) the bank no longer meets the prudential requirements regarding own funds to cover the risks, large exposures or liquidity, stipulated under this law and the regulations issued for its application, or there are signs suggesting that within 12 months the bank will not be able to fulfil its obligations to its creditors and, in particular, to guarantee the safety of the assets entrusted to it by its depositors;

e) the bank has committed one of the acts implying sanctioning as laid down in Article 140;

f) the bank stops its operation as a result of reorganization;

g) the bank is liquidated based on the shareholders' decision;

h) the activities carried out by the bank during the first three years of operation differ considerably from those initially planned and reflected in its business plan, which was presented at the licensing stage, and, in the opinion of the National Bank of Moldova, such deviation is not justified by new economic conditions;

i) the direct and indirect shareholders of the bank, including the ultimate beneficial owner, do not observe the conditions stipulated in the law regarding the ensuring of a prudent and sound management of the bank, or impede the carrying out of effective bank's supervision;

j) the circumstances that warranted the appointment of the bank's interim administrator pursuant to the Law No 232/2016 on the Recovery and Resolution of the Banks have not changed or, in the opinion of the National Bank of Moldova, cannot be changed during the period of application of these measures.

k) The bank is involved in money laundering activities or infringes the requirements of preventing and combating the money laundering and terrorism financing;"

(2) The National Bank of Moldova shall withdraw the license and initiate the process of forced liquidation of a bank where it is found that the bank faces insolvency in conditions defined under letters (a) – (d) hereto whereas the conditions are not met to initiate the resolution procedure laid down in Article 58 of the Law No 232/2016 on the Recovery and Resolution of Banks. For the purposes of this paragraph, insolvency conditions shall be the following:

a) the bank is not able to pay creditors' claims falling due against it (inability to pay);
b) the bank's assets no longer cover its liabilities (over-indebtedness);
c) the absolute value of the bank's own funds is less than 1/4 of the own funds minimum set forth in the regulations of the National Bank of Moldova;
d) the bank's own funds adequacy ratios calculated pursuant to Article 60, paragraph (5) are less than 1/4 of the own funds adequacy ratios set by the National Bank of Moldova.

(2^1) The National Bank of Moldova shall withdraw the license in the term established in Article 52^1, paragraph (20), in case the new assets issued under Article 52^1 were not sold within the 6 months term provided in paragraph (15) of the same article, and represent at least 50% from the share capital of the bank and no resolution action is needed from the perspective of public interest, in the meaning of Article 60 of the Law No 232/2016 on the Recovery and Resolution of Banks.

(3) Where the withdrawal of the license is requested by a bank or based on the decision taken by its shareholders, the withdrawal of the license and the liquidation of the bank shall be carried out in accordance with the provisions of the legislation in force.

(4) Where a bank is unable to pay its debts or is over-indebted or if there is a risk of it being unable to pay claims against it, the head of the executive body of the bank shall immediately notify the National Bank of Moldova thereof.

(5) The decision of the National Bank of Moldova on license withdrawal shall contain the reasons for withdrawing the license. On the license withdrawal are notified the respective bank, the Deposit Guarantee Fund in the banking system and the State Tax Service.

[Article 22 completed by Law No 110 of 15.06.2018, in force as of 06.07.2018]

Article 23. Publication and entry into force of the decision on license withdrawal

(1) The decision on license withdrawal shall be published no later than 7 days after its adoption, in the Official Monitor of the Republic of Moldova. An announcement of the withdrawal of license shall be published within the specified term in the general circulation newspapers, as well as in the newspapers circulated in the localities where the bank has its head offices and branches, including its structural subdivisions.

(2) The decision to withdraw the license shall enter into force on the date and exact time of the adoption of the decision, stipulated therein.

(3) From the date when the decision to withdraw the license enters into force, the bank shall not be allowed to engage in any activities permitted to banks listed under Article 14. The bank shall not carry out activities other than those strictly related to liquidation.

(4) The National Bank of Moldova shall oversee the process of liquidation of a bank until its conclusion and the elimination of the bank from the State Register of Legal Entities. At the request of the National Bank of Moldova, the bank shall grant access to the authorized personnel to the bank's premises and registers, as well as submit documents, information, and reports in connection with the bank's liquidation.

Chapter 3
OPERATION OF BRANCHES OF BANKS FROM OTHER STATES

Article 24. Conditions for the operation of activities of branches of banks from other states

(1) Banks having their head office in another state, which have been licensed in another state, shall carry out activities on the territory of the Republic of Moldova provided only the following cumulative conditions are met:

a) the activity is to be carried out through the established branch office;
b) the branch was licensed by the National Bank of Moldova;
c) the competent authority in the country of origin of the bank does not oppose the establishment of the branch in the Republic of Moldova, this fact being confirmed in a document issued by the said authority;
d) the legal framework of the state of origin and/or the manner of its application does not prevent the National Bank of Moldova from exercising its supervisory functions;
e) the foreign bank complies with the provisions of this law and the regulations issued for its application.

(2) For the purposes of prudential supervision exercised by the National Bank of Moldova, all branches established on the territory of the Republic of Moldova by a foreign bank shall be considered as one branch.

(3) The activities, which are permitted to be carried out through a branch established in the Republic of Moldova, shall be stipulated in the license issued by the National Bank of Moldova and shall not exceed the scope of activities permitted to the bank under the license issued by the competent authority in the country of origin.

(4) The activity of a foreign bank's branch established in the Republic of Moldova is subject to the same prudential supervision of the National Bank of Moldova, under the present Law, as in case of banks, which are legal entities of the Republic of Moldova and are licensed by the National Bank of Moldova, including the application of sanctions and of other sanctioning measures.

(5) Branches of banks from other states shall not be considered legal entities, and their registration shall be carried out in accordance with the procedure set out in Article 12 of the Law No 220/2007 on the State Registration of Legal Entities and Individual Entrepreneurs.

(6) The provisions of Article 35 hereto shall apply in case of any modifications listed thereof which occurred in the situation of branches of banks from other states.

(7) A branch of a bank from other state established on the territory of the Republic of Moldova shall contribute with funds to the Bank Deposit Guarantee Fund according to the Law No 575/2003 on Retail Deposit Guarantees in the Banking System.

(8) Prudential requirements laid down hereto shall be duly applied pursuant to provisions of the regulations of the National Bank of Moldova to branches of banks from other states operating in the territory of the Republic of Moldova.

(9) The National Bank of Moldova may waive the application of prudential requirements to a foreign bank's branch where, following the assessment, it is found that a prudential regulatory framework of the bank's state of origin is equivalent to that established by this law and regulations issued for its application, and that the competent authority of that state exercises adequate supervision of the bank, including of its branch's activity in the Republic of Moldova.

(10) The condition provided for in paragraph (9) can be applied on a reciprocal basis only, based on a cooperation agreement executed between the National Bank of Moldova and the competent authority of a bank's state of origin, no preferential treatment being thus guaranteed to that foreign bank compared to the treatment applied to other banks operating in the Republic of Moldova.

(11) The branch of a foreign bank shall have a regulation specifying at least the name, address, size of share capital, composition of senior management as well as the type of the activity carried out by the branch, which can be modified only under written approval of the National Bank of Moldova. The term for completing the procedure for resolving the request regarding the approval of the amendment to the regulation is 20 working days, calculated from the date of submission of the request accompanied by all the documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed to process the information and documents, the term provided for in this paragraph can be extended by no more than 10 working days, with the bank's notification.

[Article 24 amended by Law No 227 of 01.11.2018, in force as of 30.12.2018]

Article 25. Name of branch

A branch established in the territory of the Republic of Moldova shall be able to use the name of the bank from its state of origin. If there is a risk of confusion, in order to ensure proper clarity, the National Bank of Moldova shall request the branch's name to be accompanied by an explanatory commentary.

Article 26. Requirements of branch licencing

(1) The licensing and operations requirements laid down in Chapters 1 and 2 of Title II shall apply to branches of foreign banks, subject to provisions of this Chapter.

(2) The National Bank of Moldova shall license a branch of a foreign bank established in the Republic of Moldova provided only it is fully convinced that the bank can ensure the carrying out of a safe banking activity on the territory of the Republic of Moldova, which shall be in compliance with the requirements of a prudent and sound administration and shall be properly supervised.

(3) The provisions of Article 18, paragraph (4) shall also apply in respect of the provision of information on the bank's related parties (individuals and legal entities) or any persons otherwise affiliated to the licensing of a branch of a bank from other state.

Article 27. Endowment capital of the branch

(1) The branch of a bank from other state shall have an endowment capital in order to be licensed and carry out its activity on the territory of the Republic of Moldova.

(2) The endowment capital of the branch shall be made up of funds provided by the foreign bank in the amount stipulated by the regulations of the National Bank of Moldova, and shall be not be less than MDL 100 million.

Article 28. Management body of the branch

(1) A bank from other state shall appoint at least three persons to manage the activity of the branch established in the Republic of Moldova, who shall be authorized to hire personnel and legally represent the foreign bank in Moldova. The reputation and the experience of such persons shall be adequate for their lines of responsibility. The provisions of Chapter 1 of Title III on the banks' senior management shall apply accordingly.

(2) Senior managers of a branch of a bank from other state shall be responsible for fulfilling by the branch of prudential requirements stipulated by this law and the regulations of the National Bank of Moldova.

(3) The senior management of the branch and the documents required for carrying out the supervision shall be located on the territory of the Republic of Moldova, at the registered office of the branch.

Article 29. Assessment of the bank that requires the opening of the branch

(1) When assessing the quality of a foreign bank, which intends to open a branch, at least the following shall be considered:

a) the level of own funds, capital requirements and the bank's liquidity;

(b) the results of the assessment conducted by the home competent authority of the direct and / or indirect shareholders, including their ultimate beneficial owners, to hold at least 10% of the bank's share capital.

(2) If there are close links between a foreign bank intending to establish a branch and other individuals or legal entities, the National Bank of Moldova shall grant the license only if such links do not impede the effective exercise of its supervisory functions.

(3) Changes, considered by the National Bank of Moldova to be significant, occurring in the shareholders' composition of a foreign bank intending to establish a branch or in the composition of persons closely linked to it, including following a merger or a splitting-up process in which a foreign bank was involved, shall be notified to the National Bank of Moldova by the bank's branch, as the above changes may lead to the withdrawal of the branch's license if the conditions under which it was issued are no longer met.

(4) Banks from jurisdictions that do not implement international standards of transparency cannot establish branches in the territory of the Republic of Moldova. The list of jurisdictions not implementing the international standards of transparency is established by the regulations of the National Bank of Moldova.

Article 30. Withdrawal of the license of the bank

(1) The National Bank of Moldova shall withdraw the license granted to a branch of a bank from other state in the conditions laid down in Article 22, paragraph (1).

(2) The license of a branch from other state shall be withdrawn in the following conditions:

a) the foreign bank decides to dissolve and liquidate its branch;

b) the entity resulting from a reorganization process, in which the foreign bank ceases to exist, decides the dissolution and liquidation of the respective branch;

c) following reorganization processes implemented within the bank or the group to which it belongs, the operation of the branch in the Republic of Moldova is taken over by another bank or branch of a foreign bank established in the Republic of Moldova;

d) the license granted to a foreign bank is withdrawn by the home competent authority of that bank or becomes invalid in any other way;

e) a decision has been adopted to liquidate the respective bank from other state;

f) the branch meets the conditions laid down in Article 22, paragraph (2).

(3) In cases defined in paragraph (2), letters (a)–(c), the foreign bank shall notify, within 2 business days, the National Bank of Moldova regarding its decision to reorganize and/or liquidate the branch in the Republic Moldova, and shall submit at least the plan on asset liquidation and debt repayment, ensuring the full repayment of claims of depositors and other creditors, or, where applicable, a plan of the branch ownership transfer.

(4) The decision to reorganize and liquidate the branch according to paragraph (2) letters a)-c) only takes effect after the confirmation by the National Bank of Moldova of the withdrawal of the license, about which the bank from another state is notified.

(5) In case of withdrawal of the license issued to a foreign bank's branch, the National Bank of Moldova shall take necessary measures to prevent the bank from carrying out new operations on the territory of the Republic of Moldova, thus protecting the interests of the depositors.

(6) The decision of the National Bank of Moldova to withdraw the license of a foreign bank's branch shall indicate the reasons for the license withdrawal. On the withdrawal of the license is notified the respective branch of a foreign bank, the Bank Deposit Guarantee Fund, the State Tax Service, and the competent authority in the state of the respective bank.

(7) In case of withdrawal of the license, the provisions of Article 23 shall apply accordingly.

Article 31. Publishing of information by the branch

(1) Branches of foreign banks shall publish the following documents in Romanian: the annual financial statements, the consolidated annual financial statements, the management body's report and, where applicable, the consolidated report drawn up by the management bodies, the audit report on annual financial statements and consolidated annual financial statements, prepared and audited under the foreign bank home country's legislation.

(2) Branches of foreign banks shall publish the annual financial statements relating to their own activity in accordance with the regulations issued for application of this law.

(3) The provisions of Articles 91-94 on bank documents' publishing requirements shall also apply to branches of foreign banks.

Chapter 4
REPORTING OF CHANGES IN THE STATUS OF BANKS

Article 32. Establishing branches and representative offices

(1) Banks, which are legal entities of the Republic of Moldova, shall open branches and representative offices on the territory of the Republic of Moldova provided a notification has been forwarded to the National Bank of Moldova within 2 working days and in compliance with conditions provided for by the regulations issued by the latter.

(2) A bank's branch shall carry out on the bank's behalf all or some of the activities authorized under the license issued to a bank and shall act within the competence scope set by the bank. The bank's representative office shall not be entitled to carry out activities covered by the license issued to the bank or any other activities, except for activities of information, representation and protection of the bank's interests.

(3) The name of the branch or representative office shall indicate its status of a branch, respectively of a representative office of the bank that established it.

(4) The registration of a branch /a representative office with the state registration body shall be made upon presenting the respective decision of the bank's management body regarding the establishment of the branch or representative office.

(5) Branches of a bank may have structural subdivisions (agencies, foreign exchange bureaus located outside their head offices, which shall not have a separate balance sheet (further - secondary offices). The name of a secondary office shall indicate its type and its

relation to the branch by which it was opened. The secondary office shall be indicated in the Regulation of the Branch.

(6) The agency shall be able to carry out activities (including those of the foreign exchange bureau) determined by the bank in accordance with the scope of activities authorized under the license issued to a bank, stipulated in the regulations of the National Bank of Moldova. A foreign exchange bureau shall operate in accordance with the Law No 62/2008 on Foreign Exchange Regulation.

(7) Where a bank has taken a decision to close its branch (secondary office), the bank (branch), within 10 days, shall notify its clients and take measures to honour its financial obligations towards them.

(8) The bank shall notify the National Bank of Moldova within 2 working days and on conditions laid down in the regulations issued by the latter, about the closure of its branch or representative office, the establishment or closure of a secondary office.

Article 33. Establishing branches in a foreign state

(1) Banks, which are legal entities of the Republic of Moldova, shall be able to carry out activities authorized under the license of the National Bank of Moldova in the territory of another state by establishing a branch in that state provided that the submitted documents and information demonstrate that the following conditions are met:

a) the bank’s management and financial standing are adequate for the proposed activity to be carried out through the branch;

b) the legislative framework of the host country and / or the manner of its application does not prevent the National Bank of Moldova from exercising its supervisory functions;

c) the bank has recorded positive evolution of the banking prudential indicators and meets other requirements laid down by this law or the regulations issued for its application.

(2) For the purposes of the present law, all branches established by a bank licensed by the National Bank of Moldova on the territory of another state shall be considered as one branch.

(3) The establishment of a branch in another state is subject to the prior approval of the National Bank of Moldova according to the normative acts issued thereof. The term for completing the procedure for resolving the request regarding prior approval is 60 working days, calculated from the date of submission of the request accompanied by all the documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed to process the information and documents, the term provided in this paragraph can be extended by no more than 30 working days, with the bank's notification.

(4) Any modification of the regulated items pursuant to paragraph (3), which are taken into consideration at the approval of a branch’s opening, shall be subject to the prior approval of the National Bank of Moldova, in terms of paragraph (3).

(5) Without prejudice to the provisions of the present law, the activity carried out in the territory of another state by a branch established by a bank, which is a legal person of the Republic of Moldova, shall be subject to the applicable legal provisions of the host country.

(6) The National Bank of Moldova shall inform the competent authority of the host country on the withdrawal of the license of a bank, which is a legal person of the Republic of Moldova, operating through a branch within the territory of that state, including on the consequences of the withdrawal of the license.

Article 34. Merging or splitting up

(1) The merging or splitting up of banks shall be carried out according to the appropriate legal provisions and in compliance with the regulations of the National Bank of Moldova.

(2) The merging or splitting up of banks is subject to the prior approval of the National Bank of Moldova according to the normative acts issued by it. The term for completing the procedure for resolving the request for prior approval is 90 working days, deducted from the date of submission of the request accompanied by all the documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed to process the information and documents, the term provided for in this paragraph can be extended by no more than 30 working days, with the bank's notification.

(3) The merging or splitting up shall be registered by the Public Service Agency only after the bank has obtained the prior approval of the National Bank of Moldova.

(4) When assessing a merging or splitting up operation, the following shall be considered without limitation:

a) the meeting of bank licensing requirements, including the size of the share capital of the new bank resulting from a reorganization process through merging or splitting up, which may not be less than 100 million lei;

b) the new bank capital’s adequacy;

c) the transparency of the new bank’s organizational structure that shall allow the exercise of efficient supervision;

d) the quality of the new bank’s senior management.

(5) The new bank that is established as a result of a merger or splitting up, as well as banks that continue existing after such an operation, shall fulfil all the conditions stipulated by this law and by regulations issued for its application.

(6) The new bank that is established as a result of a merger or splitting up shall obtain a license from the National Bank of Moldova.

(7) The provisions of paragraphs (1), (2) and (4) shall apply to any operation involving a bank, which results in a transfer of a part of the bank’s capital representing at least 25% of the bank's assets, irrespective of the way in which such an operation is carried out and whether it is decided by the management body of the bank involved in the operation.

Article 35. Changes in the status of banks

(1) Without prejudice to the provisions of Articles 32-34 and other provisions of the present Law, the following changes occurring within banks after their licensing are subject to prior approval of the National Bank of Moldova or, where applicable, to the notification of the National Bank of Moldova, according to the regulations issued by the latter:

a) amending of the bank's bylaws;
b) extension and/or modification of the scope of activity in the context of permitted banking activities in accordance with Article 14, paragraph (1);
c) acquisition of holdings in another bank according to Article 45;
d) the appointment of new members of the management bodies according to Article 43;
e) the appointment of persons on key positions according to Article 43;
f) the change of the audit entity to provide audit services according to Article 88.

(2) The provisions of Article 18 shall also apply to the provision of information on the individuals or legal entities involved in or related to the changes to be made to the bank's status after the license has been issued.

(3) The changes under paragraph (1) shall be registered by the state registration authority, based on the prior approval of the National Bank of Moldova, if required.

(4) The term for completing the procedure for resolving the request for prior approval submitted in the situations provided for in paragraph (1) letter a), b) and f) is 30 working days, deducted from the date of submission of the request accompanied by all the documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed to process the information and documents, the term provided for in this paragraph can be extended by no more than 30 working days, with the notification of the bank.

TITLE III
PRUDENTIAL REQUIREMENTS

Chapter 1
ORGANISATION AND MANAGEMENT

Article 36. Organization of banks

(1) Banks are established and operated under the conditions laid down by the Law on Joint Stock Companies and in compliance with the present Law and the regulations issued for its application.

(2) For the purposes of paragraph (1), the following provisions of the Law No 1334/1997 on Joint Stock Companies shall not be applicable to banks:

a) Article 8, paragraph (1), letters (a) and (d) and paragraph (2) regarding the General Meeting of Shareholders;
b) Article 11, paragraphs (4) and (6) regarding the dominant and dependent company;
c) Article 48, paragraph (3), letters b) and f) and paragraph (3¹), (4), (6) and (7) regarding the competencies of the General Meeting of Shareholders;
d) Article 64, paragraph (2), letter d), paragraphs (4) and (8) regarding the competencies of the Board of the bank;
e) Article 65, paragraph (5) regarding the number of the members of the Board;
f) Article 68, paragraph (2), letter b) and paragraph (5) regarding the executive body of a bank;
g) Article 69, paragraphs (6)-(8) regarding the management body;
h) Articles 70 and 71 and any other provisions which, directly or indirectly, refer to the Internal Audit Committee;
i) Article 72, paragraph (6) on extending of loans to corporate executives.

(3) Banks shall have legal, operational, financial and administrative independence from any person, including the National Bank of Moldova, the Government and other public administration authorities, unless the law provides otherwise. No person can impede the independence of banks, influence management bodies in the exercise of their functions, intervene in the activity of any bank, except for the fulfilment of specific obligations or powers stipulated by the legislation.

(4) Banks shall organize the entire activity in compliance with the principles of a bank's prudent and sound administration, the provisions of the present law and the regulations issued for its application.

(5) Banks shall assess and determine, based on the criteria set out in the regulations of the National Bank of Moldova, its significance in terms of size, internal organization and nature, the extent and complexity of the activities carried out.

Article 37. Bylaws and internal regulations

(1) The management framework of a bank, the procedures of risk identification, management, monitoring and reporting, the internal control mechanisms, as well as the policies and practices of remuneration of the members of the management body shall be established by the bylaws and internal regulations of the bank in accordance with the applicable law on joint stock companies and in compliance with the provisions of this Law and the regulations of the National Bank of Moldova issued in this respect.

(2) The bylaws of a bank shall specify the name, address, type of the activity carried out, powers of the management body, size of the share capital, type, number, par value of shares and voting rights attached thereto, obligations of direct/indirect holders and of ultimate beneficial owners to submit the information requested by the bank, to ensure its compliance with the provisions of this law.

(3) The bylaws of the bank and internal regulations shall be submitted to the National Bank of Moldova under the conditions laid down in the regulations issued by the latter.

Article 38. Management framework of activity

(1) Each bank shall have a solid clear-cut governance framework that includes a clear organizational structure with well-defined, transparent and consistent lines of responsibility, effective procedures for identifying, managing, monitoring and reporting the risks to which the bank is or may be exposed (crisis simulation scenarios), the operational risk capital adequacy assessment procedure, a liquidity adequacy assessment procedure, adequate internal control mechanisms, including rigorous administrative and accounting procedures, remuneration policies and practices, gender neutral, that promote and are consistent with sound and effective risk management.

(2) The governance framework, the procedures and mechanisms provided for in paragraph (1) shall be comprehensive and tailored to the nature, scale, and complexity of the risks inherent in the business model and the activities carried out by the bank. Internal control mechanisms shall ensure at least the implementation of risk management, compliance and internal audit functions.

(3) The principles, technical criteria and other elements related to the requirements specified in paragraphs (1) and (2) to be taken into consideration by the banks are established by the regulations issued pursuant to this law.

(4) For the purposes of paragraphs (1)-(3), the risks shall refer to: credit and counterparty risk, residual risk, concentration risk, securitization risk, market risk, interest rate risk arising from the bank’s non-trading activities, operational risk, including the information security asset risk, liquidity risk, excessive leverage risk and, where appropriate, subcategories thereof.

(5) The Bank is required to report annually on the conditions under which the bank's business management is carried out, pursuant to the regulations of the National Bank of Moldova.

(6) The provisions of this Article shall be applied subject to the provisions of Article 59, for both individual and consolidated bases.

Article 38[1]. Responsible crediting requirements

(1) Prior to concluding a credit contract, the bank assesses the creditworthiness of the consumer according to the requirements of responsible crediting, approved by the National Bank of Moldova.

(2) When assessing the creditworthiness of the consumer, the bank evaluates the capacity of this to undertake a certain obligation pursuant to the credit contract which it can honour together with the credit obligation already assumed.

(3) In the process of the assessment of the consumer's creditworthiness, the bank should, at least:

a) rely, predominantly, on the principle of preventing any delays in carrying out the payments, of non-refundable credit or of delays in exercising the collateral right.

b) respect the requirements on limiting the indebtedness of the consumer (report between the credits and guarantees, report between the debts and income, report between service debt and income, maximum maturity) provided by the National Bank of Moldova;

c) rely, predominantly on the principle of credit refund from consumer's income, and not on forced retrieval of this from the account of the pledged item or from the account of value changes of the pledged item, or from the account of consumer's assets.

(4) For the purpose of this article, by the term "consumer" we understand the individuals, the way it is entitled in article 3 of Law no. 202/2013 on credit contracts for consumers.

Article 39. Remuneration policy

(1) Each bank is required to establish and implement remuneration policies for the members of the executive body and key personnel of the bank as well as for any other employee who receives a total remuneration in the amount equal to the remuneration received by executive officers or key personnel, respecting, in a manner and approach appropriate to the size and internal organization of the bank, its nature, scale and complexity of its activities, the following principles:

a) the remuneration policy must promote and be compatible with viable and effective risk management and shall not encourage risk-taking beyond the level of tolerated risk of the bank;

b) the remuneration policy must be compatible with the long-term business model of the bank and include measures to avoid conflicts of interest;

c) the implementation of remuneration policy shall be subject, at least annually, to an independent and centralized internal assessment of compliance with remuneration policies and procedures adopted by the bank's Board;

d) the employees with control functions must be independent from the bank's operational units they control, have the appropriate authority and be remunerated according to the achievement of the objectives set for them, regardless of the performance of the operational units which they control;

e) the remuneration of persons responsible for the coordination of risk management and legal compliance must be supervised directly by the remuneration committee or, when the latter does not exist, by the Board of the bank;

f) the remuneration policy should make a clear distinction between the criteria for determining fixed base remuneration and variable remuneration. Fixed base remuneration should reflect the relevant professional experience and the employee's lines of

responsibility, as provided by the job description as part of the employment contract. Variable remuneration must reflect the employee's sustainable and risk-adjusted performance as well as performance in excess of that required to fulfil the employee's job description, as part of the employment contract;

g) fixed and variable components of total remuneration are appropriately balanced, the fixed component representing a sufficiently high proportion of the total remuneration such as to allow the operation of a fully flexible policy on variable remuneration components, including the possibility to pay no variable remuneration component;

h) the bank should establish appropriate ratios between the fixed and variable components of the total remuneration, whereby the principle that the variable component should not exceed 100% of the fixed component of the total remuneration per employee shall apply.

(2) For variable elements of remuneration, the following principles shall apply in addition to, and under the same conditions as, those set out in paragraph (1):

a) where remuneration is performance related, the total amount of remuneration shall be based on a combination of the assessment of the performance of the individual and of the business unit concerned as well as of the overall results of the bank. When assessing individual performance, the criteria laid down in the regulations of the National Bank of Moldova shall be taken into account;

b) the performance evaluation shall be carried out in a multiannual framework to ensure that the evaluation process is based on a long-term performance and that the actual payment of performance-based components of remuneration extends over a period that takes into account the business cycle of the bank and its business risks;

c) the total variable remuneration shall not limit the ability of the bank to strengthen its capital base;

d) the bank shall be able to provide guaranteed variable remuneration, which can take several forms, such as: welcome allowances, payments for newly-recruited staff which shall be limited to the first year of employment. In these cases, guaranteed variable remuneration shall not be compatible with sound risk management or with the principle of performance-based remuneration and shall not be part of the prospective remuneration plans;

e) guaranteed variable remuneration shall be exceptional and shall occur only when the bank has a sound and strong capital base;

f) payments relating to the early termination of a contract shall reflect performance achieved over time and shall not reward failure or misconduct;

g) remuneration packages relating to compensation or buy out from contracts in previous employment shall align with the long-term interests of the bank;

h) the measurement of performance used to calculate variable remuneration components shall include an adjustment for all types of current and future risks, and shall take into account the cost of the capital and the liquidity required;

i) the allocation of the variable remuneration components within the bank shall also take into account all types of current and future risks;

j) the variable remuneration shall proportionally consist of financial instruments and funds, the proper ratio and the characteristics of these instruments being determined by the regulations of the National Bank of Moldova;

k) the variable remuneration shall be paid to employees or shall vest only if it is sustainable according to the financial situation of the bank as a whole, and justified on the basis of the performance of the bank, the business unit and the individual concerned.

l) staff members shall be required to undertake not to use personal hedging strategies or remuneration- and liability-related insurance to undermine the risk alignment effects embedded in their remuneration arrangements;

m) variable remuneration shall not be paid through vehicles or methods that facilitate the non-compliance with the provisions of this law and the regulations issued for its application;

(3) The National Bank of Moldova establishes, by the regulations issued the for application of this law, the requirements regarding the remuneration policy of a bank taking into account the principles set out in paragraphs (1) and (2), as well as the remuneration principles applicable to banks benefiting of extraordinary public financial support, within the meaning of the Law No 232/2016 on Bank Recovery and Resolution.

(4) The National Bank of Moldova shall collect information on the number of persons in each bank who are paid at least MDL 1 million in a management period, including information on their lines of responsibility and the activity in which these persons are engaged, and on the main elements of remuneration, including, but not limited to, salaries, bonuses, long-term compensation and contributions to pensions.

(5) The National Bank of Moldova shall collect the aggregate quantitative information on remuneration disclosed according to the transparency and publication criteria set out in the regulations of the National Bank of Moldova, and shall use them to determine remuneration trends and practices pursued in the banking system of the Republic Moldova.

(6) The National Bank of Moldova shall be able to impose restrictions on the type and characteristics of variable remuneration instruments or may prohibit the use of such instruments in the manner set out in the regulations issued pursuant to this law. These restrictions and prohibitions may apply to both components of variable remuneration, either carried forward or not.

(7) A bank shall include in the individual employment contracts executed with individuals, whose professional activities have a significant impact on its risk profile, clauses that ensure compliance with the remuneration requirements as set out in the regulations of the National Bank of Moldova.

Article 40. Management body

(1) For the purposes of this law, the management body of a bank shall be represented by its Board and the executive body.

(2) The Board of a bank shall consist of an odd number of individuals, but not less than three. The members of the Board shall be elected by the General Meeting of Shareholders of the bank for up to 4 years. The members of the Board may be re-elected for a new term.

(3) The executive body shall be composed of at least three individuals appointed by the Board of the bank for a period laid down in the bank's bylaws. Members of the executive body may be re-elected for a new term.

(4) The powers of the Board and the executive body shall be non-transferable and laid down in the bank's bylaws and internal regulations, subject to the provisions of this law and regulations of the National Bank of Moldova issued for its application.

(5) Members of the Board and of the executive body shall be responsible for complying with the applicable legislation and for fulfilling all the requirements stipulated by this law and regulations issued for its application pursuant to the powers assigned under paragraph (4).

Article 41. Board of the bank

(1) The Board of the bank shall perform the supervisory and monitoring role of the management decision-making process and shall be responsible for the bank's overall activity and financial soundness.

(2) The Board of a bank shall define and oversee the implementation of a business management framework that ensures effective and prudent bank management, including separation of responsibilities within the organization and prevention of conflicts of interest. Board members shall foster a healthy corporate governance of a bank, including through personal conduct, and, in fulfilling their duties, shall take into account legal interests of the bank and its depositors and shareholders. The Board shall ensure the efficient co-operation of the bank with the National Bank of Moldova.

(3) The main duties of the Board shall include:

a) to be fully responsible for the bank's activity; to approve and oversee the implementation of strategic objectives, the risk management strategy and the bank's business management framework, including the corporate governance code; to ensure the performance standards are maintained in accordance with the bank's long-term financial interests and applicable capital requirements;

b) to nominate, appoint and revoke members of the executive body, and to determine their duties;

c) to exercise effective and efficient oversight of the executive body;

d) to report, at least annually, to the General Meeting of Shareholders on the supervisory activity carried out;

e) to scrutinize, discuss and challenge, in a constructive way, the suggestions, explanations and information provided by the members of the executive body, opposing their decisions, if required;

f) to monitor and periodically evaluate the effectiveness of the business management framework, including the bank's governance principles, and to take appropriate actions to address any deficiencies;

g) to approve the annual financial statements and ensure the integrity of accounting and financial reporting systems, including financial and operational controls, and the compliance with relevant legislation and standards;

h) to decide on the setting up of specialized committees referred to in Article 44, including the appointment of the members of the board, the operation and competence of which are provided by the present law and regulations of the National Bank of Moldova;

i) to adopt and review, at least annually, the general principles of remuneration policy and be responsible for overseeing its implementation;

j) to oversee the process of publication of information and external communication;

k) without prejudice to the provisions of Article 36, paragraph (2), to perform the duties defined under Article 48, paragraph (4) and Article 64 of the Law No 1134/1997 on Joint Stock Companies;

l) to perform any other duties arising from this law or regulations issued for its application.

(4) In addition to the provisions of the applicable legislation regarding the members of the Board, the following persons cannot be elected as members of the Board, or, if elected, shall be disqualified:

a) a person who is or will become a member of the Board in two or more banks of the Republic of Moldova, except when they are part of the same group;

b) a person whose approval, initially granted by the National Bank of Moldova according to Article 43, was withdrawn.

(5) At least 1/3 of the bank's board members must be independent. For the purposes of this Article, being independent means that the member of the bank's board of directors has no recent or previous current relationship or links of any kind with the bank, shareholders, indirect holders or management of the bank, which could influence the member's objective and balanced judgment and reduce its ability to make decisions independently. The member of the bank's council cannot accumulate the membership status in the bank's council with the one of an employee of the respective bank or of another bank. The requirements that ensure the independence of the members of the bank's board and that must be observed by them are established in the normative acts of the National Bank of Moldova issued in application of this law.

(6) By way of derogation from the provisions of Article 65, paragraph (11), letters (a) and (c) of the Law No 1134/1997 on Joint Stock Companies, the mandates of the members of the Board shall cease to be effective on the day when the National Bank of Moldova approves the new members elected by the General Meeting of Shareholders.

(7) To obtain the approval of the National Bank of Moldova on the membership of persons elected or appointed as members of the Board, the bank shall submit an application, enclosing a set of documents in accordance with the provisions of applicable regulations, within 60 working days from the date of election or appointment, an extension of the above period by 30 days being permitted to the National Bank of Moldova under reasonable grounds, not related to the person elected or appointed as a member of the Board. Otherwise, persons, whose documents have not been submitted to the National Bank of Moldova within the set time limit, shall be deemed excluded from the Board.

Article 42. Executive body of the bank

(1) The executive body of the bank shall carry out the bank's current management under the direct oversight of the Board and shall manage the bank's activity in an efficient and prudent manner, consistent with the bank's strategy and business management framework approved by the Board.

(2) The main duties of the executive body shall include:

a) to implement strategic objectives, the risk management strategy and the bank's business management framework, including the corporate governance code, approved by the Board of the bank;

b) to ensure an adequate and transparent organizational structure of the bank, including the separation of responsibilities within the bank;

c) to perform a proper monitoring of the subordinate personnel's activity;

d) to ensure the assignment of tasks and responsibilities of the bank's staff and to set up a management structure that promotes a responsible and transparent bank's activity;

e) without prejudice to the provisions of Article 36, paragraph (2), to perform the duties provided by Articles 68 and 69 of the Law No 1134/1997 on Joint Stock Companies;

e^{1}) to decide on the cancelation, issue, sale, redemption and conversion of newly issued assets under Article 52^{1};

f) to perform any other duties arising from this law or regulations issued for its application.

(3) The executive body shall regularly inform the Board on, at least, the following:

a) the conditions that may have impact over the bank's strategy and/or the business management framework;

b) the financial performance of the bank;

c) the violation of the risk limits or compliance rules;

d) the identified deficiencies of the internal control system.

(4) In exercising their duties, members of the executive body may act jointly or separately, as provided for in the bank's internal regulations.

[Article 42 completed by Law No 110 of 15.06.2018, in force as of 06.07.2018]

Article 43. Application of governance principles

(1) Each of the members of the management body and key personnel shall possess, at all times, good repute, knowledge, skills, and experience appropriate to the nature, scale, and complexity of the bank's activity and responsibilities, and shall operate in compliance with the rules of a prudent and sound banking practice.

(2) The overall composition of the management body shall reflect an adequately broad range of experiences.

(3) The bank shall ensure that persons nominated for the positions of members of the management body and on the bank’s key functions at all times meet the requirements laid down by this law and by the regulations of the National Bank of Moldova.

(4) The National Bank of Moldova shall collect information to be published in accordance with its regulations on the diversity of qualities and competences engaged when recruiting members of the bank's management body, and shall use that information to benchmark diversity practices at the level of the banking system of Moldova.

(5) Each of the persons referred to in paragraph (1), before assuming his/her position, shall be approved by the National Bank of Moldova or the National Bank of Moldova shall be notified after the person has been appointed, according to the regulations issued for the application of the present law. The deadline for completing the procedure for resolving the approval request is 45 working days, calculated from the date of submission of the respective request accompanied by all the documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed for the processing of information and documents, the term provided for in this paragraph may be extended by a maximum of 30 working days, with the notification of the bank. The National Bank of Moldova will permanently pursue the observance of the approval requirement in relation to the persons referred to in paragraph (1).

(6) In case of being notified of the appointment as provided for in paragraph (5), the National Bank of Moldova may oppose to it by requiring the bank to take necessary steps to comply with this Law and the regulations issued for its application.

(7) Members of the management body shall collectively possess sufficient knowledge, skills and expertise in order to be able to understand the bank's activities, including the main risks associated therein, and to give fully informed opinion on issues on which they have to decide according to their competencies.

(8) Each member of the Board of a bank shall exercise its responsibilities with honesty, integrity and objectivity in order to be able to effectively assess and call into question the decisions taken by the Executive body, if necessary, and to effectively oversee and monitor the management decision-making.

(9) The National Bank of Moldova shall have the authority to decide on the extent of the fulfilment of minimum requirements set out in this law and regulations issued for its application, to assess all circumstances and information related to the activity, reputation and experience of the persons referred to in paragraph (1), and to decide whether the requirements are met, both individually and collectively.

(10) Members of the management body shall commit sufficient time to carry out their duties.

(11) Pursuant to paragraph (10), the number of directorships that a person may hold in other banks and/or other entities at the same time shall be determined in the light of individual circumstances and the nature, scale and complexity of the bank's activity.

(12) In case of banks that are considered significant in terms of their size, internal organization and the nature, extent and complexity of the activities carried out, the persons referred to in paragraph (10), holding multiple directorships, shall not hold more than one of the following combinations of directorships at the same time:

a) one executive directorship or the like held concurrently with two Board directorships or other two non-executive directorships;

b) four Board directorships or other four non-executive directorships held concurrently.

(13) For the purposes of paragraph (11), the following shall count as a single directorship:

a) any executive or non-executive directorships or the like held within the same group;

b) any executive or non-executive directorships or the like held within:

- contractual or institutional protection schemes, which establish contractual or legal responsibilities to protect banks and, in particular, to provide them with liquidity and required capital to avoid bankruptcy, where applicable;
- undertakings (including non-financial entities) in which the bank holds a qualifying holding.

(14) Directorships in organizations or entities, which do not pursue predominantly commercial objectives, shall not count for the purposes of paragraph (11).

(15) The National Bank of Moldova may authorize members of a bank’s management body to hold one additional Board directorship or a similar non-executive function, taking into account the complexity of the duties assigned by all the directorships held by such persons.

(16) For the purposes of paragraphs (1), (2), (7), (8) and (10), the criteria used for the assessment, the information and documents to be provided for carrying out such assessment shall be detailed in the regulations of the National Bank of Moldova.

(17) The Bank shall include in the individual labour contracts executed with the members of the executive body and key personnel the clauses ensuring the bank's compliance with the requirements of Articles 139 and 141, including through the provisions on the non-payment of the variable component of remuneration or of other incentives and compensation payments in cases of non-compliance.

Article 44. Specialized committees of the bank’s board

(1) Each bank shall set up and have an audit committee and a risk committee set up by the Board of the bank.

(2) Where a bank is significant in terms of size, internal organization and nature, extent and complexity of its activities, the Board of the bank, in addition to the committees mentioned in paragraph (1), shall establish the nomination committee and the remuneration committee.

(3) Special committees referred to in paragraphs (1) and (2) shall be formed exclusively of the members of the Board, and at least 1/3 of their member shall be independent as defined in the provisions of Article 41, paragraph (5). Special committees referred hereto shall report directly to the Board of the bank.

(4) By way of derogation from the provisions of Article 26, paragraph (1), letter (b) and Article 50 of the Law No 1134/1997 on Joint Stock Companies, with regard to the

terms and procedure for selecting candidates for the position of member of the bank's board, the bank's board shall identify and recommend, including from the members proposed by shareholders, the candidates for approval by voting at the General Meeting of Shareholders. For significant banks, the nomination committee is responsible for identifying and recommending applications. In case of approval/election of the person within the management body of the bank, the bank's board shall establish the areas for which the approved/elected person will be responsible. The terms and procedure for selecting candidates for the position of member of the bank's board shall be set out in the bank's bylaws and/or internal regulations.

(5) The competencies, duties and responsibilities of special committees referred to in paragraphs (1) and (2), as well as the requirements set for their members, shall be laid down in the regulations of the National Bank of Moldova.

(6) The banks that are not considered significant may combine the audit committee and the risk management committee, while the banks that are considered significant may combine the appointment committee and the remuneration committee. In both cases, the justified decision on combining the committees shall be notified to the National Bank of Moldova within 10 days from the approval of the decision by the bank's Board. The members of the combined committees shall have the necessary knowledge, skills and expertise required for ensuring their proper operation. Failure to meet the membership quality requirements for the combined committees allows the National Bank of Moldova to object to the decision to combine the committees, including to require the bank to take necessary measures to remedy the shortcomings.

[Article 44 completed by Law No 32 of 27.02.2020, in force as of 02.05.2020]

Chapter 2
SHAREHOLDERS OF THE BANK

Article 45. Requirement on receiving prior approval and restrictions

(1) Prior to acquiring shares of a bank, each person shall undertake to obtain from the National Bank of Moldova prior approval under the conditions provided for in Articles 47-49 in the following cases:

a) where a proposed acquirer intends to acquire, by any means, directly or indirectly, including as the ultimate beneficial owner, a qualifying holding in a bank or to increase, directly or indirectly, including as the ultimate beneficial owner, the qualifying holding so that the proportion of its voting or holding rights reaches or exceeds the level of 5%, 10%, 20%, 33% or 50% or so that the bank becomes its subsidiary;

b) where a general acquirer intends to acquire, individually or in concert, by any means, a holding in a bank which falls under provisions of paragraph (2) of this Article or of paragraph (2) of Article 52;

c) where a person intends to receive shares of the bank as a contribution to its share capital.

(2) The exercise of the right to vote, the right to convene and hold the general meeting of shareholders, the right to introduce issues on the agenda, the right to propose candidates for members of the management body, the right to receive dividends is suspended by law from the date of the decision of the National Bank of Moldova confirming the purchase/acquisition made in violation of the provisions of paragraph (1). The National Bank of Moldova notifies the proposed acquirer/ general acquirer and the bank, within 5 days from the date on which it learned about the acquisition/acquirement made in violation

of the provisions of paragraph (1), about the incidence of the provisions aimed at suspending the exercise of the rights indicated in this paragraph.

(3) The shares the voting rights of which are suspended shall not be excluded when considering the convening of the general assembly of shareholders and determining the quorum. If the shares the voting of which are suspended account for 50 percent of more of the bank's shares granting voting rights, by way of derogation from Article 57, paragraph (1) of the Joint Stock Companies Law 1134/1997, it is deemed that the general assembly of shareholders has a quorum when the holders of at least 25 percent of the bank's shares granting voting right attend. The shares the voting rights of which are suspended do not participate in adopting decisions regarding the topic on the agenda of the general assembly of shareholders.

(4) Persons to have breached the provisions of paragraph (1) shall, within 3 months from the date of NBM decision notification by which it was found the purchase/acquisition carried out with violation of the provisions of paragraph (1) of this article, dispose of shares related to the ownership thus acquired. Where the shares have not been disposed after the expiry of the above term, the provisions of Article 52^1 shall become applicable.

(5) Pursuant to the provisions of paragraph (1), it shall be presumed, based on the findings of the National Bank of Moldova unless proved otherwise, that several persons are acting in concert as proposed acquirers.

(6) The persons authorized under the law to register the transfer of ownership over the shares of a bank shall make respective records only upon presentation of the prior approval issued by the National Bank of Moldova, in conditions provided under the present law. The procedure for recording the transfer of the ownership right over a bank's shares shall be duly coordinated with the National Commission for Financial Market and laid down in the regulations of the National Bank of Moldova.

(7) Pursuant to the provisions of this chapter, the way of determining the voting rights shall be coordinated with the National Commission for Financial Market and laid down in the regulations of the National Bank of Moldova.

(8) Persons residing in jurisdictions that do not implement international standards of transparency shall not be entitled to perform proposed/general acquisition of direct or indirect holdings in a bank. The list of jurisdictions not implementing the international standards of transparency shall be established in accordance with Article 29, paragraph (4).

[Article 45 amended by Law No 110 of 15.06.2018, in force as of 06.07.2018]
[Article 45 completed by Law No 273 of 15.12.2017, in force as of 01.01.2018]

Article 46. Waiver of prior approval requirement

(1) The provisions of Article 45, paragraph (1), letters a) and b) shall not apply in conditions provided for by the regulations of the National Bank of Moldova. In this case, the exercise of the right to vote, the right to convene and hold General Meeting of Shareholders, the right to put issues on the agenda, the right to nominate candidates for the management body membership or the right to receive dividends shall be suspended by law from the date of acquisition until the date on which the National Bank of Moldova issues its prior approval under the present Law. The National Bank of Moldova shall inform the acquiring shareholder, within 5 days from the date on which it learned of the acquisition under this paragraph, about the incidence of the provisions regarding the suspension of the exercise of the rights provided for in this paragraph.

(2) In the event referred to in paragraph (1), the acquiring shareholder shall inform the National Bank of Moldova about the acquisition made, within 15 days from the date thereof,

and shall request the prior approval of the National Bank of Moldova within 60 days from the date of acquisition.

(3) Where requesting or granting prior approval, the provisions of Articles 47-49 shall apply.

(4) If shareholders do not request the prior approval of the National Bank of Moldova within the time limit stipulated in paragraph (2) or if, following the assessment made, the National Bank of Moldova refuses to grant its prior approval, the shareholders shall dispose, within 3 months from the date of acquisition or, where applicable, from the date on which such refusal was issued, of the shares related to the qualifying holding so acquired. If after the expiry of the term the shares have not been disposed, the provisions of Article 52^1 shall become applicable.

[Article 46 amended by Law No 110 of 15.06.2018, in force as of 06.07.2018]

Article 47. Procedure of receiving prior approval

(1) The proposed acquirer / general acquirer shall request the prior approval of the National Bank of Moldova for the acquisition or increase of the holding, whichever applicable, of the qualifying holding in a bank in cases provided by Article 45, paragraph (1), by indicating the size of the holding to be acquired and by submitting the relevant documents and information referred to in Article 48, paragraph (5).

(2) When requesting the prior approval provided for in Article 45, paragraph (1), the potential acquirer/general acquirer shall submit the relevant documents and information according to the regulations of the National Bank of Moldova, which shall be examined within the terms provided for in paragraphs (4)-(10).

(3) The National Bank of Moldova shall acknowledge in writing to the proposed acquirer /general acquirer the receipt of the application under paragraph (1) or of additional information under paragraph (5), promptly or, in any event, within 5 working days following receipt.

(4) The National Bank of Moldova shall carry out the assessment provided for in Article 48, paragraph (1) within 60 working days from the date of the written acknowledgment of receipt of the application and of all requisite documents in accordance with the regulations of the National Bank of Moldova referred to in Article 48, paragraph (5). In case of document deficiency, the assessment period shall start to run from the date of the receipt by the National Bank of Moldova of all relevant documents. The National Bank of Moldova shall notify the proposed acquirer/general acquirer of the date of the expiry of the assessment period at the time of acknowledging receipt. The National Bank of Moldova may refuse to grant prior approval without having conducted an assessment if it possesses documents or data to prove the unsuitability of the proposed acquirer/general acquirer based on at least one of the criteria set forth in Article 48.

(5) During the assessment period provided for in paragraph (4) but not later than on the 50th business day of the assessment period, the National Bank of Moldova may, if required, request further information that is necessary to complete the assessment. Such a request shall be made in writing and shall specify the additional information needed.

(6) The proposed acquirer/ general acquirer submits the additional information requested by the National Bank of Moldova within 20 working days from the date of notification by the National Bank of Moldova of the request. In case of non-fulfilment of this obligation, the provisions of Article 48 paragraph (3) shall apply. During that term, the evaluation term provided for in paragraph (4) of this article is suspended. Any additional requests made by the National Bank of Moldova to complete or clarify the information received cannot lead to the suspension of the evaluation term. The National Bank of

Moldova can decide to extend the term for the presentation of additional information necessary for the evaluation up to 30 working days if the proposed acquirer/ general acquirer is located or regulated in another state or is a person who is not subject to supervision by the National Bank of Moldova or by the National Commission of the Financial Market. The evaluation term is suspended including during the extension of the deadline for presenting the additional information necessary for the evaluation.

(7) Where the National Bank of Moldova agrees or refuses to grant its prior approval, it shall notify the proposed acquirer/general acquirer of its decision in writing, within two working days of its adoption, without exceeding the assessment period; besides, in the event it opposes the acquisition, it shall state the reasons of its refusal.

(8) At the request of the proposed acquirer/general acquirer, the National Bank of Moldova shall make available to the public an appropriate statement of the reasons underlying its decision. This shall not prevent the National Bank of Moldova from publishing such information even in the absence of the request of the proposed acquirer/general acquirer.

(9) If granting its prior approval, the National Bank of Moldova may fix a maximum time frame, which may not be less than 3 months, for concluding the proposed/general acquisition and may extend the term, where appropriate.

Article 48. Assessment of the proposed acquirer/acquirer

(1) When examining the application and information provided for in Article 47, paragraph (1) and (2), the National Bank of Moldova shall, in order to ensure the sound and prudent management of the bank in which an acquisition is proposed, and having regard to the likely influence of the proposed acquirer on that bank, assess the suitability of the proposed acquirer and the financial soundness of the proposed acquisition in accordance with the following criteria:

a) the reputation of the proposed acquirer;

b) the reputation, knowledge, skills and experience of any member of the management body and any member of senior management who will direct the business of the bank as a result of the proposed acquisition;

c) the financial soundness of the proposed acquirer, in particular in relation to the type of business pursued and envisaged in the bank, in which the acquisition is proposed;

d) whether the bank will be able to comply and continue to comply with the prudential requirements under this Law as well as set forth in the regulations issued for its application, and where applicable, in other legislative acts in force, in particular with regard to the supplementary supervision of banks, insurance and / or reinsurance undertakings and investment companies, which are part of a financial conglomerate, or regarding the issuance of electronic money, including whether the group of which it will become a part has a structure that makes it possible to exercise efficient supervision or effectively exchange information among the competent authorities and to determine the allocation of responsibilities among these competent authorities;

e) whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorism financing within the meaning of the provisions of the relevant legislation, is being or has been committed or attempted, or that the proposed acquisition could increase the risk thereof.

(2) When examining the application and the information provided for the general acquirer of a non-qualifying holding, in conditions referred to in Article 45, paragraph (1), letters (b)-(d), in order to ensure transparency of these transactions, the National Bank of Moldova shall assess the suitability of the general acquirer by the cumulative examination

of criteria set out in paragraph (1) letters a) and e), and proper application of the provisions of paragraphs (3)-(7) hereto.

(3) The National Bank of Moldova shall grant its prior approval provided only that:

a) is fully satisfied with the quality of the proposed acquirer, including its financial soundness in relation to the proposed acquisition, considering it suitable based on a cumulative examination of the criteria set out in paragraph (1);

b) does not suspect that the ultimate beneficial owner of the proposed acquisition is a person other than the person stated in the application;

c) there is no excessive stratification of shareholders (when between the proposed acquirer and the ultimate beneficial owner there are more than 3 layers);

d) the information and documents provided by the proposed acquirer are complete and / or contain no erroneous data.

(4) The National Bank of Moldova shall neither impose any prior conditions in respect of the level of holding that is to be acquired nor shall assess the proposed acquisition in terms of the economic needs of the market.

(5) The criteria and conditions set out in paragraphs (1), (2) and (3), the elements to be considered in the assessment of their fulfilment, the list of information and documents required for carrying out the assessment shall be detailed in the regulations of the National Bank of Moldova. The requested information and documents shall be proportionate and adapted to the nature of the proposed acquirer/acquirer and the proposed acquisition. The National Bank of Moldova shall not request information that is not relevant for a prudential assessment.

(6) The National Bank of Moldova may decide to carry out the assessment provided for in this Article only with reference to the person who is a direct holder of shares in a bank's share capital and to the ultimate beneficial owner thereof.

(7) Without prejudice to the provisions of Article 47, paragraphs (3)-(6), if the prior approval of the National Bank of Moldova is requested where there are two or more proposals to acquire or increase qualifying holdings in the same bank, it shall treat the proposed acquirers in a non-discriminatory manner.

Article 49. Cooperation between competent authorities in the assessment of a proposed acquirer

(1) When carrying out the assessment provided for under Article 48, paragraph (1), the National Bank of Moldova shall fully consult and cooperate in all respects with other national competent authorities or other states to be involved in the assessment, in cases where the proposed acquirer is one of the following:

a) a credit institution, life insurance undertaking, general insurance undertaking, reinsurance undertaking, investment company, licensed in another state or in a sector other than that in which the acquisition is proposed;

b) a parent undertaking of an entity of the kind referred to under letter (a) that is licensed in another state or in another sector of the financial system;

c) an individual or legal entity controlling an entity of the kind referred to under letter (a) that is licensed in another state or in a sector other than that in which the acquisition is proposed;

(2) Pursuant to the provisions of paragraph (1), the National Bank of Moldova shall, without delay, provide all supervisory authorities involved in the assessment any information, which is essential or relevant therefor. As the competent authority of a bank in which the acquisition is proposed, the National Bank of Moldova shall take into account all essential information provided by the supervisory authorities concerned and may request

from them all the information that they consider relevant for the assessment. The decision of the National Bank of Moldova on the proposed acquisition/acquisition shall quote any opinion or reservation expressed by the competent authority responsible for the proposed acquirer/acquirer.

(3) The National Bank of Moldova shall be able to take any steps to check the information/documents, enclosed with the application by the proposed acquirer/ acquirer, with the relevant local or foreign competent authorities. The national competent authorities shall provide the information requested by the National Bank of Moldova.

(4) The information requested from any collaborating authority shall be proportionate and adapted to the nature of the proposed acquirer/acquirer and the proposed/general acquisition, and to be relevant for the purposes of prudential assessment.

5. The exchange of information under this Article shall be carried out with or without concluding a cooperation agreement, but always in compliance with the professional secrecy provisions of Chapter 3, Title V.

Article 50. Notification on the disposal or decrease of a qualifying holding

Any individual or legal entity who has taken a decision to dispose, directly or indirectly, including as the ultimate beneficial owner, of a qualifying holding in a bank or to reduce its qualifying holding so that the proportion of the voting rights or of the capital held would fall below 20%, 30% or 50% or so that the bank would cease to be its subsidiary, shall notify the National Bank of Moldova and the concerned bank in writing, in advance, of such decision, in accordance with the provisions of relevant regulations. For the purposes of calculating the voting rights, the regulations issued by the National Bank of Moldova pursuant to Article 45, paragraph (7) shall be taken into account.

Article 51. Subsequent information

(1) A bank shall inform the National Bank of Moldova as soon as it becomes aware of any acquisition or disposal, directly or indirectly, including by the ultimate beneficial owner, of holdings in its share capital exceeding the levels of 1%, 5%, 10%, 20%, 33% and 50% or as a result of which the bank becomes a subsidiary, respectively if holdings fall below the above-mentioned levels, and/or any acquisitions occurred in conditions defined under Article 45, paragraph (1), letters (b)–(d), as well as about any facts or circumstances that give rise to the suspicion that such acquisition or divestiture occurred in breach of the provisions of the present law and regulations of the National Bank of Moldova.

(2) A bank shall inform the National Bank of Moldova, at its request, of the identity of the direct and indirect holders of qualifying holdings, including of the ultimate beneficial owner, and the size of such holdings, based on the available information, in the manner and under the conditions laid down in the regulations of the National Bank of Moldova.

(3) Any direct or indirect holder, including the ultimate beneficial owner, of ownership interest in the capital of a bank shall submit to the National Bank of Moldova, at its request, the information about its business activity, including annual financial statements, income statements, as well as other information required for carrying out investigations or checking the compliance with the criteria listed in Article 48, paragraph (1) and (2), in the manner and under the conditions stipulated by the regulations of the National Bank of Moldova. Any direct or indirect holder of ownership interest in the share capital of a bank shall provide the bank, at its request, the information about its identity and the identity of its related parties, as well as information on the persons with whom the holder acts in concert in relation to the bank.

(4) Any direct or indirect holder, including the ultimate beneficial owner, shall undertake to notify the National Bank of Moldova and the bank about any acquisition for which it has obtained prior approval under Article 45, paragraph (1), within 10 days of the date of the acquisition.

(5) The National Bank of Moldova shall be informed of any agreement, regardless of the form in which it was concluded, having as its object or effect: the concerted exercise of the right to vote at the General Meeting of Shareholders of the bank or at the general meetings of the persons exercising control over the bank; the concerted activity within the management body of the bank or among the persons exercising control over it; or the exercise of the right to nominate the majority of members of the bank's management body or persons exercising control over it. This obligation rests with the parties to the agreement and the management body of the bank or the persons to whom the agreement refers, the notification following to be made within 5 working days of signing the agreement or, if the agreement was not executed in writing, from the date when circumstances that reveal its existence become known.

(6) The National Bank of Moldova shall ensure the ongoing compliance with the requirements under Article 48 and may require, directly and/or indirectly, from the bank and/or from any holder of an ownership interest in a bank, including the ultimate beneficial owner, any information deemed necessary or may impose against the bank, its directors and direct or indirect holders of an ownership interest in the share capital of a bank, including the ultimate beneficial owner, provisional measures, sanctions and/or appropriate sanctioning measures under the present law.

(7) The information submitted under this Article may be verified by the National Bank of Moldova under the conditions of Article 49.

Article 52. Non-compliance with the requirements on the status of shareholders

(1) Where a direct or indirect holder of a qualifying holding, including the ultimate beneficial owner, no longer fulfils the requirements of this Law and the regulations of the National Bank of Moldova issued for its application regarding the quality of a bank's shareholders or exerts an influence over the bank, which may jeopardize the prudent and sound administration of that bank, and where a direct or indirect holder of a qualifying holding, including the ultimate beneficial owner, has not provided the National Bank of Moldova with information that clearly reveals the identity of the ultimate beneficial owner or where the National Bank of Moldova observes the concerted activity of the qualifying shareholders without its prior approval, the National Bank of Moldova may impose the following measures and sanctions, including cumulatively:

a) to suspend the exercise of the voting rights attached to the shares held, the right to convene and hold the General Meeting of Shareholders, the right to put issues on the agenda, the right to nominate candidates for the members of the management body, to receive dividends, or just some of these rights;

b) to order the person, whose voting right has been suspended, to dispose of the shares held, under the conditions of paragraphs (2) and (3) of this article;

c) to withdraw the prior approval granted under Article 45;

d) to apply other measures and/or sanctions in accordance with the provisions of Articles 139 and 141 hereto, and/or of Articles 42, 46, 58-59 of the Law No 232/2016 on Recovery and Resolution of Banks.

(2) Within 3 months from the date of the prior withdrawal of approval, the qualifying shareholders shall dispose of the shares held. If, within the said term, an application has been submitted to the National Bank of Moldova, under Article 47, by a new proposed

acquirer/general acquirer regarding the holding for which the right to vote has been suspended under paragraph (1), the above-mentioned 3-month disposal period shall be suspended for the assessment period provided for in Article 48.

(3) Where, after the expiration of the time frame stipulated under paragraphs (2) or (6), the shares have not been disposed, the provisions of Article 52^1 shall become applicable. The nullity or other type of invalidity of the decision of the Executive body of a bank regarding the cancellation of the shares which have not been disposed of within the term stipulated under paragraph (2) and regarding the issuance of new shares in the same number and the same class or of the decision of the National Commission of the Financial Market on the registration of the new shares issued under Article 52^1 does not attract invalidity and does not otherwise affect the issuance of the new shares. The right of the injured persons to ask the decision issuer to repair the damage remains unaffected.

(4) The persons against whom the sanctions under Article 45, paragraph (2) and paragraph (1) of this Article have been imposed shall no longer hold, directly or indirectly, shares in the concerned banks, as well as in other banks.

(5) A former shareholder, whose shares were cancelled under the provisions of paragraph (3) of this Article and whose claim resulting from this cancellation was not honoured, as well as its related parties, shall be treated like the bank's shareholders and their related parties in case of bank resolution or forced bank liquidation.

(6) The National Bank of Moldova may extend the 3-month term provided for in Article 45, paragraph (4), Article 46, paragraph (4), and paragraph (2) of this Article for up to 3 months, no more than 3 times, if the extension is required to prevent compromising of the financial stability or if there is a public interest in granting the extension or when there has been identified by the bank or the National Bank of Moldova, without a prior assessment of the National Bank of Moldova, a proposed acquirer of the shares exposed for sale, whose suitability and adequacy do not give rise to reasonable doubt at the date of the extension decision, based on the proposed acquirer of shares' notification in the manner provided by the normative acts of the National Bank of Moldova.

(7) The National Bank of Moldova shall inform the bank and the concerned qualifying holders of the extension of the term under paragraph (6) before the expiry of the previous term set for the divestiture of shares.

[Article 52 amended by Law No 110 of 15.06.2018, in force as of 06.07.2018]
[Article 52 completed by Law No 274 of 15.12.2017, in force as of 01.01.2018]
[Article 52 amended by Law No 273 of 15.12.2017, in force as of 01.01.2018]

Article 52^1. Procedure of cancelation, issue, sale, acquisition, and conversion of held quota share by non-compliance with the requirements on the status of shareholders

(1) The procedure of cancelation, issue, sale, acquisition, and conversion of held quota share by non-compliance with the requirements on the status of shareholders, established by this Article, shall be applied by derogation from the provisions of Law No 1134/1997 on Joint Stock Companies.

(2) If the shares were not disposed of within 3 months or during the extended term provided in Article 52, paragraph (6), the executive body of the bank – within no more than 15 days from the expiry of the term given to shareholders for their sale – shall issue and submit to the National Commission for Financial Markets the decision on the cancelation of these shares and the issue of new shares in the same amount and of the same class.

(3) The decision of the executive body of the bank also includes information regarding the nominal (fixed) value of newly issued shares, the term for sale and conditions for establishing the initial price for sale, considering the provisions of paragraph (12).

(4) The National Commission for Financial Markets shall issue the decision regarding the registration of removal of cancelled shares and decision on the registration of newly issued shares within no more than 15 days from the date of submission with the National Commission for Financial Markets of the decision provided in paragraph (2), accompanied by the corresponding documents. The registration of the issue of shares shall be performed under the regulatory acts of the National Commission for Financial Markets.

(5) Within no more than 3 days from the date of registration of newly issued shares under paragraph (4), the central depository/register companies/investment companies shall perform the registration of cancelled shares from the account of corresponding holders of securities and the registration of the newly issued shares in the account of the bank.

(6) Under this article, the newly issued and registered shares in the account of the bank before their sale, are shares in circulation without voting rights, which do not provide the right to receive dividends and parts from the goods of the company in case of its liquidation, and cannot constitute a contribution in the share capital of a trading company. The shareholders of the bank do not have the right of first refusal on the newly issued shares in the conditions of this Article.

(7) Within no more than 5 days from date of establishing the initial price under paragraph (12), the bank shall put up for sale the newly issued shares and inform the public through one or more national newspapers, in electronic form on the website of the bank or the investment company which provides intermediation services, and in electronic form on the website of the regulated market or of the multilateral trading system:

a) information regarding the bank and the securities, that shall be put up for sale;

b) information that shall allow investors to make an assessment of assets and liabilities, financial situation, profit or loss, and the perspectives of the bank;

c) description of businesses and financial situations of the bank during the last 3 years.

(8) The term for the sale of newly issued shares by the bank shall not exceed 3 months from the date of putting these shares up for sale, except as indicated in paragraph (9).

(9) The National Bank of Moldova may order the extension of the 3 months term provided in paragraph (8) with no more than 3 months, at most 3 times, if the extension is necessary to avoid jeopardizing the financial stability, or if there is a public interest for the extension or when there was identified by the bank or the National Bank of Moldova, based on the notifications of the proposed acquirer of the shares in manner provided by the normative acts of the National Bank of Moldova, a proposed acquirer of the shares displayed for sale whose suitability and adequacy do not give rise to reasonable doubt on the date of issuance of the extension decision. The request to extend the terms for the sale of newly issued shares by the bank is submitted 10 working days before the expiration of the previous term established for the sale of newly issued shares.

(10) The National Bank of Moldova shall inform the bank and notify the National Commission for Financial Markets on the extension of the term provided in paragraph (9) or the rejection of the request for extension until the expiry of the previous term established for the sale of newly issued shares.

(11) The sale of the newly issued shares shall take place on the regulated market or within the framework of the multilateral trading system at the initial price established under the conditions of paragraph (12), which can be subsequently modified under the conditions

of paragraph (13). The newly issued shares are put up for sale exclusively in a single batch, consisting of their total number, and shall be purchased by a single purchaser or a group of persons acting in concert.

(12) The initial price for the sale of newly issued shares shall be established by the bank, within no more than one month from the date of expiry of the term set for the holders of securities for the sale of shares, in the following conditions:

a) if the newly issued shares do not exceed 10% of the share capital – starting with the value of shares resulted from the application of one of the criteria set in Article 23, paragraph (2) of the Law No 171/2012 on the Capital Market, by applying Article 23, paragraph (7) of the same law for the criterion established in Article 23, paragraph (2), letter a) of the Law No 171/2012 on the Capital Market;

b) if the newly issued shares exceed 10% of the share capital, for the banks which value of assets does not exceed MDL 5 billion – starting with the value of shares resulted from an evaluation performed by an independent evaluation company;

c) if the newly issued shares exceed 10% of the share capital, for the banks which value of assets exceed MDL 5 billion – starting with the value of shares resulted from an evaluation performed by an entity with sound reputation and internationally recognized experience in the field of assessment of securities of public interest entities and which has no conflicts of interest with the issuer, which may be a bank, an audit or evaluation company. The evaluation shall be performed on condition of prior notification of the National Bank of Moldova on the selected evaluator.

(13) During the periods of sale of newly issued shares established in paragraphs (8) and (9), for the feasibility of the transaction, the executive body of the bank can modify the previously established price by bringing justified arguments in case of occurrence of factors that might influence significantly the price of shares through its update, as the case may be, in the conditions of paragraph (12).

(14) Any change of the price shall be brought to the knowledge of the National Bank of Moldova and disclosed to the public, at least in the ways described in paragraph (7).

(15) If the newly issued shares were not sold as a single batch in the term established in paragraph (8) or the extended term set in paragraph (9), the executive body of the bank shall dispose of the newly issued shares as separate shares during a 6 months term from the date of expiry of the term provided in paragraph (8) or the extended term set in paragraph (9).

(16) The initial price for the sale of shares under paragraph (15) starts with the last price previously established. During the 6 months period mentioned in paragraph (15), the executive body shall modify the price of shares put up for sale once per month, by diminishing it as follows:

– in the first month – by 10% against the last price previously established;
– in the 2nd month – by 15% against the price established in the previous month;
– in the 3rd month – by 20% against the price established in the previous month;
– in the 4th month – by 25% against the price established in the previous month;
– in the 5th month – by 30% against the price established in the previous month.

(17) The funds obtained after the sale of newly issued shares shall be transferred in a bank account temporarily opened by the bank for this purpose. The bank shall register the funds obtained from the sale of newly issued shares in the accounts of former holders, by applying the principle of proportionality, after deducting the sums related to the fees applied against the former holders, if they were not paid, and the expenses related to the issue and cancelation, evaluation, sale of shares, including the taxes, payments, commissions. The

provisions of this paragraph shall be applied without any breach of legal provisions on prevention and combating money laundering and terrorism financing.

(18) Investment companies shall immediately inform the bank about the clients that purchased shares under the conditions of the present Article. The bank shall provide to the National Bank of Moldova the list of persons that purchased the newly issued shares within 5 days from the expiry of the term established for sale.

(19) If within the 6 months term established in paragraph (15) of this Article, the newly issued shares were not sold and they represent at least 50% of the share capital of the bank, in case a resolution action is necessary from the perspective of public interest in the meaning of Article 60 of the Law No 232/2016 on Recovery and Resolution of Banks, the National Bank of Moldova – as resolution authority – can perform one of the following resolution actions provided by Law No 232/2016 on Recovery and Resolution of Banks.

(20) If within the 6 months term established in paragraph (15) of this Article, the newly issued shares were not sold and they represent at least 50% of the share capital of the bank, the National Bank of Moldova shall determine that there is no need for a resolution action from the perspective of public interest in the meaning of Article 60 of the Law No 232/2016 on Recovery and Resolution of Banks, as well as if the bank is not in one of the insolvency situations provided in paragraph (2), Article 22 of this Law, the National Bank of Moldova, within 2 months from the expiry of those 6 months, shall withdraw the license issued to the bank, without the application of forced liquidation stipulated in the Law No 550/1995 on the liquidation of banks.

(21) In the case provided in paragraph (20) of this Article, the bank shall, within a 30 days term from the expiry of the 6 months term, submit to the National Bank of Moldova the request and documents specified in Article 38^{16}, paragraph (3) of the Law No 550/1995 on on the liquidation of banks. Otherwise, the National Bank of Moldova shall initiate the process of forced liquidation of the bank under the provisions of the Law No 550/1995 on the liquidation of banks. The National Bank of Moldova shall examine the request and documents attached within 30 days from the date of submitting, and issue the approval for voluntary liquidation, if the circumstances provided in Article 38^{16}, paragraph (4) of the Law No 550/1995 on on the liquidation of banks are identified by the NBM. Once the approval for voluntary liquidation is issued, the National Bank of Moldova shall withdraw the license of the bank. If the National Bank of Moldova refuses to issue the approval for voluntary liquidation, the process of forced liquidation of the bank under the provisions of the Law No 550/1995 on the liquidation of banks shall be initiated.

(22) If within the term established in paragraph (15) of this Article, the newly issued shares were not sold and represent less than 50% of the share capital of the bank, the executive body shall – within 10 days from the expiry of the term established in paragraph (15) – request the prior approval of the National Bank of Moldova in the meaning of Article 62, and within 5 days from the receipt of prior approval, shall issue the decision on acquisition of unsold shares within the maximum limit of elements that can be distributed, by observing the prudential requirements regarding own funds for hedging and adequacy indicators of the own funds of banks. The acquisition price of unsold shares is the last sale price or exposure of newly issued shares and put up for sale under paragraph (15) of this Article. Following the acquisition of newly issued shares, the bank shall register the funds in the accounts of former holders that were opened by the bank for this purpose, by applying the proportionality principle, following the deduction of sums related to the fees applied to former holders, if they were not paid, as well as the expenses related to the issue and cancelation, evaluation, sale, acquisition of shares, including taxes, payments and commissions. The shares repurchased by the bank, which belong to one class or

more, represent treasury shares and cannot exceed 10% of the share capital of the bank. In case of exceeding the respective limit, the bank shall dispose of the repurchased shares in no more than 3 years from the date of breach of the mentioned limit. The shares which were not disposed of during this term shall be cancelled, and the bank will have to reduce accordingly its share capital.

(23) For the shares which were not repurchased by the bank under the conditions of paragraph (22), the executive body shall issue the decision on conversion by cancelling the respective shares through reduction of the share capital of the bank and issue of subordinate debts on the name of former holders, at the last sale price of newly issued shares and put up for sale under paragraph (15) minus the sums related to the fees applied to former holders, if they were not paid, and minus the expenses related to the issue and cancelation, evaluation, sale, acquisition of shares, including the taxes, payments, commissions. The subordinate debt shall be issued by the executive body of the bank in virtue of this Law, for a 5 years term, without interest, and shall have the characteristics of subordinate debt provided by the regulatory acts of the National Bank of Moldova, being considered Tier 2 instruments. The respective subordinate debt is included for the scope of internal recapitalization instrument, including for reduction and conversion, under the Law No 232/2016 on the Recovery and Resolution of Banks, except the conversion of this debt in shares.

[Article 52[1] introduced by Law No 110 of 15.06.2018, in force as of 06.07.2018]

Article 53. Disposal of holding in a bank of a resident person from jurisdictions which do not implement international transparency standards

(1) A resident of the jurisdiction, which does not implement the international standards of transparency, who owns, directly or indirectly, a holding in a bank, shall dispose of such holding within 3 months of the date on which that jurisdiction was qualified, pursuant to the regulations of the National Bank of Moldova, as a jurisdiction that does not implement the international standards of transparency.

(2) In conditions referred to in paragraph (1) of this Article, the provisions of Article 45, paragraphs (2)-(4) shall become applicable.

Article 54. List of shareholders entitled to participate in the general meeting of shareholders

(1) At least 7 days prior to a General Meeting of Shareholders, the bank or the persons convening the General Meeting of Shareholders shall submit to the National Bank of Moldova the list of shareholders entitled to participate in the General Meeting of Shareholders.

(2) At least 3 days before the date of the General Meeting of Shareholders, the Central Depository of Securities and the custodians of shares shall inform the bank and the persons convening the General Meeting of Shareholders about any transfer of the ownership right over the shares of the bank, which occurred after the date of submission of the list of shareholders.

(3) The data obtained under paragraph (2) shall be submitted to the National Bank of Moldova by the bank or the persons calling the General Meeting of Shareholders at least 2 days before the date of the meeting.

(4) The National Bank of Moldova shall examine the documents submitted in accordance with paragraphs (1) and (3) and shall present its written opinion on the list of shareholders to the Commission for the participants' registration and to the bank or persons convening the General Meeting of Shareholders.

(5) The list of shareholders entitled to participate in the General Meeting of Shareholders shall not be valid in the absence of the written opinion of the National Bank of Moldova.

(6) By way of derogation from the provisions of Article 52, paragraph (4), letter c) of the Law No 1334/1997 on Joint Stock Companies, the list of shareholders of a bank with the right to participate in the General Meeting of Shareholders shall not be changed within 3 days prior to the date of the General Meeting of Shareholders.

Chapter 3
QUALIFYING HOLDINGS OF BANKS

Article 55. Value of a qualifying holding in a bank

(1) Any qualifying holding the amount of which exceeds 10% of the bank's eligible capital, as defined in the regulations of the National Bank of Moldova, held in a legal entity, which is not one of the following, shall be subject to the provisions of paragraph (3):

a) a financial sector entity;

b) an enterprise that is not a financial sector entity and carries out activities considered by the National Bank of Moldova to be any of the following:

- activities that are a direct extension of banking services;
- activities auxiliary to banking services;
- leasing, factoring, investment fund management, data processing services or any other similar activity.

(2) The total amount of a bank's qualifying holdings in enterprises other than those referred to in paragraph (1) letters (a) and (b), which exceeds 20% of its eligible capital, shall fall under provisions of paragraph (3).

(3) Banks shall be prohibited from having the qualifying holding referred to in paragraphs (1) and (2), the amount of which exceeds the eligible capital’s proportion referred to in those paragraphs.

(4) For the purposes of this Article, only those qualifying holdings in non-financial entities shall be taken into account which are equal or higher than 10% of the share capital of an entity or of the voting rights attached, or which make it possible to exercise significant influence over the management of the said entity.

Article 56. Interdiction to take control over non-financial sector entities

A bank shall not acquire qualifying holdings in any entity other than those referred to in Article 55, paragraph (1), letters (a) and (b) if the bank can exercise control over that entity.

Article 57. Waiver

(1) Holdings in entities not referred to in Article 55, paragraph (1), letters (a) and (b) shall not be included in the calculation of the eligible capital limits referred to in that Article if any of the following conditions are met:

a) holdings are held temporarily during a financial assistance operation aimed to restructure and rescue the entity as provided for in the National Bank of Moldova's regulations on own funds;

b) the holdings are related to the firm takeover commitments, maintained for 5 working days or less;

c) the holdings are held by the bank in its own name but on behalf of other persons.

(2) Holdings in financial assets other than holdings in affiliated undertakings and securities for long-term use in the normal course of business shall not be taken into account in the calculation of the limits provided for in Article 55, paragraphs (1) and (2).

(3) For the purposes of this Article, the holdings referred to in paragraphs (1) and (2) shall be acquired only following the prior approval of the National Bank of Moldova in accordance with the regulations issued for the application of this law. The term for completing the procedure for resolving the request for prior approval is 30 working days, calculated from the date of submission of the request accompanied by all the documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed for the processing of information and documents, the term provided for in this paragraph may be extended to 30 working days, with the notification of the bank.

Article 58. Prior approval of the National Bank of Moldova

(1) For the purposes of this Chapter, a bank shall acquire a qualifying holding in a foreign state subject to the prior approval of the National Bank of Moldova if, after that acquisition, the entity shall be included in the scope of prudential consolidation of that bank under the requirements laid down in the regulations of the National Bank of Moldova. The term of completing the settlement procedure of the request on prior approval is of 90 working days, calculated from the request submission date, accompanied by all documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed to process the information and documents, the term provided for in this paragraph can be extended by no more than 30 working days, with the notification of the bank.

(2) The proposed acquisition of qualifying holdings referred to in paragraph (1) shall be made based on following assessment criteria:

a) the acquisition of a qualifying holding shall not expose the bank to unjustified risks or prevent carrying out of an effective oversight on a consolidated basis;

b) the bank shall have sufficient financial and organizational resources to acquire and administer a qualifying holding.

(3) Qualifying holdings other than those subject to prior approval under paragraph (1) shall be notified to the National Bank of Moldova within 5 days from the date of their acquisition by the bank.

Chapter 4
REQUIREMENTS FOR HEDGING AND REPORTING

Article 59. Level of application of prudential requirements

(1) Banks shall comply with the requirements of this Law and the regulations of the National Bank of Moldova on an individual level and, where applicable, on a consolidated level. The application by a bank of these requirements on an individual level or, where appropriate, on a consolidated level shall be established according to the regulations of the National Bank of Moldova.

(2) The National Bank of Moldova shall require parent undertakings and their subsidiaries, which are banks and are subjects of this law, to fulfil the obligations related to the business management framework and the remuneration policy on a consolidated level in order to ensure that the processes, mechanisms and business management framework, provided for in Articles 38 and 39 hereto and in the regulations issued for the application of

the present law, are consistent and well integrated at group level, and that any data or information relevant for the carrying out of supervision can be obtained.

(3) For the purposes of paragraph 2 hereto, the National Bank of Moldova shall ensure that parent undertakings and their subsidiaries which are banks implement those processes, mechanisms and business management framework within their subsidiaries not covered by this law. The respective processes, mechanisms and business management framework shall be consistent and well integrated, and the concerned subsidiaries shall be able to provide any data and information relevant for carrying out the supervision.

(4) Obligations arising under Articles 38 and 39 regarding subsidiaries, which are not covered by this law and are located in another state, shall not apply if the parent bank, which is a legal person of the Republic of Moldova, can prove to the National Bank of Moldova that the requirements of paragraph (3) are not applicable under the law of the state in which the subsidiary is established.

Article 60. Own funds and their minimum value for hedging

(1) In order to ensure the stability and the safety of the performed activity and/or the fulfilment of its commitments, each bank shall maintain an adequate level of its own funds pursuant to provisions of paragraph (4), but not lower than the level set by the National Bank of Moldova under Article 9, paragraph (1). A bank's own funds may not fall below the initial capital level set for the license applicants by the regulations of the National Bank of Moldova issued for the application of this law.

(2) The requirements and categories of own funds, elements to be included in the calculation of own funds, the conditions and limits within which they may be taken into account and the situations in which such limits may be exceeded, prudential filters, deductions from the level of the own fund elements, and any other requirements for their determination shall be stipulated by the regulations issued for the application of the present law, both on an individual basis and on a consolidated basis, for routine situations and, where appropriate, for emergency cases.

(3) Any reference to the notion of own funds contained in this law, regulations or other acts issued for the application of this law shall be considered to be made to the concept of own funds defined in the regulations issued for this purpose.

(4) Without prejudice to the provisions of Chapter 1, Title II and to the powers of the National Bank of Moldova under Article 5 hereto, banks at any time shall, to the extent and under the conditions laid down in the regulations issued for the application of this law, have the own funds' level equal or higher than the level required to cover credit risk, dilution risk, counterparty credit risk, position risk, settlement / delivery risk, foreign exchange risk, commodity risk, credit adjustment risk and operational risk, whichever appropriate.

(5) Banks shall at all times comply with the minimum levels set for the own funds adequacy ratios calculated as a ratio between the own funds categories and the total exposure amount, as set out in the regulations of the National Bank of Moldova.

(6) Methodologies for determining the exposure value for each category of risk as well as the total value of the risk exposure shall be established in the regulations of the National Bank of Moldova.

(7) The provisions of paragraphs (1)-(6) shall not prevent banks from having own funds and their components at the level that exceeds the requirements of the present law and the regulations issued for its application or from applying stricter measures than those provided by the present law and by the regulations of the National Bank of Moldova.

Article 61. Methodologies for determining the own funds requirements

The regulations of the National Bank of Moldova issued for the application of this law set out methodologies for determining the own funds requirements for covering the risks provided for under Article 60 hereto, the criteria of their application and the business segments to which they are addressed.

Article 62. Prior approval of own funds

(1) The National Bank of Moldova shall grant prior approval to banks for at least the recognition, value decreasing, reduction, distribution and exemption from deduction of the own funds elements, as well as for the distribution by the banks of the profit to the shareholders and/or for the payment of interest to the holders of additional Tier 1 equity instruments, in the manner and terms prescribed by the regulations issued pursuant to this law. The maximum term for completing the procedure for resolving the request regarding prior approval is 40 working days, calculated from the date of submission of the request accompanied by all the documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed to process the information and documents, the term of the respective procedure can be extended by a maximum of 10 working days, with the bank's notification.

(2) Without prejudice to other cases expressly established by this law, banks may not carry out the operations provided in paragraph (1) if the National Bank of Moldova considers that this may lead to non-compliance with its own funds or other prudential indicators or to jeopardize the bank's stability.

Article 63. Capital buffers

(1) Banks shall have adequate own funds to maintain capital buffers prescribed by the National Bank of Moldova. For meeting capital buffer requirements, the banks shall use components of own funds as stipulated by the National Bank of Moldova. Capital buffers shall be maintained above the required own funds minimum set by the National Bank of Moldova under Articles 60 and 139.

(2) For the purposes of paragraph 1, banks shall have adequate own funds for keeping the capital buffer, the capital countercyclical buffer, the buffer for systemically important financial institutions (SIFI) and the systemic risk buffer, to the extent and under the conditions laid down by the regulations issued by the National Bank of Moldova for the application of this law.

(3) The banks shall not use the own funds maintained to meet the requirements set out in paragraphs (1) and (2) in order to comply with any other requirements laid down in this law or imposed by the National Bank of Moldova under this law.

(4) Where a bank does not have sufficient own funds to meet the capital buffer requirement referred to in paragraph 2, it shall be subject to capital conservation measures. The National Bank of Moldova establishes, through its regulations, capital conservation measures, including, but not limited to, the application of restrictions and therefore the need to obtain prior approval from the National Bank of Moldova regarding distributions of profits, and the obligation to submit for approval the capital conservation plan.

(5) If the National Bank of Moldova does not approve the capital conservation plan, it shall take at least one of the following measures:

a) shall order the bank to raise the level of its own funds to a prescribed level, following a specific schedule;

b) shall exercise the powers provided for under Article 139, paragraphs (1) and (2) in order to impose more stringent restrictions on distributions of profits than those provided for in paragraph (4).

(6) Where a bank has a sufficient level of own funds to comply with capital buffer requirements under paragraph (2), the bank shall be prohibited from making distributions set forth by the National Bank of Moldova under paragraph (4) if such distributions would lead to a decrease in own funds down to a level where the buffer requirements are no longer met.

(7) For the purposes of this Article, the National Bank of Moldova undertakes, without limitation, the following: establishes the method of calculating the capital buffer, identifies systemically important financial institutions and the banks which shall maintain the systemic risk buffer, fixes the capital buffer rates, recognizes the capital buffer rates established by the authorities of other states and, where appropriate, applies capital conservation measures.

Article 63¹. Requirements on macroprudential policy instruments

In order to prevent and reduce the systemic risk identified, the national Bank of Moldova can establish requirements on macroprudential policy instruments, as well as the level of implementation of these to the banks.

Article 64. Own funds requirements for credit risk hedging

(1) Methodology for determining the level of exposure to credit risk and dilution risk as well as the own funds requirements for credit risk hedging shall be established in the regulations of the National Bank of Moldova.

(2) When calculating the level of exposure to credit risk, banks shall use the standardized approach or, under the approval of the National Bank of Moldova, the Internal Rating-Based (IRB) approach.

(3) The National Bank of Moldova shall, through its regulations, establish a list of states where the provisions of prudential oversight and regulation are considered equivalent in terms of dealing with exposures pursuant to the regulations issued for the application of this law.

Article 65. Standardized approach of credit risk

(1) The methodology and the conditions for determining the level of exposure to credit risk, as well as the cases and conditions under which the National Bank of Moldova grants prior approval when applying the standardized approach, shall be established by the regulations issued for the application of the present law.

2. Under the standardized approach, the level of exposure to credit risk, including exposures associated with the securitization, shall be determined by using the ratings produced by External Credit Assessment Institutions or by Export Credit Agencies, recognized by the National Bank of Moldova, in the manner established in the regulations of the National Bank of Moldova.

(3) The list of the recognized External Credit Assessment Institutions shall be established by the regulations of the National Bank of Moldova.

Article 66. Internal rating-based approach of credit risk

(1) The methodology and conditions for determining the level of exposure to credit risk and dilution risk by applying the internal rating-based approach as well as the minimum

conditions under which the use of that approach can be approved shall be established by the regulations of the National Bank of Moldova issued pursuant to this law.

(2) Banks may obtain prior approval for the application of the internal rating-based approach only if they demonstrate to the National Bank of Moldova that the implemented credit risk management and credit risk rating systems comply with the minimum conformity assessment standard requirements laid down by the regulations issued for the application of this law. The term for completing the procedure for resolving the request for prior approval is 90 working days, calculated from the date of submission of the request accompanied by all the documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed to process the information and documents, the term provided for in this paragraph can be extended by no more than 30 working days, with the bank's notification.

(3) Where a bank no longer fulfils the conditions under which it has been granted approval for applying the internal rating-based approach, it shall present to the National Bank of Moldova an appropriate corrective actions plan or demonstrate that the effects of non-compliance with conditions are insignificant.

(4) All important aspects of the rating and assessment processes shall be approved by the management body of the bank or by a committee appointed for that purpose, which shall be comprised of members of the Board and of the Executive body. The stakeholders need to demonstrate a general understanding of the bank's rating systems and a thorough understanding of the associated management reports.

Article 67. Credit risk mitigation techniques

Regardless of the credit risk measurement approach applied (the standardized approach or the internal rating-based approach), the National Bank of Moldova shall, through its regulations, establish at least:

a) the eligible forms of credit risk mitigation techniques and the requirements associated therewith;

b) principles of recognition and methods of calculation of risk mitigation;

c) the cases and conditions under which the National Bank of Moldova grants prior approval for their application.

Article 68. Exposures associated with securitization

When applying the standardized approach and the internal rating-based approach for the measurement of credit risk, the National Bank of Moldova shall, with regard to exposures associated with securitization, establish through its regulations:

a) the methodology for calculating the risk exposure associated with securitization, the cases and conditions under which the National Bank of Moldova shall grant prior approval for their application;

b) the conditions for the recognition of significant risk transfer;

c) the conditions under which banks may use external credit ratings produced by External Credit Assessment Institutions.

Article 69. Application of various approaches to credit risk measurement

The bank can go back to using a less sophisticated approach or can use a combination of approaches for credit risk only after obtaining the prior approval of the National Bank of Moldova and under the conditions provided by the normative acts issued for the application of this law. The term for completing the procedure for resolving the request for prior approval is 60 working days, calculated from the date of submission of the

request accompanied by all the documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed to process the information and documents, the term provided for in this paragraph can be extended by no more than 30 working days, with the bank's notification.

Article 70. Own funds requirements for operational risk hedging

(1) Methodologies for determining the own funds requirements for covering the operational risk and of the level of exposure to the operational risk shall be laid down in the regulations of the National Bank of Moldova.

(2) In order to determine the own funds requirements for covering the operational risk, banks may use the following approaches:

a) the basic approach; or
b) the standardized approach subject to the notification of the National Bank of Moldova; or
c) the alternative standardized approach subject to the prior approval of the National Bank of Moldova; or
d) the advanced assessment approach subject to the prior approval of the National Bank of Moldova.

(3) The conditions under which banks may use the approaches provided for in paragraph (2) or a combination thereof, or may go back to using a less sophisticated approaches, are laid down in the regulations issued for the application of this law. The term for completing the procedure for resolving requests for prior approval, submitted according to paragraph (2) letters c) and d), is 60 working days, calculated from the date of submission of the request accompanied by all the documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed for the processing of information and documents, the term provided for in this paragraph may be extended by a maximum of 30 working days, with the notification of the bank.

Article 71. Own funds requirements for market risk hedging

(1) The methodologies for determining own funds requirements to cover market risk, as well as the circumstances and conditions when the National Bank of Moldova shall give a prior permission in the context of determining own funds requirements for market risk shall be set in the normative acts of the National Bank of Moldova. The term for completing the procedure for resolving the request for prior approval is 60 working days, calculated from the date of submission of the request accompanied by all the documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed for the processing of information and documents, the term provided for in this paragraph may be extended by a maximum of 30 working days, with the notification of the bank.

(2) For the purposes of paragraph (1) the position risk, currency exchange risk, the settlement risk and the commodities risk are envisaged.

(3) The specific instruments and the subcategories of the position risk shall be regulated in the normative acts of the National Bank of Moldova.

(4) For the purposes of determining own funds requirements to cover market risk, the banks may use:

a) methods regulated in the normative acts issued to enforce this law, for the position risk, the currency exchange risk, the settlement risk and the commodities risk;

b) internal models for position risk, currency exchange risk and commodities risk, with the approval of the National Bank of Moldova.

(5) The conditions in which the banks may use the methodologies specified in paragraph (4) shall be set in the normative acts issued to enforce this law.

Article 72. Internal rating-based approaches and other approvals granted by the National Bank of Moldova for the market risk

(1) The National Bank of Moldova may allow a bank to calculate own capital requirements to cover market risk and, namely, the position risk, the exchange rate risk and/or the commodities risk using its own internal models or their combined use with the methods established by normative acts issued for the application of this law and shall establish conditions for using these models.

(2) Every bank shall require and obtain prior approval from the National Bank of Moldova for the use of own internal models for the risks referred to in paragraph (1), in conditions established by the normative acts issued for the application of this law. The term for completing the procedure for resolving the request for prior approval is 60 working days, calculated from the date of submission of the request accompanied by all the documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed to process the information and documents, the term provided for in this paragraph can be extended by no more than 30 working days, with the bank's notification.

Article 73. Own funds requirements for other risk hedging

(1) The methodologies for determining own funds requirements to cover counterparty credit risk and credit valuation adjustment risk and the conditions to be met by the banks while using those methods, as well as the prior approvals granted by the National Bank of Moldova for the use of the calculation model of the exposure value for the counterparty credit risk are provided in the normative acts issued for the application of this law.

(2) The bank may return to the use of less sophisticated approach or use a combination of approaches for the risks referred to in paragraph (1) with approval only from the National Bank of Moldova and in conditions provided in the normative acts issued for the application of this law.

(3) The term for completing the procedure for resolving the request for prior approval submitted according to this article is 60 working days, calculated from the date of submission of the request accompanied by all the documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed to process the information and documents, the term provided for in this paragraph can be extended by no more than 30 working days, with the bank's notification.

Article 74. Requirements for large exposures

(1) Without prejudice to the provisions of paragraph (2), the banks are obliged to comply with large exposure limitations established by the normative acts of the National Bank of Moldova.

(2) The National Bank of Moldova shall set through normative acts the way of calculating large exposure, the methodology for determining the value of the exposure, the conditions for complying with the large exposure limitations and the conditions of reporting information regarding large exposures.

(3) Every bank shall have sound administrative and accounting procedures and adequate internal control mechanisms for the purposes of identifying, managing,

monitoring, reporting and recording all large exposures and subsequent changes to them, in accordance with this law and the normative acts of the National Bank of Moldova.

Article 75. Exposures to the transferred credit risk

(1) The banks shall permanently follow the requirements for the exposures to transferred credit risk established by the normative acts of the National Bank of Moldova.

(2) The National Bank of Moldova shall establish the regime of the transferred credit risk exposures by setting requirements for the banks depending on their quality in such a transfer.

Article 76. Requirements for liquidity

(1) The banks shall meet liquidity requirements, as set through the normative acts of the National Bank of Moldova.

(2) The banks must meet the liquidity requirements so that to make sure that the banks maintain the liquidity provisions that are adequate for allowing them to tackle eventual imbalances between liquidity inflows and outflows in case of grave crisis for a 30-day period.

(3) The banks must comply with the sound financing requirement and hence must ensure the adequate capacity to meet long term liabilities through a range of sound financing instruments both under normal circumstances and in crisis circumstances.

(4) The methodologies for determining liquidity requirements, as well as the circumstances and conditions when the National Bank of Moldova give prior permissions, derogations, approvals, authorizations and stricter conditions shall be provided by the normative acts issued to enforce this law. The term for completing the procedure for resolving the request regarding prior approval, requests for granting exemptions, approvals, authorizations and establishing stricter conditions is 60 working days, calculated from the date of submission of the respective request accompanied by all the documents that must presented to the National Bank of Moldova. If an additional examination is required or more time is needed to process the information and documents, the term provided for in this paragraph can be extended by no more than 30 working days, with the notification of the bank.

Article 77. Calculation of the leverage ratio indicator

(1) The banks shall calculate the leverage ratio indicator and must meet the requirements regarding this indicator as set forth by the normative acts of the National Bank of Moldova.

(2) The way of calculating the leverage ratio indicator, the methodology for determining its elements, as well as the circumstances and conditions in which the National Bank of Moldova gives permission for waiving the application of certain exposures shall be set forth in the normative acts issued to enforce this law. The term for completing the procedure for resolving the request on prior approval is of 60 working days from the date of the request submission, accompanied by all the documents that have to be presented to the National Bank of Moldova. If an additional examination is required or more time is needed to process the information and the documents, the term provided by the present paragraph can be extended with no more than 30 working days, with the bank's notification.

Article 78. Internal capital adequacy assessment process to risks

(1) The banks shall have formalized, sound, efficient and complete strategies and processes of assessment and permanent maintenance of the internal capital level,

structure and distribution, which, from the perspective of the bank, are considered appropriate, to cover all risks they are or are likely to be exposed to, proportionate to the nature and level of these risks. In this regard, the bank shall imply, along with the risks referred to in Article 60 paragraph (4) of this law, any other risks related to the activity organized, as well as those caused by external factors.

(2) The processes and strategies under paragraph (1) shall be subject to regular internal reviews by the bank, so that to ensure they are always comprehensive and proportionate against the nature, size and complexity of the activities organized by the bank.

(3) The banks are accountable for the internal process of assessment of the capital adequacy to their own risk profile.

Article 79. Liquidity adequacy assessment

(1) The banks must maintain adequate liquidity provisions levels.

(2) For the purposes of paragraph (1), the banks must have sound strategies, policies, processes and systems to identify, measure, manage and monitor liquidity risk over a corresponding series of time horizons, including during the day.

(3) The strategies, policies, processes and systems referred to in paragraph (2) must be proportionate to the complexity, risk profile, the bank's object of activity and risk tolerance set by the management body.

(4) The banks must have liquidity risk profiles that comply with and do not exceed the level set for an adequately operating sound system.

(5) For the purposes of paragraph (4), the banks shall take into account the nature, size and complexity of their activities.

Article 80. Transactions with persons related to banks

(1) The bank cannot lend to or make transactions with the persons related to the bank as defined at Article 3 if such lending is provided or such transactions are made on more favourable conditions than those offered to the persons who are not related to the bank.

(2) The bank must submit to the National Bank of Moldova, as set forth in its normative acts, information on the persons related to the bank, the banks' lending to them and the bank's transactions with them.

(3) The bank's transactions with related persons shall be made under certain conditions, limitations and restrictions set by the National Bank of Moldova, that might include the requirement to make additional provisions for losses on loans and other assets related to the transactions with related persons.

(4) The bank cannot lend to any of its employees except for within the limits and under the conditions set by the National Bank of Moldova in its normative acts.

(5) Any transaction with a person related to the bank must be approved, prior to making it, by the vote of at least the majority of the members of the Board of the bank, except for the cases specified in the regulations of the National Bank of Moldova.

(6) During supervision, the National Bank of Moldova may presume that the persons are affiliated to the bank if they meet one or several characteristics specified in the normative acts of the National Bank of Moldova, as well as taking into account the nature of the relations, transactions and the existence of other relations with the bank. The National Bank of Moldova shall notify the bank about such decision not later than on the following working day.

(7) Until proven otherwise by evidence submitted to the National Bank of Moldova within 15 working days from the day of receiving the notification referred to paragraph (6),

the persons identified by the National Bank of Moldova under paragraph (6) shall be presumed to be persons affiliated to the bank from the day of the transaction.

(8) For the purposes of this Article, the following conditions are considered more favourable than those offered to the persons that are not affiliated to the bank:

a) accepting collateral with a market value that is lower than a similar collateral required from other clients of the bank;

b) acquisition of low quality real estate or real estate at a higher price than the market price of similar real estate good;

c) investment in the securities of the person related to the bank which the bank would not have made in the case of other persons;

d) payment for goods and service purchased from a related person at a higher price than the market price of similar goods and services or in circumstances when the same goods and services would not have been bought from another person;

e) sale to a person related to the bank of an asset at a lower price than that paid by another person if it were sold to it;

f) setting of a lower interest rate / commission fee for the service provided than if the service would have been provided to another person on general terms;

g) setting a higher interest rate on an accepted deposit than if the same deposit would have been accepted from another person on general terms.

Article 81. Prohibition of operations with persons related to banks

(1) Banks may not impose conditions on lending or on providing other products/services to clients by the disposal or acquisition of the financial instruments issued by the bank, or its subsidiary, including an entity belonging to the group of the bank, or acceptance by the client of other products/services offered by the bank, not connected with the crediting operation or with the product/service required.

(2) The banks may not:

a) grant credits or facilitate financing from third parties to a person to support this person in paying his/her obligations to the bank affiliate;

b) intermediate underwriting and/or financial instruments placement of a person and cannot grant, at the same time, credits to this person so that the latter pays his/her debts, interest or dividends to such financial instruments.

(3) No bank may grant credits or facilitate lending for the purpose of acquiring financial instruments, intermediate underwriting and/or the placement of which is realized by its subsidiary.

Article 82. Outsourcing

(1) The bank has the right to outsource the activities of material importance after obtaining prior permission from the National Bank of Moldova according to the requirements referred to in the normative acts issued by it. The term for completing the procedure for resolving the request for prior approval is 60 working days, calculated from the date of submission of the request accompanied by all the documents that must be presented to the National Bank of Moldova. If an additional examination is required or more time is needed to process the information and documents, the term provided for in this paragraph can be extended by no more than 30 working days, with the bank's notification.

(2) Outsourcing of services or operations related to the activity of attracting deposits or granting credits may take place only to a bank / subsidiary of the foreign bank in the Republic of Moldova or to another legal entity holding the license valid for the respective activity.

(3) For the purposes of this Article, activities of material importance are:

a) activities of such importance that any difficulty or failure in carrying them out might have a significant negative effect with regard to the bank's capacity to perform its duties as specified by the regulatory framework and/or to continue its activity;
b) any other activities that require a license or an authorization on behalf of competent authorities ;
c) any activities that have a significant impact from the viewpoint of risk management;

(4) Subcontracting outsourced activities of material importance (chain outsourcing) is not allowed.

(5) The bank has final responsibility for appropriate management of the risks associated to outsourced activities/operations.

(6) In case of outsourcing, the bank shall comply with the following minimum conditions:

a) will dispose of adequate internal policies and procedures for evaluation, management, and control of outsourced activities / operations, while the framework for the management of activity will be adjusted to the specificities of these activities/operations;
b) outsourcing will not have the effect of:

- delegating to the supplier of the responsibility of the management body of the bank;
- reduction of the ability of the bank to fulfil its obligations or otherwise prejudicing the legitimate interests of clients, reduction of the ability to perform the tasks provided in the Bank's statute, regulations or medium and long-term development strategies;
- limitation, prevention or impossibility of exercising the supervisory tasks of the National Bank of Moldova, as well as of the powers of the competent control organs;

c) will take measures to ensure the continuity of activities of material importance in case of exceptional situations, as well as to comply with this law in relations with the supplier;
d) report to the National Bank of Moldova, without delay, any incident or change of risk, including the change of the supplier, which could significantly affect the bank's efficient administration, stability, performance and continuity of activity;
e) will observe any other requirements related to outsourcing, established by the National Bank of Moldova in its normative acts.

(7) The banks shall realize, annually or at the request of the National Bank of Moldova, external audit of the activities/operations outsourced by an audit undertaking approved by the National Bank of Moldova, according to the requirements established in the normative acts of the National Bank of Moldova.

(8) Where outsourcing the activities of material importance, the National Bank of Moldova may impose conditions while considering factors like: size of the bank, nature and complexity of the activity likely to be outsourced, characteristics and market position of the foreign provider, length of the contract, conflicts of interests likely to be generated by outsourcing.

(9) The National Bank of Moldova has the right to require termination of the outsourcing contract if it has concluded that:

a) the bank is not realizing ongoing control of the outsourced activities/operations or the risk management associated, or it is done inappropriately and irregularly;

b) the activity of the provider of outsourced activities/operations has significant deficiencies threatening or likely to threaten the capacity of the bank of complying with its duties.

Article 83. Other prudential requirements

The National Bank of Moldova may establish by normative acts other prudential requirements, as well as the level of their application to the banks. These requirements may envisage, at least the following:

a) the maximum amount allowed of investments in immovable property or their specific categories;
b) value prudential adjustments of assets and conditional engagements;
c) positions not secured in foreign currency, exceeding certain limits;
d) assets forwarded for possession/acquired in exchange of the debt reimbursement.
e) the maximal aggregated amount of exposure to the persons that are not affiliated to the bank and that, directly or indirectly, hold or control a holding in the share capital of a bank that is below a qualifying holding, including the persons affiliated to them.

Article 84. Reporting requirements

(1) The banks shall compile and submit to the National Bank of Moldova reports, data and information on the activity management framework, own funds, capital buffers, risk covering requirements, large exposures, liquidity, the leverage ratio indicator and other reports for prudential purposes in conditions established by the normative acts of the National Bank of Moldova, on individual basis and, respectively, on consolidated basis.

(2) The management body of the bank shall be accountable for the correctness and truthfulness of the reports submitted to the National Bank of Moldova.

Chapter 5
ACCOUNTING, FINANCIAL SITUATIONS AND AUDIT

Article 85. Accounting in banks

(1) The banks shall organize and manage their accountancy in accordance with the provisions of the legislation in the domain of accounting and international standards of financial reporting, as well shall compile individual annual financial statements and, if applicable, consolidated ones, which would present a true image of the financial position, of the financial performance, of the cash flows and of other aspects related to the activity performed.

(2) The banks' annual financial statements and, where applicable, the annual consolidated financial statements, should be audited by an audit entity, in accordance with the legislation on audit domain.

(3) The bank's management body is accountable for following the provisions of paragraphs (1) and (2).

(4) The chart of accounts, including the list of groups of accounts and the methodological requirements for their application, that are used by banks shall be developed and approved by the National Bank of Moldova.

Article 86. Presentation of financial situations

The banks are obliged to present to the National Bank of Moldova, without prejudice to the provisions of the legislation on accounting, their financial situations, as well as other

data and information required within terms and form established by the normative acts and instructions issued by the National Bank of Moldova, in its quality of competent authority.

Article 87. Audit activity for other purposes

The National Bank of Moldova may establish by normative acts the audit activities of the banks for other purposes rather than those provided in Article 85 (2) and standards applicable in these cases.

Article 88. Approval of audit entity

The bank is obliged to conclude a contract with an audit entity approved by the National Bank of Moldova. The criteria to be met by the audit entity, the manner of approval and withdrawal of the audit entity's approval are provided in the normative acts of the National Bank of Moldova. The term for completing the procedure for resolving the request of the audit entity approval is of 30 working days, calculated from the date of request submission, accompanied by all documents that have to be presented to the National Bank of Moldova. If an additional examination is required or more time is needed to process the information and the documents, the term provided by this paragraph can be extended with no more that 15 working days, with the bank's notification.

[Art.88 amended by the Law no.178 of 11.11.2021, in force on 29.11.2021]

Article 89. Obligations of the audit entity to inform and communicate with the National Bank of Moldova

(1) The audit entity of a bank shall inform the National Bank of Moldova as soon as, while exercising its duties, it became aware of any fact or decision with regard to the bank which:

a) constitutes a material breach of this Law, or of other normative acts issued for its application, establishing the licensing conditions for banks or requirements for carrying out their activity;

b) is liable to affect the ongoing functioning of the bank;

c) may lead to refusal on behalf of the audit entity to express its opinion on financial statements or to the expression by it of a reserved opinion.

(2) Upon request of the National Bank of Moldova, the audit entity shall provide any details, clarifications, explanations related to the audit activity developed in the bank.

(3) Duties referred to in paragraph (1) and (2) are also applicable to the audit entity of the bank where it exercises specific tasks in an undertaking having close links resulting from a control relationship with the bank within which it is carrying out that task.

(4) The disclosure in good faith to the National Bank of Moldova by the audit entity under paragraphs (1) - (3) will not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision and shall not involve such persons in any liability. Such disclosure shall be made simultaneously also to the management body of the bank unless there are compelling reasons not to do so.

(5) The National Bank of Moldova shall have access to all documents of the audit entity compiled within the audit action at the bank.

(6) The National Bank of Moldova may issue normative acts with regard to the relationship of the audit entity with the National Bank of Moldova.

Article 90. Withdrawal of approval for the audit entity

The National Bank of Moldova may withdraw the permission granted to an audit entity based on article 88, when it has not fulfilled accordingly the legally binding duties stipulate by this Law or does not comply with the specific requirements of ethical and professional conduct.

Chapter 6
PUBLISHING REQUIREMENTS FOR BANKS

Article 91. Scope of publishing requirements

(1) In order to ensure discipline and market transparency, the banks shall disclose the information related at least to the arrangements, own funds, capital requirements, liquidity, risk exposures, capital buffers, other key indicators, internal policies, including remuneration policy, to the extent and conditions provided in the normative acts issued for the application of this law.

(2) Permission granted by the National Bank of Moldova under Article 70, paragraph (2) shall be subject to the public disclosure by banks of the information laid down in the normative acts of the National Bank of Moldova related to operational risk.

(3) The bank shall disclose separately, specifying by every state in which it has established a subsidiary, the aggregated information provided in the normative acts of the National Bank of Moldova. This information is subject to audit under Article 85 and shall be published as attachment to own annual individual and consolidated situations of the bank.

(4) The banks shall adopt a formal policy to comply with the disclosure requirements for the adequacy assessment data and information disclosed.

(5) The banks shall, if requested by applicants for loans, provide an explanation in writing of their fitting into a certain rating.

(6) The bank through their website pages shall explain how they comply with the requirements referred to in Articles 39, paragraph (1) and articles 40 to 44.

(7) The provisions of this Chapter shall not prejudice the legal provisions of other legislation regarding publication of information.

Article 92. Frequency of disclosure

(1) The banks shall publish data and information listed in Article 91 at least annually, as soon as they are available, and not later than the date when the annual financial situations are disclosed.

(2) The banks shall assess the necessity of publication of data and information provided in article 91 with a greater frequency by taking into consideration the criteria relevant for the activity they carry out, as provided in the normative acts issued to enforce this law.

Article 93. Means of publishing

(1) The banks may establish specific media, locations and appropriate verification means to effectively comply with the publication requirements under this law. To the extent possible, the banks shall ensure the use of the same means or locations for the disclosure of all data and information.

(2) Equivalent presentations of data and information of the bank to the market based on the disclosure requirements for the financial situations, of the information on the activity of the bank in a regulated market or other similar requirements, may be considered as ensuring compliance with the disclosure requirements according to this law. If data and

information are not included in the financial situations, the banks shall indicate where these can be found.

Article 94. Specific requirements for publishing

(1) The National Bank of Moldova may impose bank specific requirements:

a) disclose information referred to in Article 91, paragraph (1) more frequently than annually, and establish publication terms;

b) use of specific modalities and forms of publication, other than the financial statements.

(2) The National Bank of Moldova may impose parent-undertakings to publish annually, in full or by way of references to equivalent information, description of their legal structure and governance and organizational structure of the group of banks and/or investment companies, by including information related to the entities with close links, as well as with regard to the governance arrangements.

TITLE IV
POLICIES FOR THE PREVENTION AND COMBATING MONEY LAUNDERING AND TERRORISM FINANCING. BANKING SECRET AND CONFLICTS OF INTEREST

Article 95. Policies of prevention and combating money laundering and terrorism financing

(1) The bank must have internal policies and procedures in place to prevent and combat money laundering and terrorism financing and must apply the requirements of legislation on preventing and combating money laundering and terrorism financing.

(2) The bank shall not hide, convert or transfer money or other values, while being aware those derive from criminal activities, for concealing their illegal origin, nor support the person involved in similar activities to avoid the legal consequences of his/her facts.

Article 96. Obligation of secrecy

(1) The bank must keep confidentiality of all the facts, data and information related to its activity, as well as of any fact, data or information, which is at its disposal, with regard to the person, goods, activity, business, personal or business relations of the bank's clients, or information on the clients' accounts (balances, turnovers, operations held), the clients' transactions, as well as other information about the clients, which the bank became aware of, except the information which is published or that can be provided pursuant to this law.

(2) In the meaning of this chapter, information referred to in paragraph (1) shall be considered bank secrecy.

(3) The management body members and the bank's employees, the persons acting on behalf of the bank and other persons that, in spite of the execution of their daily duties, have obtained access to information referred to in paragraph (1), must keep to the bank secrecy, not use the information indicated for other purposes than daily duties. This obligation continues existing after termination of the activity of the persons listed above, or during the suspension of their activity.

(4) It is forbidden to provide by the bank information about the clients of another bank, even if their names/titles are indicated in the client's documents and contracts, or are mentioned within its operations.

(5) The bank shall organize its activity so that the management body members, employees and the persons acting on its behalf, are not put in the situation when their duty against a client conflicts with the duty against another client, or when their own interest conflicts with the duties against a client.

Article 97. Conditions of providing information which constitutes banking secret

(1) The duty to keep the bank secrecy shall not be opposed to a competent authority in exercising its supervisory functions on an individual and / or consolidated basis.

(2) Providing information which constitutes bank secrecy, including to public authorities empowered by special laws to require information from physical and legal persons, shall be performed in strict compliance with this article.

(3) Information considered bank secrecy shall be provided by the bank, to the extent that providing this information is justified by the purpose it is required for, in the following situations:

a) upon the request of the bank's client or his representative;

b)in case of death of a bank's client, upon the request of his successor, by attaching the certificate of succession, as well as upon the request of the notary who opened the procedure of succession, by attaching the copy of the death-certificate of the bank's client;

c) upon the request of the criminal investigation body, regarding the concrete criminal case, with the authorization from the investigation judge, supplemented by the motivated decision;

d) upon the request of the court instance, for the purpose of solving a pending cause;

e) upon the written request of other public authorities or ex officio, if these public authorities are empowered by special law, for the purposes of fulfilling their specific duties, to require and/or receive such information from the bank;

f) upon the request of the Ministry of Finance, in accordance with the Law 419/2006 on the Public Debt, State Guarantees and State re-lending, of the information on loans granted to state-owned / municipality-owned enterprises, to companies with full or majority public ownership and to administrative - territorial units, necessary for public sector monitoring;

g) at bailiff's request, based on and within limits described in the enforcement document;

h) when the bank justifies a legitimate interest.

(4) The request for bank secrecy information, submitted by the authorities mentioned in paragraph (3), shall include: the legal grounds of the request, identity data of the person that the required confidential information refers to, the category of the information required and the purpose it is required for. The request submitted shall be signed by an empowered responsible person. The solicitation for information, submitted by the tax organ of the Republic of Moldova, may omit identity data of the person(s) the information refers to in the cases and/or conditions of the Cooperation Agreement between the Government of the Republic of Moldovan and the Government of the USA for facilitating the implementation of the provisions of the Act on fulfilling tax obligations related to foreign accounts (FATCA).

(5) Shall not be considered breach of the obligation to keep bank secrecy:

a) providing to the National Bank of Moldova information necessary for fulfilling its duties;

b) providing information and data compiled so that the identity and information regarding the activity of the bank's every client may not be identified;

c) mandatory provision of information related to opening, modifying and closing bank accounts, in the cases and with reference to the categories of taxpayers provided by law;

d) providing information to the bank's audit entity, within limits necessary to exercise its audit activity;

e) providing information to the deposit-guarantee Fund in the banking system, within limits necessary to exercise its duties;

f) providing information to credit history offices regarding the credits granted, according to the special law;

g) providing information to the Service for Preventing and Combating Money Laundering about any suspicious activity or transaction, according to the legislation on preventing and fighting money laundering and terrorist financing;

h) providing information to the entities pertaining to the group that the bank is part of, necessary for the organization of the supervision on consolidated basis and for fighting money laundering and terrorist financing;

i) providing monthly to the Ministry of Finance information on the receipts, payments and balances of financial means in the accounts opened in banks by public institutions funded from the national public budget;

j) providing information at the solicitation of the Ministry of Finance for the purpose of exercising the attributions for the accounts opened in banks by the public institutions financed from the national public budget

k) providing information according to the provisions and within limits of the Cooperation Agreement between the Government of the Republic of Moldovan and the Government of the USA to facilitate implementation of the Act on fulfilment of tax obligations related to foreign accounts (FATCA).

l) providing to the Central Electoral Commission, within the terms established by this, the information on collections, payments and balances of the financial means into the open accounts of the banks toward the political parties, electoral candidates, referendum attendees and the initiative groups.

m) providing toward the State Tax Service the information according with the provisions and within the limits of the Multilateral Agreement of the competent authorities for the automatic exchange on financial accounts.

n) providing the information to other reporting entities with the consent of that client, within the implementation by the third parties, according to the Article 10 of Law no. 308/2017 on preventing and combating money laundering and terrorism financing.

(6) The persons and organs empowered to require and receive information that constitute bank secrecy shall keep their confidentiality and shall use them only for the purposes they required them or were supplied to them, according to legislation, and they are obliged not to provide or divulge the information to third persons, except for the cases of exercising of duties stipulated by legislation.

[Article 97 amended by Law No 160 of 26.07.2018, in force as of 17.09.2018]

Article 98. Declaration of material interest

(1) A management body member or a person with key responsibility in the bank who is part of an actual contract, or in a contract proposed to the bank with regard to material interests, or who is a manager of a person which is part of an actual material or proposed contract to the bank, or who has material interest towards that person, shall disclose in

writing to the bank his/her material interest when being acknowledged of or should be aware of the existence of such a contract.

(2) Any member of the management body or a person with key responsibility in the bank is obliged to present to the Board of the bank, at least annually, a written note, to sufficiently disclose the conflict of interests. Shall be considered sufficient disclosure of the conflict of interests the indication of the name and address of those persons' associates, essential details about their activities, family interests confirming they have material interests in the contracts signed with any person indicated in the note.

(3) A management body member or a person with key responsibility with a material interest in the contract should leave any meeting at which the contract concerned is under discussion. At the same time, presence of those persons in the meeting shall be considered when determining the quorum, and while voting, these persons shall abstain. Where voting parity, the chairman's vote shall be considered decisive.

(4) For the application of the of paragraphs (1) and (2), the material interest and the conflict of interest shall be determined in accordance with the provisions of articles 84 and 85 of the Law No 1134/1997 on Joint Stock Companies.

(5) If the persons mentioned in paragraph (1) have not disclosed their conflict of interest:

a) the court may, at the request of the bank, of one or more of its shareholders or of the National Bank of Moldova, suspend the contract for a period set by the first;

b) the National Bank of Moldova may order the bank the supervisory measures provided for in Article 139 and/or apply the sanctions provided in Article 141.

(6) Irrespective of the duties listed in Article 96, paragraph (5), the management body's member or person with a key responsibility in the bank is accountable to the bank where he/she works and to its clients to put the interests of the bank and of its clients above own pecuniary interest.

TITLE V
PRUDENTIAL SUPERVISION AND REQUIREMENTS FOR PUBLISHING FOR THE NATIONAL BANK OF MOLDOVA

Chapter 1
PRUDENTIAL SUPERVISION

Article 99. Prudential supervision of banks legal entities from the Republic of Moldova

(1) For the purposes of protecting the depositors' interests and of ensuring stability and viability of the entire banking system, the National Bank of Moldova shall ensure prudential supervision of the banks that are Moldovan legal entities, including of their branches established in other states, aiming at complying with the requirements stipulated by legislation and the applicable normative acts, both on individual and consolidated bases, and if applicable, in order to prevent and limit the specific risks of the banking activity.

(2) In the meaning of paragraph (1), this chapter, along with Title V, Chapter V related to the competence of the National Bank of Moldova of requiring the bank supervisory measures, shall be applied accordingly, in line with the level of application of the prudential requirements listed in Article 59.

(3) The banks shall provide the National Bank of Moldova with any information necessary for the assessment of their compliance with the prudential requirements referred to in this law and the normative acts issued for its application. The internal control

mechanisms and the accounting and administrative procedures of the banks shall permit the checking of their compliance with the prudential requirements, at all times.

(4) The banks shall register all their transactions and document systems and processes, stipulated by this law and normative acts issued for its application, in such a manner that the National Bank of Moldova is able to check compliance with the prudential requirements at all times.

(5) The National Bank of Moldova aims at realizing an efficient communication with all banks in order to ensure thorough knowledge of the activity, organization and internal process of the bank for assessment of the capital adequacy with its risk profile.

(6) The National Bank of Moldova shall give recommendations to the bank for the adoption of appropriate measures to improve the arrangements, strategies, processes and implemented mechanisms, to ensure appropriate organization of the activity carried on or to recover or support its financial situation, including when revealing a deterioration of its financial and prudential indicators. The bank shall notify the National Bank of Moldova the measures taken, within terms established by the latter. Irrespective of the formulation of recommendations, the National Bank of Moldova may dispose measures and/or application of penalties and sanctioning measures, according to this law.

Article 100. Process of verification and evaluation

(1) The National Bank of Moldova shall review the arrangements, strategies, processes and mechanisms implemented by each banks to comply with this law and the normative acts issued by the National Bank of Moldova for its application, and shall realize own evaluation of the following risks:

a) risks to which the banks are or might be exposed;

b) risks that a bank poses to the financial system taking into account the identification and measurement of systemic risk by the National Bank of Moldova;

c) risks revealed by stress testing taking into account the nature, scale and complexity of a bank's activities.

(2) The reviews and evaluations mentioned in paragraph (1) shall cover by the banks all requirements of this law and normative acts issued for its application.

(3) On the basis of the review and evaluation referred to in paragraph (1), the National Bank of Moldova shall determine whether the banks are significant by size, internal organization and the nature, extent and complexity of activities and shall determine to what extent the arrangements, strategies, processes and mechanisms implemented by banks and the own funds and liquidity held by them ensure a sound management and coverage of their risks against the risk profile of the bank.

(4) The National Bank of Moldova shall establish the frequency and intensity of the review and evaluation referred to in paragraph (1), having regard to the size, systemic importance, nature, scale and complexity of the activities of the bank concerned and taking into account the principle of proportionality. The review and evaluation shall be updated at least on an annual basis for banks covered by the prudential supervisory program referred to in Article 106.

(5) The National Bank of Moldova shall carry out, as appropriate, but at least annually supervisory stress tests on banks they supervise, to facilitate the review and evaluation process under paragraphs (1)-(4).

Article 101. Technical criteria applied by the National Bank of Moldova in the process of verification and evaluation

(1) In addition to credit, market and operational risks, the review and evaluation performed by the National Bank of Moldova pursuant to Article 100 shall include at least:

a) the results of the stress test carried out by the banks, in line with the normative acts of the National Bank of Moldova, to evaluate capital adequacy, by applying an internal rating based approach;

b) the exposure to and management of concentration risk by the banks, including in the context of large exposures;

c) the robustness, suitability and manner of application of the policies and procedures implemented by banks for the management of the residual risk associated with the use of recognized credit risk mitigation techniques;

d) the exposure to liquidity risk, its measurement and management by banks, including the development of alternative scenario analyses, the management of risk mitigation factors (in particular the level, composition and quality of liquidity reserves) and effective contingency plans;

e) the impact of diversification effects and the method in which such effects are integrated into the risk measurement system;

f) the results of stress tests carried out by the banks using an internal model to calculate market risk own funds requirements;

g) the geographical distribution of banks' exposures;

h) the business model of the bank;

i) the assessment of systemic risk, in accordance with the criteria set out in Article 100.

(2) The verification and evaluation carried out by the National Bank of Moldova includes the management framework for banks' activity. The National Bank of Moldova shall have at least access to the agenda and the supporting documents of the management body and its committees, as well as to the results of the internal or external evaluation of the performance of the management body.

(3) For the purposes of paragraph (1), the issues considered in the review and evaluation process shall be settled by the normative acts issued by the National Bank of Moldova.

Article 102. Analysis of the use of internal approaches

(1) The National Bank of Moldova shall review on a regular basis, and at least every 3 years, banks' compliance with the requirements regarding internal approaches that require permission by the competent authorities before using such approaches for the calculation of own funds requirements in accordance with the normative acts issued for the application of this law. They shall have particular regard to changes in a bank's business and to the implementation of those approaches to new products.

(2) Where material deficiencies are identified in risk capture by a bank's internal approach, the National Bank of Moldova shall ensure they are rectified or take appropriate steps to mitigate their consequences, including by imposing higher requirements, or imposing own funds' add-ons, or taking other appropriate and effective measures.

(3) The National Bank of Moldova shall in particular review and assess whether the bank uses well developed and up-to-date techniques and practices for those approaches.

(4) If for an internal market risk model numerous over-shootings regulated by the National bank of Moldova in this context indicate that the model is not or is no longer sufficiently accurate, the competent authorities shall revoke the permission for using the internal model or impose appropriate measures to ensure that the model is improved promptly.

(5) If a bank has received permission to apply an internal approach that requires permission by the National Bank of Moldova before using such an approach for the calculation of own funds requirements in accordance with the normative acts of the National Bank of Moldova, but does not meet the requirements for applying that approach anymore, the National Bank of Moldova shall require the bank to either demonstrate to the satisfaction of the competent authorities that the effect of non-compliance is immaterial where applicable in accordance with the normative acts of the National Bank of Moldova, or present a plan for the timely restoration of compliance with the requirements and set a deadline for its implementation.

(6) For the purposes of paragraph (5), the National Bank of Moldova shall require improvements to that plan if it is unlikely to result in full compliance or if the deadline is inappropriate. If the bank is unlikely to be able to restore compliance within an appropriate deadline and, where applicable, has not satisfactorily demonstrated that the effect of non-compliance is immaterial, the National Bank of Moldova shall revoke the permission to use the approach or limit its compliance to areas where compliance can be achieved within an appropriate deadline.

Article 103. Application of the process of supervision to banks with a similar risk profiles

(1) Where the National bank of Moldova determines under Article 100, that the banks with similar risk profiles such as similar business models or geographical location of exposures, are or might be exposed to similar risks or pose similar risks to the financial system, they may apply the supervisory review and evaluation process referred to in Article 100, those banks in a similar or identical manner.

(2) The types of banks referred to in the first paragraph may in particular be determined in accordance with the criteria referred to in Article 101, paragraph (1), letter (j).

Article 104. Monitoring of internal approaches for the calculation of the value of exposures

(1) The National Bank of Moldova shall ensure that the banks permitted to use internal approaches for the calculation of risk weighted exposure amounts or own fund requirements except for operational risk report to the National Bank of Moldova the results of the calculations of their internal approaches for their exposures or positions that are included in the benchmark portfolios. The banks shall submit the results of their calculations, together with an explanation of the methodologies used to produce them, to the National Bank of Moldova at an appropriate frequency, and at least annually.

(2) The National Bank of Moldova shall, on the basis of the information submitted by the banks in accordance with paragraph (1), monitor the range of risk weighted exposure amounts or own funds requirements, as applicable, except for operational risk, for the exposures or transactions in the benchmark portfolio resulting from the internal approaches of those banks. At least annually, the National Bank of Moldova shall make an assessment of the quality of those approaches paying particular attention to:

a) those approaches that exhibit significant differences in own fund requirements for the same exposure;

b) approaches where there is particularly high or low diversity, and also where there is a significant and systematic under-estimation of own funds requirements.

(3) Where particular banks diverge significantly from the majority of their peers or where there is little commonality in approach leading to a wide variance of results, the National Bank of Moldova shall investigate the reasons for that and, if it can be clearly identified that

a bank's approach leads to an underestimation of own funds requirements which is not attributable to differences in the underlying risks of the exposures or positions, shall take corrective action.

(4) The National Bank of Moldova shall ensure that their decisions on the appropriateness of corrective actions as referred to in paragraph (3), comply with the principle that such actions must maintain the objectives of an internal approach and therefore do not lead to standardization or preferred methods, create wrong incentives or cause herd behaviour.

Article 105. Monitoring of liquidity risk profiles

(1) The National Bank of Moldova shall monitor developments in relation to liquidity risk profiles, for example product design and volumes, risk management, funding policies and funding concentrations in the way provided by Article 79.

(2) The National Bank of Moldova shall take effective action where developments referred to in paragraph (1) may lead to individual bank or systemic instability.

Article 106. Program of prudential supervision

(1) The National Bank of Moldova shall monitor the banks' compliance with the prudential requirements and other requirements provided by this law and the applicable normative acts based on the reports submitted by the banks and by carried out controls of the banks and their national and foreign branches.

(2) The National Bank of Moldova, at least annually, adopts a supervisory examination program for the banks it supervises. Such program shall take into account the supervisory review and evaluation process under Article 100. It shall contain the following:

a) an indication of how the national Bank of Moldova intends to carry out its tasks and allocate resources;

b) an identification of banks which are intended to be subject to enhanced supervision and the measures taken for such supervision as set out in paragraph (4);

c) a plan for onsite inspections at the premises used by a bank, including its branches and subsidiaries established in other states based on cooperation agreements signed by the National Bank of Moldova with the competent authority of the respective country.

(3) Prudential supervision program shall include the following banks:

a) the banks for which the results of the stress tests or the outcome of the supervisory review and evaluation process indicate significant risks to their ongoing financial soundness or indicate breaches of this law or of the normative acts issued for its application;

b) banks that pose systemic risk to the financial system;

c) any other bank for which the National Bank of Moldova deem it to be necessary.

(4) Where appropriate under Article 100, the following measures shall, in particular, be taken if necessary, by the National Bank of Moldova:

a) an increase in the number or frequency of onsite inspections of the bank;

b) permanent presence of the National Bank of Moldova representatives at the bank;

c) additional or more frequent reporting by the bank;

d) additional or more frequent review of the operational, strategic or business plans of the bank;

e) thematic examinations monitoring specific risks that are more likely to materialize.

(5) The inspections and assessments shall be realized by the staff of the National Bank of Moldova empowered in this sense, or by audit entities or by experts appointed by the National Bank of Moldova.

(6) Banks shall permit the staff of the National Bank of Moldova and other persons empowered by it to implement the inspection and assessment, examine their balances, accounts and operations, and provide all documents and information related to the activity of the bank, as required by them.

Article 107. Collaboration for supervision

(1) The National Bank of Moldova shall collaborate closely in order to supervise the activities of banks operating, in particular through a branch, in one or more host countries other than that in which their head offices are situated.

(2) The National Bank of Moldova shall collaborate closely in order to carry out prudential supervision of the banks carrying on activity in Moldova through branches, with the competent authorities of the home states and other states where the banks activate.

(3) Cooperation referred to in paragraph (1) and (2) shall base on the cooperation agreements signed by the National Bank of Moldova with the competent authorities from the home state. These agreements shall facilitate, while complying with the provisions on professional secrecy under Chapter III, Title V, exchange of information concerning the management and ownership of banks, information to facilitate their supervision and the examination of the conditions for their authorization, all information likely to facilitate the monitoring of banks on continuous basis, in particular with regard to liquidity, solvency, deposit guarantee scheme, the limiting of large exposures, other factors that may influence the systemic risk posed by the bank, administrative and accounting procedures and internal control mechanisms.

(4) For the review and/or the inspection of the activity of the branches established in other states by banks, Moldovan legal entities, the National Bank of Moldova shall realize reviews and/or on-site inspections in line with one of the procedures provided in Article 115 of the law.

Article 108. Supervision of branches from the Republic of Moldova of banks from other states

(1) The provisions of this Chapter on prudential supervision shall apply accordingly for the National Bank of Moldova to supervise the Moldovan branches of banks from other states.

(2) To supervise the Moldovan branches' activity of banks from other states, the National Bank of Moldova shall closely cooperate with the competent authorities of those states. In this regard, the National Bank of Moldova has the right to sign cooperation agreements with the home-state competent authority of the bank. These agreements shall establish at least the conditions for the exchange of information, while complying with the provisions on professional secrecy referred to in Chapter III of Title V.

(3) A bank's competent authorities of the state of origin may in regards of a Moldovan branch carry out themselves or through the intermediary of persons they appoint for that purpose on-the-spot checks of the information referred to in Article 106 (5) at the premises of the branch and inspections of such branches, with the agreement of the National Bank of Moldova.

Chapter 2
SUPERVISION ON A CONSOLIDATED BASIS

Section 1
Principles of conducting supervision on a consolidated basis

Article 109. The competent authority in charge with the supervision of banks on a consolidated basis

(1) The National Bank of Moldova shall realize consolidated supervision of a bank, Moldovan legal entity, in the following situations:

a) the bank licensed by the National Bank of Moldova is a parent bank at the level of the Republic of Moldova that, for the purposes of this Chapter, has as subsidiary a bank/investment company or a non-bank financial society or when such bank/investment company or a non-bank financial society is an entity associated to the parent bank and that is not, in its turn, a subsidiary of another bank/investment company authorized in the Republic of Moldova or of a financial holding society or a mixed financial holding society established in the Republic of Moldova;

b) the bank licensed by the National Bank of Moldova has as parent company established in the Republic of Moldova or in other states a financial holding company or a mixed financial holding company without the parent undertaking having other subsidiaries in the Republic of Moldova; or in the case it has such subsidiaries-banks in the Republic of Moldova the total balance sheet assets of whom is below the balance sheet assets of the respective bank;

(2) Where a bank is the subsidiary of a financial holding undertaking or a mixed financial holding undertaking has in the Republic of Moldova as subsidiaries at least one bank and one investment company, supervision on a consolidated basis shall be exercised by the National Bank of Moldova, and the consolidated prudential requirements shall apply to the bank.

Article 110. Coordination of supervision activities

In addition to the obligations of the National Bank of Moldova imposed by this law, the latter as the consolidating supervisor shall carry out the following tasks directly or by concluding cooperation agreements:

a) coordination of the gathering and dissemination of relevant or essential information in going concern and emergency situations;

b) planning and coordination of supervisory activities in going-concern situations, including in relation to the activities referred to in this chapter, in cooperation with the competent authorities involved;

c) planning and coordination of supervisory activities in cooperation with the competent authorities involved, in preparation for and during emergency situations, including adverse developments in banks and/or investment companies or in financial markets, where possible, existing channels of communication for facilitating crisis management.

Article 111. Collaboration agreements in the field of supervision on a consolidated basis

(1) In order to facilitate and establish effective supervision on a consolidated basis, the National Bank of Moldova may conclude written coordination and cooperation

arrangements with the competent authorities from other states, while complying with the provisions on professional secrecy referred to in Chapter III, Title V.

(2) Under those agreements, consolidated supervisory powers shall be distributed between stakeholder competent authorities and additional tasks may be entrusted to the consolidating supervisor and procedures for the decision-making process and for cooperation with other competent authorities in normal situations and during emergencies, may be specified.

(3) By derogation from Article 109, paragraph (1), through cooperation agreements, the powers for supervision on a consolidated basis may be delegated to another stakeholder competent authority, taking into account the banks and investment companies and the relative importance of their activities within the group in other states.

(4) The arrangements referred to in paragraphs (1) to (3) shall include provisions on how to exercise consolidated supervision of the banks with head office in the Republic of Moldova the parent undertakings of which are located in another state, and of the banks with head office in another state, the parent undertakings of which, either banks or financial holding companies, or mixed financial holding companies, have their head office in the Republic of Moldova.

(5) The agreements referred to in paragraph (4) shall, in particular, seek to ensure that the competent authorities as part of the agreement are able to obtain the information necessary for the supervision, on the basis of their consolidated financial situations, of banks, financial holding companies and mixed financial holding companies that have as subsidiaries banks and/or investment companies or non-bank financial undertakings situated in the agreement-participating states, or which have holdings in such entities.

(6) Within the cooperation agreements on consolidated supervision, the National Bank of Moldova shall make every effort to come to a joint decision with the competent authority involved:

a) on the application of Articles 79 and 100 of this law and determine the adequacy of the consolidated level of own funds held by the group of banks with respect to its financial situation and risk profile and the required level of own funds for the application of Article 139 paragraph (3) letter a) to each entity within the group on a consolidated basis;

b) on measures to address any significant matters and material findings relating to liquidity supervision including relating to the adequacy of the organization and the treatment of risks as required pursuant to Article 38, and relating to the need for bank-specific liquidity requirements in accordance with Article 139, paragraphs (6)–(7) of this law.

Article 112. Colleges of supervisors

(1) The National Bank of Moldova as consolidating supervisor may establish colleges of supervisors to facilitate the exercise of the tasks referred to in the Articles 110 and 111 and subject to the confidentiality requirements of para. (2) of this article, ensure, where appropriate, coordination and adequate cooperation with relevant competent authorities from other states.

(2) Colleges of supervisors shall provide a framework for the National Bank of Moldova and the other competent authorities concerned to carry out the following tasks:

a) exchanging information between the competent authorities concerned;

b) agreeing on voluntary entrustment of tasks and voluntary delegation of responsibilities where appropriate;

c) determining supervisory examination programmes referred to in the Article 106, based on a risk assessment of the group in accordance with the Article 100;

d) increasing the efficiency of supervision by removing unnecessary duplication of supervisory requirements, including in relation to the information requests referred to in the Article 113 para. (4) and in emergencies;

e) consistently applying the prudential requirements at consolidated level across all entities within a group without prejudice to the rights stipulated by the legislation of the states involved;

f) applying Article 110 letter c), while considering the results of the works' results of other forums that are likely to be established in that area;

(3) The National Bank of Moldova participating in the colleges of supervisors shall closely cooperate with the other participating competent authorities. The confidentiality requirements shall not prevent the National Bank of Moldova from exchanging confidential information with other competent authorities within the colleges of supervisors.

(4) The establishment and functioning of colleges of supervisors shall not affect the rights and responsibilities of prudential supervision of the National Bank of Moldova under this law and normative acts issued for its application.

(5) The establishment and functioning of the colleges of supervisors shall be based on written arrangements referred to in the Article 111 para. (1) - (2), determined after consulting competent authorities concerned by the National Bank of Moldova, as consolidating supervisor.

(6) The National Bank of Moldova may participate in colleges of supervisors when it is the competent authority responsible for the supervision of a bank, Moldovan legal entity, subsidiary of a bank or of a parent investment company from another state, of a financial holding parent company from another state or of a mixed financial holding parent-company from another state, and where the banks from another state have established branches in the Republic of Moldova.

(7) When the National Bank of Moldova is consolidating supervisor, it may invite to participate in colleges of supervisors, accordingly, the authority supervising a bank/investment company that is a legal entity of the Republic of Moldova and a legal entity from another state, subsidiary of a Moldovan parent bank or of a Moldovan parent investment company, of a Moldovan parent financial holding company or of a Moldovan parent mixed financial holding company and the competent authorities from other states where subsidiaries of the Moldovan banks are established, upon their request.

(8) The National Bank of Moldova, as consolidating supervisor, shall chair the meetings of the college and shall decide which competent authorities participate in a meeting or in the activity of the college. The National Bank of Moldova shall keep all members of the college fully informed, in advance, of the organization of such a meeting, with the main issues to be discussed and the activities to be considered.

(9) The decision of the National Bank of Moldova taken in line with para. (8) shall take account of the relevance of the supervisory activity to be planned or coordinated for those authorities.

(10) The National Bank of Moldova, as consolidating supervisor, shall keep all members of the college fully informed, in advance, of the organization of such meetings, the main issues to be discussed and the activities to be considered. Also, the National Bank of Moldova shall also keep all the members of the college fully informed, in a timely manner, of the actions taken in those meetings or the measures carried out.

Article 113. Obligations of cooperation

(1) The National Bank of Moldova shall cooperate closely with other competent authorities. To this end, for exercising supervisory power at the individual and/or

consolidated level of those authorities and of the National Bank of Moldova all relevant information shall be provided at solicitation under the cooperation agreements between the competent authorities.

(2) Information referred to in the paragraph (1) shall be regarded as essential if it could materially influence the assessment of the financial soundness of a bank/investment company or non-bank financial institution in another state.

(3) The essential information referred to in paragraph (2) shall include, in particular, the following items:

a) identification of the group's legal structure and the governance structure and of organizational structure, inclusive of all entities with tight connections, respectively of the regulated entities, non-regulated entities and non-regulated subsidiaries within the group, as well as of parent undertakings, by applying the provisions of Article 12, paragraph (6), Article 38 and article 59, paragraphs (2) to (4), and of the competent authorities of the regulated entities in the group;

b) procedures for the collection of information from the banks/investment companies in a group, and for checking that information;

c) adverse developments in banks or in other entities of a group, which could seriously affect the banks/investment companies from the group;

d) major sanctions and exceptional measures taken by the competent authorities, including the imposition of a specific own fund requirement and the imposition of any limitation on the use of the Advanced Measurement Approach for the calculation of the own funds requirements for the operational risk covering.

(4) the National Bank of Moldova, as competent authority responsible for the supervision of a bank, Moldovan legal entity, controlled by a bank from another state or a parent investment company from the Republic of Moldova or another state, shall where possible contact the consolidating supervisor when they need information regarding the implementation of approaches and methodologies set out in this law and the normative acts issued for its application, that may already be available to the consolidating supervisor.

(5) In cases provided by the cooperation agreements, The National Bank of Moldova shall, before taking a decision, consult other competent authorities responsible for the supervision on individual and/or consolidated basis of the banks, where such a decision is of importance for other competent authorities' supervisory tasks. Consultation shall include:

a) changes in the shareholding structure, in the organizational, administration and management structure of banks in a group, which require the approval or authorization of the National Bank of Moldova;

b) significant penalties and exceptional measures that follow to be taken by the National Bank of Moldova, including the imposition of a specific own funds requirement under Article 139, and the imposition of any limitation on the use of the advances measurement approaches for the calculation of the own funds requirements for the operational risk coverage.

(6) When applying the provisions of paragraph (5) letter b), the consolidated supervisor shall be consulted in cases provided by the cooperation agreements.

(7) The National Bank of Moldova may decide not to consult other competent authorities in cases of urgency or where such consultation could jeopardize the effectiveness of decision. In such cases, the National Bank of Moldova shall, without delay, inform the other competent authorities about the decisions taken.

Article 114. Collaboration between the competent authorities from the Republic of Moldova

(1) For the foundation and facilitation of an efficient supervision at national level of the banks and investment companies, the National Bank of Moldova and the National Commission for the Financial Market shall sign written coordination and cooperation agreements, liable to have additional tasks for the National Bank of Moldova or the National Commission for the Financial Market in the responsibility of the consolidated supervisor, and may include decision-making procedures.

(2) To exercise its supervisory tasks on individual and/or consolidated basis in the context of this law provisions and the normative acts issued for its application, the National Bank of Moldova and the National Commission for the Financial Market shall provide, upon request, all relevant and ex officio information, all essential information. The provisions of the Article 113 shall be applied accordingly.

Article 115. Verification of information regarding the entities from other states

(1) Where, in applying this law and the normative acts issued for its application, the National Bank of Moldova wish in specific cases to check the information concerning a bank, an investment company, a financial holding company, a mixed financial holding company, a non-bank financial institution, an ancillary services undertaking, a mixed-activity holding company, a subsidiary as referred to in Article 124 or a subsidiary as referred to in Article 117 paragraph (3), situated in another state, they shall ask the competent authorities of that other state to have that check carried out.

(2) The check referred to in paragraph (1) may be carried out either by the competent authority of that state, or upon its consent, by the National Bank of Moldova. The National Bank of Moldova may check either directly or via a financial auditor or expert empowered for that purpose.

(3) When it is not the National Bank of Moldova to check the information, it may participate in the verification carried out by the competent authorities of that state.

(4) Where the National bank of Moldova receives a request concerning the check, for determined aspects, of the information about the entities stipulated in paragraph (1), located in the Republic of Moldova, within the limits of its competence, it shall realize the check either directly, or it shall allow the applicant competent authority or a financial auditor or expert empowered for the checking. The applicant competent authority may, where not carrying out the check itself, participate in the check realized by the National Bank of Moldova.

Article 116. Application of prudential requirements on a consolidated basis

The National Bank of Moldova shall establish through normative acts the consolidation perimeter, including the circumstances under which certain entities from the group shall not be included in the perimeter, the prudential requirements specified at Title III of this law that must be complied with on a consolidated basis, the exceptions and derogations from the application of the requirements, consolidation methods, information to be provided for carrying out supervision on consolidated basis.

Section 2
Financial Holding Companies, Mixed Financial Holding Companies and Mixed-Activity Holding Companies

Article 117. Inclusion of holding companies in the supervision on a consolidated basis

(1) The financial holding companies and the mixed financial holding companies shall be included in consolidated supervision.

(2) Where a subsidiary bank, Moldovan legal entity, is not included in supervision on a consolidated basis carried out by the competent authority from another state, the National Bank of Moldova may ask the parent undertaking for information which may facilitate their supervision of that bank.

(3) Where a bank or a subsidiary investment company from another state is not included in the supervision on consolidated basis of a bank, Moldovan legal entity, the Moldovan parent bank, the Moldovan parent financial holding company or the Moldovan parent mixed financial holding company, if applicable, shall provide information likely to facilitate the supervision of the bank or the subsidiary investment company, upon the request of the competent authorities from that state.

(4) The National Bank of Moldova, as the competent authority responsible for exercising supervision on a consolidated basis, may ask the subsidiaries of a bank, of a financial holding company or of a mixed financial holding company, which are not included in the area of the scope of prudential consolidation, information as referred to in Article 120. In that case, the procedures for transmitting and verifying information provided for in Article 120 shall apply.

Article 118. Supervision of mixed financial holding companies

(1) Where a mixed financial holding company, Moldovan legal entity, is subject to provisions under this law, and similar provisions under the legislation on supplementary supervision of the banks, insurers/re-insurers and investment companies from a financial conglomerate, the National Bank of Moldova, if it is the consolidating supervisor, may apply to that mixed financial holding company the provisions only of the legislation on supplementary supervision of the banks, insurers/re-insurers and investment companies from a financial conglomerate, after consultation with the other competent authorities responsible for the supervision of the subsidiaries of the mixed financial holding companies.

(2) Where a mixed financial holding company, Moldovan legal entity, is subject to the provisions of this law, and to similar provisions of the Law No 407/2006 on Insurance, in particular the provisions related to supervision of the compliance with the prudential requirements, the National Bank of Moldova, if it is consolidated supervisor, may, in agreement with the group supervisor in the insurance sector, apply to that mixed financial holding company only the provisions of this law regarding the significant financial sector, identified in accordance with the provisions of the legislation on supplementary supervision of the banks, insurers/re-insurers and investment companies from a financial conglomerate.

Article 119. Qualification of directors

(1) Administration and/or the management of the activity of a financial holding company or mixed financial holding company, Moldovan legal entities, shall include at least 3 persons. The members of the management body of a financial holding company or a mixed

financial holding company should be of sufficiently good repute and possess sufficient knowledge, skills and experience as referred to in Article 43 to perform those duties, taking into account the specific role of a financial holding company or mixed financial holding company.

(2) The financial holding accompanies and the mixed financial holding companies referred to in paragraph (1), shall notify the National Bank of Moldova, as competent authority in charge of consolidated supervision, regarding the appointment of the persons referred to in paragraph (1), in conditions set out by the normative acts issued for the application of this Law.

(3) The National Bank of Moldova shall continuously follow the compliance with the requirements under paragraphs (1) and (2), disposing the measures and penalties required in case of non-compliance, as provided in Article 124.

Article 120. Requests for information and inspections

(1) Where the parent undertaking of one or more banks, Moldovan legal entities, is a mixed-activity holding company, the National Bank of Moldova shall request the mixed financial holding company and its subsidiaries, including when situated in another states, either directly or via subsidiaries that are banks, any relevant information for the supervision of the banks, Moldovan legal entities, subsidiaries of the mixed-activity holding company.

(2) A mixed activity holding company, Moldovan legal entity, and its subsidiaries, shall provide information as described in paragraph (1), both upon request of the National Bank of Moldova, as authority responsible for the authorization and supervision of a bank, Moldovan legal entity, subsidiary of a mixed activity holding company, as well as upon request of the authority responsible for the supervision and authorization of a bank from another state, subsidiary of a mixed activity holding company.

(3) The National Bank of Moldova may carry out inspections, to verify information provided by the mixed activity holding companies and their subsidiaries, via employees of the National Bank of Moldova, having respective powers, or via audit entities or experts appointed by the National Bank of Moldova.

(4) If a mixed-activity holding company or one of its subsidiaries is an insurer it may be used and the procedure stipulated in Article 123. If the mixed-activity holding company or one of its subsidiaries has its head office in another state, checking information shall be realized according to the procedure set out in Article 115.

Article 121. Intra-group transactions with the mixed-activity holding companies

Without prejudice to provisions on large exposures of this law and the normative acts of the National Bank of Moldova, where the parent undertaking of one or more banks, Moldovan legal entities, is a mixed-activity holding company, the National Bank of Moldova exercises general supervision over transactions between the banks, on one side, and the mixed-activity holding company and its subsidiaries, on the other side, in conditions set out by the normative acts issued for the application of this law.

Article 122. Measures to facilitate the supervision on a consolidated basis of holding companies

(1) Entities included in the scope of prudential supervision, the mixed-activity holding companies and their subsidiaries, or subsidiaries referred to in Article 117 (4) shall mutually exchange information which would be relevant to the purposes of supervision on individual and/or consolidated basis.

(2) Where a parent undertaking and any of its subsidiaries that are banks, or investment companies, are situated in different states, and at least one of them is a bank, Moldovan legal entity, the National Bank of Moldova shall inform, in mutual conditions, the competent authorities from other states all information likely to allow and facilitate exercise of supervision on consolidated basis.

(3) Where a parent undertaking is situated on the territory of another state, and the National Bank of Moldova carries out the supervision on consolidated basis, it may ask the competent authorities of that state to require the parent undertaking any information likely to be relevant for the supervision on consolidated basis and forward them to the National Bank of Moldova.

(4) Collection and possession of information in line with paragraph (3) shall not prevent the National Bank of Moldova from exercising its supervisory role on individual basis of the financial holding companies, of the mixed financial holding companies, of the non-bank financial companies or ancillary services undertakings.

(5) The National Bank of Moldova shall inform the competent authorities from other states, in mutual conditions, of the information referred to in Article 120 (1).

(6) Collection and possession of information according to paragraph (5) shall not imply the duty of the National Bank of Moldova to exercise its supervisory role on individual basis of the mixed-activity holding companies, of their subsidiaries that are not banks or of the subsidiaries referred to in Article 117 paragraph (4).

Article 123. Cooperation with the authorities of supervision of insurers and investment service providers

(1) Where a bank, a financial holding company, a mixed financial holding company or a mixed-activity holding company controls one or more subsidiaries, which are insurers or other entities providing services of financial investments, subject to authorisation, the National Bank of Moldova shall cooperate with the National Commission for the Financial Market , as well as with the authorities from other states, responsible for the supervision of insurers or other entities providing financial investment services. Without prejudice to the responsibilities of the National Bank of Moldova, the latter shall provide to the other authorities mentioned any information likely to facilitate fulfilment of their duties and to allow supervising the activity and the general financial situation of the entities under supervision.

(2) Information received by the National Bank of Moldova within the framework of supervision on a consolidated basis, as well as any exchange of information to which it participates, in accordance with this law, shall be subject to professional secrecy requirements in accordance with the provisions of the Chapter III Title V.

(3) The National Bank of Moldova, as the competent authority responsible for supervision on a consolidated basis shall establish lists of the Moldovan parent financial holding companies and Moldovan mixed parent financial holding companies and shall publish them on its official webpage.

Article 124. Measures and sanctions applicable to holding companies

(1) Where a financial holding company, a mixed financial holding company, a mixed-activity holding company or the management body members do not comply with the provisions of Articles 138 – 147 and the normative acts or measures adopted for the application of this law, the National Bank of Moldova, as the competent authority responsible for supervision on a consolidated basis may dispose that company, the following measures provided for in letters a)-c), or penalties described under letters d)-h):

a) signing an agreement with the management body members likely to cover a programme of recovery measures;

b) requiring information from the audit entity;

c) disposing the replacement of the audit entity by the undertaking;

d) written warning;

e) replacing by the financial holding company, mixed financial holding company or by the mixed-activity holding company, if applicable, of the members of the management body of the company;

f) fine applied to the undertaking, equal to the amount specified at Article 141, paragraph (1), letter c);

g) fine applied to the management body members of the company, equal to the amount specified at Article 141, paragraph (1), letter e);

(2) Articles 142 and 146 shall apply accordingly.

Article 125. Evaluation of equivalence of supervision on a consolidated basis from other states

(1) Where a bank, the parent undertaking of which is a bank or an investment company or a financial holding company or mixed financial holding company, the head office of which is in another state, not subject to consolidated supervision under Article 113, the National Bank of Moldova shall assess whether the bank is subject to consolidated supervision by another-state supervisory authority which is equivalent to the supervision governed by the principles set out in this law and the requirements from the normative acts issued for the application of this law.

(2) The assessment shall be carried out upon request of the parent undertaking or any entity regulated and authorized in another state, by the National Bank of Moldova, if, according to Article 113, it would be the competent authority in charge of supervision on a consolidated basis. The National Bank of Moldova shall consult the other competent authorities involved.

(3) For the assessment according to paragraph (1), the National Bank of Moldova shall imply the principles of supervision on consolidated basis exercised by the competent authority from another state on the banks and the principles of supervision provided for in this law.

(4) In the absence of such equivalent supervision according to paragraph (2) - (3), the provisions related to the supervision on consolidated basis covered in this law and the normative acts issued for its application, shall be applied by analogy, to the bank described in paragraph (1) or the National Bank of Moldova shall apply other adequate supervision techniques to reach the objectives of the supervision on consolidated basis of the bank.

(5) The National Bank of Moldova, where it would be the competent authority in charge of supervision on a consolidated basis, decides to apply alternative supervision techniques provided for in paragraph (4), after consulting the other competent authorities involved.

(6) In the situation provided in paragraph (5), the National Bank of Moldova may in particular require the establishment of a financial holding company or mixed financial holding company which has its head office in the Republic of Moldova and apply the provisions on consolidated supervision to the consolidated position of that financial holding company or the consolidated position of that mixed financial holding company.

(7) The supervisory techniques shall be designed to achieve the objectives of consolidated supervision as set out in this law and the normative acts issued for its application.

Chapter 3
INFORMATION EXCHANGE WITH OTHER COMPETENT AUTHORITIES AND PROVIDING CONFIDENTIALITY IN THE PROCESS OF EXERCISE OF SUPERVISION DUTIES

Article 126. Professional secret of the National Bank of Moldova

(1) The members of the National Bank of Moldova management bodies and the National Bank of Moldova employees, as well as those of the audit entities, or experts appointed by the National Bank of Moldova for inspections of banks, according to Article 106, paragraph (5), shall be bound by the obligation of professional secrecy on any confidential information which they get acquainted within the course of performing of their duties for the application of this law. The members of the National Bank of Moldova management bodies and the National Bank of Moldova employees shall keep the professional secrecy also after termination of the activity within the bank.

(2) Persons listed in the paragraph (1) shall not disclose confidential information to any person or authority, except providing this information only in summary or aggregate form, such that the bank, or any other person which the confidential information relates to, can not be identified.

(3) Where a bank has been or is subject of a compulsory wound up, confidential information, which does not concern third parties involved in liquidation of the respective bank, may be disclosed within civil proceedings.

(4) Publication by the National Bank of Moldova of the stress tests according to Article 100, paragraph (5) shall not be considered breach of the obligation set out in paragraph (1) of this article.

(5) Provisions from (1) – (3) are without prejudice to the provisions of legislation according to which confidential information may be subject to disclosure in certain situations.

(6) For the purposes of this Chapter, confidential information is any information that is a banking, commercial, tax secret or any other secret protected by law, as well as the information developed by the National Bank of Moldova for the purpose of or in relation to performing its duties, the disclosure of which might prejudice the interests or the reputation of the person it refers to.

Article 127. Use of confidential information

(1) By derogation from Article 36 of the Law No 548/1995 of 21.07.1995, the National Bank of Moldova shall use the confidential information received under Article 126 only when performing its banks' supervisory duties and only for any of the following situations:

a) examination of fulfilment of the licensing conditions of banks, as well as facilitation of individual and/or consolidated supervision of banks' activities operation conditions, specifically regarding liquidity, solvency, large exposures, administrative and accounting procedures and internal control mechanisms;

b) imposing sanctions;

c) appealing of acts issued by the National Bank of Moldova;

d) within certain court proceedings, initiated against a decision of the National Bank of Moldova or of the provisions of other laws applicable to banks.

(2) The provisions of Article 36 of the Law no. 548/1995 on the National Bank of Moldova shall not apply in case of exchange of information and of the obligation of keeping professional secret while exercising prudential supervision competences according to this law, by the National Bank of Moldova.

Article 128. Cooperation agreements

(1) The National Bank of Moldova shall sign cooperation agreements with regard to exchange of information with the competent authorities from other states or with other authorities or bodies from other states as provided for in Articles 129 and 130, in conditions when this information is subject to professional secrecy requirements at least equivalent to those described in the Article 126. Exchange of information should be circumscribed to the purpose of performing supervisory tasks of the authorities or bodies mentioned.

(2) Where information received by the National bank of Moldova come from another state, it shall be only disclosed with the express agreement of the authorities that sent them and, where appropriate, only for the purposes for which the authorities concerned gave their agreement.

Article 129. Exchange of information between other competent authorities and entities

(1) For the purposes of discharge of their supervisory duties, Articles 126 and 127 shall not preclude the exchange of information between the National Bank of Moldova and the competent authorities from the Republic of Moldova or from other states, or between the National Bank of Moldova and the following entities from the Republic of Moldova or from other states:

a) authorities entrusted with the duty of supervising other financial sector entities and the authorities responsible for the supervision of financial markets;

b) authorities or bodies charged with responsibility for maintaining the stability of the financial system through the use of macro prudential rules/instruments;

c) bodies or authorities entrusted to apply safeguard measures with the goal of protecting the stability of the financial system;

d) contractual or institutional protection schemes consisting in an agreement of contractual or legal settlement of the responsibilities protecting the banks and ensuring, in particular, liquidity and solvency to avoid default, where necessary to banks;

e) bodies involved in the liquidation and bankruptcy of banks and in other similar procedures;

f) auditors of banks, investment companies, insurers and other non-bank financial institutions.

(2) In the meaning of paragraph (1), letter c), safeguard measures mean measures designated to maintain or recover the financial situation of a bank and which might affect the pre-existing rights of certain third parties, including measures providing the possibility of suspending payments, of enforcement measures or of a reduction of receivables; these measures include the application of resolution instruments and exercising of resolution powers.

(3) Articles 126 and 127 shall not preclude the disclosure to bodies which administer deposit-guarantee schemes and investor compensation schemes of information necessary for the exercise of their functions.

(4) Information received by Moldovan authorities, bodies and audit entities in line with the paragraph (1) shall be subject to professional secrecy requirements as provided for in the Article 126.

(5) The National Bank of Moldova shall exchange information with the authorities, bodies and audit entities from other states, according to paragraph (1) only when information received by those authorities, bodies or audit entities are subject to professional secrecy requirements at least equivalent to those stipulated in the Article 126.

Article 130. Exchange of information with other authorities

(1) Notwithstanding Articles 126-128, the National Bank of Moldova may exchange information with the authorities from the Republic of Moldova or from other states, responsible for overseeing:

a) the bodies involved in the liquidation and bankruptcy of banks and in other similar procedures;

b) contractual or institutional protection systems as referred to in Article 129, paragraph (1), letter d);

c) auditors of banks, investment companies, insurers and other non-bank financial institutions.

(2) Exchange of information referred to in paragraph (1) shall be carried out by complying with the following conditions:

a) information is meant for the fulfilment of the oversight tasks described in paragraph (1);

b) information received by authorities provided in paragraph (1), from the Republic of Moldova or from other states, are subject to certain professional secrecy requirements, stipulated by national legislation, at least equivalent to provisions stipulated in Article 126;

c) where information originates in another state, it shall not be disclosed without the express agreement of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

(3) Notwithstanding Articles 126 – 128, with the aim of strengthening the stability and integrity of the financial system, the National Bank of Moldova may exchange information with authorities or bodies from the Republic of Moldova or from other states responsible, under law, for the detection and investigation of breaches of company law and/or prevention and combating money laundering and terrorism financing.

(4) Exchange of information provided in paragraph (3) shall be carried out with fulfilling the following conditions:

a) that the information is exchanged for the purpose of detecting and investigating breaches of company law;

b) that the information received by the authorities or bodies, referred to in para. (3), from the Republic of Moldova or from other states, is subject to professional secrecy requirements, provided by national legislation, and at least equivalent to those referred to in the Article 126;

c) where the information originates in another state, it is not disclosed without the express agreement of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

(5) The authorities or bodies from the Republic of Moldova in view of their specific competence referred in para. (3) may exchange information with the competent authorities from other states, while fulfilling the conditions provided for in para. (4), including where these authorities or bodies carry out the activity of detection and investigation with the aid of persons designated for this purpose who are not civil servants.

(6) The authorities or bodies from the Republic of Moldova, described in para. (3) shall communicate to the competent authorities which have disclosed the information, the names and precise responsibilities of the persons to whom such information is transmitted.

Article 131. Transmission of relevant information in respect of currency, protection of deposits, systemic risk or supervision of payments

(1) Provisions of this Chapter shall not prevent the National Bank of Moldova, as competent authority, from transmitting information to the following for the purposes of their tasks:

a) central banks from other states and other bodies with a similar function in their capacity as monetary authorities when the information is relevant for the exercise of their respective statutory tasks, including the conduct of monetary policy and related liquidity provision, oversight of payments, clearing and settlement systems and the safeguarding of stability of the financial system;

b) contractual or institutional protection schemes as referred to in the Article 129, paragraph (1), letter d);

c) where appropriate, other public authorities responsible for overseeing payment systems;

d) authorities responsible with financial stability and systemic risk.

(2) Provisions of this Chapter shall prevent the authorities or bodies referred to in paragraph (1) from communicating to the National Bank of Moldova information as this may need for the purposes of Article 127.

(3) Information received by the National Bank of Moldova in accordance with the paragraph (2) shall be subject to professional secrecy requirements equivalent to those referred to in the Article 126.

(4) Information disclosed by the National Bank of Moldova in accordance with the para. (1) shall be subject to professional secrecy requirements, stipulated by the national legislation, at least equivalent to those described in the Article 126.

Article 132. Transmission of information to other entities

(1) The National Bank of Moldova may disclose certain information relating to prudential supervision of banks to Moldovan parliamentary enquiry committees, to the Court of Accounts of the Republic of Moldova and other entities in the Republic of Moldova with entities in charge of enquiries, under the following conditions:

a) the entities have a special legal mandate to investigate or scrutinise the activity of the National Bank of Moldova for the supervision and prudential regulation of banks;

b) the information is strictly necessary for fulfilling the mandate referred to in the letter a);

c) the persons with access to the information are subject to professional secrecy requirements under national law, at least equivalent to those referred to in the Article 126;

d) where the information originates from competent authorities and institutions from another country, that is not disclosed without the express consent of the competent authorities and institutions which have transmitted them and, solely for the purposes for which the authorities and institutions concerned provide their agreement.

(2) To the extent that the disclosure of information in accordance with the para. (1) involves processing of personal data, there shall be respected the provisions of the Law No. 133 / 2011 on Personal Data Protection.

Article 133. Disclosure of information received through controls

In the situation provided for in Article 132, information received by the National Bank of Moldova according to Article 130 and that obtained as a result of the controls and inspections fulfilled in accordance with Article 108 shall not be disclosed without the express agreement of the competent authority which provided the information, respectively of the competent authority from another state where such a controls was carried out.

Article 134. Disclosure of information regarding clearing and settlement services

(1) Provisions of this Chapter shall not prevent the National Bank of Moldova from providing the information referred to in Articles 126 - 128 to a clearing and settlement systems or other similar structures constituted under national law for the provision of clearing and settlement services for any Moldovan market if it considers that it is necessary to communicate the information in order to ensure the proper functioning of those structures, taking into account the risks that market participants do not fulfil their payment obligations.

(2) The information received in accordance with the provisions of paragraph (1) shall be subject to professional secrecy requirements stipulated by national legislation, at least equivalent to those referred to in Article 126.

(3) In the situations mentioned in paragraph (1), the information received from other competent authorities according to this chapter shall not be disclosed by the National Bank of Moldova without the express consent of the competent authority, which has disclosed the information concerned.

Article 135. Processing of personal data

The processing of personal data for the purposes of this law shall be carried out in accordance with the Law No 133/2011on Protection of Personal Data.

Chapter 4
REQUIREMENTS FOR PUBLISHING FOR THE NATIONAL BANK OF MOLDOVA

Article 136. General requirements for publishing

(1) The National Bank of Moldova shall publish the following information:

a) the texts of laws and normative acts adopted in the field of prudential regulation of banks and of recommendations issued for their application;

b) the general criteria and methodologies used in the review of the framework of administration of the activity, strategies, processes and mechanisms implemented by banks for the purposes of compliance with this law and normative acts issued for its application and for the assessment of the risks the banks are or are likely to be exposed to;

c) without prejudice to the provisions on professional secrecy requirements, aggregate statistical data on key aspects of application of the legal framework and of prudential regulation, including the number and nature of supervisory measures taken in accordance with Article 139, paragraph (1) letter a) disposed to banks that do not comply with the requirements of this law and the normative acts issued for its application, and of the sanctions and sanctioning measurers applied in accordance with Article 141.

d) the list of executives in banks and in branches of foreign banks.

(2) Information mentioned in paragraph (1) shall be published and be accessible on the web page of the National Bank of Moldova, and shall be regularly updated.

Article 137. Specific requirements for publishing

The National Bank of Moldova shall publish the following information, regarding the treatment of exposures to the transferred credit risk provided in the normative acts issued for the application of this Law:

a) the general criteria and methodologies adopted to review compliance with the related normative acts;

b) without prejudice to the professional secrecy requirements, a summary description of the outcome of prudential verification and a description of measures imposed in cases of non-compliance by banks with the requirements stipulated in letter a).

Chapter 5
SUPERVISION MEASURES, SANCTIONS AND OTHER RESTRICITVE MEASURES

Article 138. Supervision and sanctioning competences

(1) In exercising its functions, the National Bank of Moldova has the power to dispose, in relation to a bank, to its shareholders, to the members of the bank's management body, to the persons holding key positions within the bank who are in breach of the provisions of this law, of the normative acts or other acts issued for its application, regarding supervision or the conditions for carrying out the activity, measures according to the provisions of Article 139 and/or to apply sanctions and sanctioning measures according to the provisions of Article 141.

(2) The National Bank of Moldova shall exercise its supervisory powers and its powers to impose measures, penalties and sanctioning measures, according to the provisions of this law, in any of the following ways:

a) directly;
b) in collaboration with other authorities;
c) by notifying competent judicial authorities;

(3) The National Bank of Moldova shall have information gathering and investigatory powers that are necessary for the exercise of its functions.

(4) Without prejudice to the provisions of this law and of the normative acts issued for its application, the powers described in paragraph (3) shall include:

a) the power to require from any physical or legal persons to provide all information provided for in paragraph (5), that is necessary in order to carry out the tasks of the National Bank of Moldova, including information to be provided at recurring intervals and in specified formats for supervisory and related statistical purposes;

b) the power to carry out all the necessary research for the fulfilment of the duties of the National Bank of Moldova in relation to any individuals or legal entities referred to in paragraph (5);

c) the power to conduct all necessary inspections at the business premises of the legal persons referred to in paragraph (5) and at the premises of any other company included in consolidated supervision for which the National Bank of Moldova is the consolidating supervisor, subject to the prior endorsement of the competent authorities concerned.

(5) In the meaning of paragraph (4), the following shall be subject to the duty of communicating information:

a) banks established in the Republic of Moldova and subsidiaries of foreign banks;
b) financial holding companies established in the Republic of Moldova;
c) mixed financial holding companies established in the Republic of Moldova;
d) mixed - activity holding companies established in the Republic of Moldova;
e) physical persons that are related to the entities referred to in letters a) - d);
f) third parties to whom the entities referred to in letters a) - d) have outsourced certain operational functions or activities.

(6) The power referred to in paragraph (4) letter b) shall include the right:

a) to require the submission of documents;

b) to examine the evidences and records of the persons referred to in paragraph (5) and take copies or extracts from such evidences and records;

c) to obtain written or oral explanations from any person referred to in paragraph (5) or their representatives or staff; and;

d) interview any other person who consents to be interviewed for the purpose of collecting information pertaining to the subject matter of an investigation;

e) have access to information systems and request the provision of information from related databases.

Article 139. Supervision measures

(1) The National Bank of Moldova shall require a bank to take the necessary measures at an early stage to address relevant problems in the following circumstances:

a) the bank does not comply with the requirements of this law or the normative acts issued for its application, with the rules on prevention and combating the money laundering and terrorism financing and the normative acts issued for the application of these, as well as the bank's status and internal regulation of the bank approved for the implementation of this law and of normative acts issued for the application of this.

b) The National Bank of Moldova has evidence that the bank is likely to breach the requirements of this law or the normative acts issued for its application within the following 12 months;

c) the continuity of activity and/or information security may be affected by the risks identified by the National Bank of Moldova.

(2) For the purposes of paragraph (1), the powers of the National Bank of Moldova shall include those referred to in paragraphs (3) – (6) and (8).

(3) For the purposes of paragraph (1) and (2) of this article and of Articles 100, 102 paragraph (6) and Article 103 and for the application of prudential requirements provided for in the normative acts issued for the application of this law, the National Bank of Moldova shall apply to the bank, without being limited to them, the following supervisory measures:

a) to require the bank to have own funds in a greater amount than that set for own funds requirements specified at Article 60 and in the normative acts issued to ensure enforcement thereof, to cover credit risk, market risk, operational risk and settlement risk, as well as the risks which are not provided in Article 60;

b) to require the reinforcement of the arrangements, processes, mechanisms and strategies implemented by the bank in accordance with this law and normative acts issued for its application;

c) to require the bank to apply a specific provisioning policy or treatment of assets in terms of own funds requirements;

d) to restrict or limit the business, operations or network of banks, including by withdrawing the prior approval granted for the establishment of foreign branches, or to request the divestment of activities that pose excessive risks to the soundness of the bank;

e) to require the bank to mitigate the risk inherent in the activities, products and systems of banks;

f) to require banks to limit variable remuneration as a percentage of net revenues where it is inconsistent with the maintenance of a sound capital base;

g) to require banks to use net profits to strengthen own funds;

h) to require banks to adjust the value of prudential assets and conditional commitments;

i) to require banks to limit the qualifying holdings in non-bank financial undertakings or non-financial undertakings;

j) to require banks to present a plan for the timely restoration of compliance with the supervision requirements as provided in this law, and the normative acts issued for its application, likely to specify the measures and actions to be taken in this regard, and to set out the implementation period of those measures and actions, and ulterior improvements in the recovery plan, regarding the field of application and implementation term;

k) to restrict or prohibit distributions by the bank of the profit to shareholders and/or interest payments to members or holders of Additional Tier 1 instruments where the prohibition does not constitute an event of default of the bank;

l) to impose to the bank additional or more frequent reporting requirements, including reporting on capital and liquidity positions;

m) to impose to the bank specific liquidity requirements, including restrictions on maturity mismatches between the bank's assets and liabilities;

n) to require the deduction from the own funds of the net overruns beyond the limits established by the National Bank of Moldova regarding the exposures to the affiliated persons of the bank. The method of calculating and deducting the amounts of overruns shall be established by the normative acts issued in application of this law;

o) require the bank to disclose additional information;

p) require the bank to mitigate the risks related to information security.

(4) The supervisory measure referred to in paragraph (3) letter a) shall be imposed by the National Bank of Moldova with regard to a bank at least in the following situations:

a) the bank does not meet the requirement on internal capital and administration framework of the arrangements provided for in this law and/or the normative acts issued for its application;

b) risks or elements of risks are not covered by the own funds requirements set out in, including related to capital buffers provided for in this law or the normative acts issued for its application;

c) the sole application of other administrative measures by the bank is unlikely to improve sufficiently the arrangements, processes, mechanisms and strategies within an appropriate timeframe;

d) the review referred to in Article 100, which shall consider the valuation adjustments realized and the provisions established for the positions/portfolios from the trading book, as well as the one realized in accordance with provisions of Article 102, paragraph (6) reveals that the non-compliance with the requirements for the application of the respective approach will likely lead to inadequate own funds requirements;

e) the risks for the bank are likely to be underestimated despite compliance with the applicable requirements of this law and/or the normative acts issued for its application;

f) the bank reports to the National Bank of Moldova in accordance with normative acts issued for the application of this law, that the stress test results materially exceed its own funds requirement for the correlation trading portfolio.

(5) For the purposes of determining the appropriate level of own funds on the basis of the review and evaluation carried out in accordance with this law, and with the normative acts issued for its application, the National Bank of Moldova shall assess whether any imposition of an additional own funds requirement in excess of the own funds requirement is necessary to capture risks to which a bank is or might be exposed, taking into account the following:

a) the quantitative and qualitative aspects of a bank's internal capital assessment process;

b) a bank's arrangements, processes and mechanisms;

c) the outcome of the review and evaluation carried out in accordance with article 100 or 102;

d) the assessment of systemic risk.

(6) For the purposes of determining the appropriate level of liquidity requirements on the basis of the review and evaluation carried out in accordance with this law and the normative acts issued for its application, the National Bank of Moldova shall assess whether any imposition of a specific liquidity requirement is necessary to capture liquidity risks to which a bank is or might be exposed, taking into account the following:

a) the particular business model of the bank;

b) the bank's arrangements, processes and mechanisms and especially those pertaining to the liquidity risk;

c) the outcome of the review and evaluation carried out in accordance with Article 100;

d) systemic liquidity risk that threatens the stability of the Moldovan financial market.

(7) In particular, without prejudice to Articles 140 and 141 of this law, the National Bank of Moldova should consider the need to apply administrative penalties or other administrative measures, including prudential charges, the level of which broadly relates to the disparity between the actual liquidity position of a bank and any liquidity and stable funding requirements established at the level of the Republic of Moldova.

(8) The National Bank of Moldova shall aim at preventing the decrease of a bank’s level of capital or own funds under the minimum necessary level to cover risks specific to the activity carried on and shall require the bank to take urgent recovery measures, if this level is not maintained or recovered.

(9) Adopting measures provided for in paragraph (3) shall be subject to provisions on exchange of information and professional secrecy, according to this law.

(10) This article shall be without prejudice to the prerogatives of the National Bank of Moldova to apply the penalties and/or sanctioning measures provided for in Article 141 or to require measures of early intervention or resolution in accordance with Law No 232/2016 on the Recovery and Resolution of Banks.

Article 140. Actions subject to sanctions

(1) The National Bank of Moldova shall be empowered to apply penalties and sanctioning measures provided for in Article 141 in all cases where a bank or any other person listed in Article 43 is found guilty for the following facts:

a) the bank has obtained an authorization through false statements or any other irregular means;

b) the bank fails to inform the National Bank of Moldova of any acquisitions or disposals of holdings in the capital of the bank that exceed the levels set at Article 45, thus falling below the levels set at Article 50, of which it has found out, thus violating the provisions of Article 51, paragraph (1);

c) the bank listed on a regulated market does not, at least annually, inform the National Bank of Moldova, according to the normative acts issued for the application of this law, of the names of shareholders and members possessing qualifying holdings and the sizes of such holdings, thus violating the provisions of Article 54;

d) the bank does not have in place governance arrangements required by the National Bank of Moldova, thus violating the provisions of Article 38;

e) the bank does not comply with prudential requirements specified in Title III of this law;

f) the bank fails to report to the National Bank of Moldova information or provides incomplete or inaccurate information on compliance with the obligation to meet own funds requirements set out in Article 60, thus violating the provisions of Article 84;

g) the bank fails to report or provides incomplete or inaccurate information to the National Bank of Moldova in relation to each immovable property market which it is exposed to, thus violating the provisions of the normative acts of the National Bank of Moldova;

h) the bank fails to report information or provides incomplete or inaccurate information about a large exposure to the National Bank of Moldova, thus violating the provisions of Article 74;

i) the bank fails to report information or provides incomplete or inaccurate information on liquidity to the National Bank of Moldova, thus violating the provisions of Article 76;

j) the bank fails to report information or provides incomplete or inaccurate information on the leverage ratio to the National Bank of Moldova, thus violating the provisions of Article 77;

k) the bank repeatedly or persistently fails to hold liquid assets, thus violating the provisions of Article 76 and of the normative acts of the National Bank of Moldova issued for the application of the law;

l) the bank incurs an exposure in excess of the limits set out in Article 74, violating the provisions of the normative acts of the National Bank of Moldova issued for the application of this law;

m) the bank is exposed to the credit risk of a securitization position without satisfying the conditions specified at Articles 65 and 68 and in the normative acts of the National Bank of Moldova issued for the application of this law;

n) the bank fails to disclose information or provides incomplete or inaccurate information, in breach of the provisions of Article 91 and of the normative acts of the National Bank of Moldova issued for the application of the law;

o) the bank makes payments to holders of instruments included in the own funds of the bank, violating the relevant provisions or in cases where the provisions of Articles 60 and 62 and of the normative acts of the National Bank of Moldova issued for the application of the law prohibit such payments;

q) the bank allows one or more persons not complying with Article 43 and with the normative acts issued to ensure enforcement of the law to become or remain a member of the management body;

r) the bank performs fictitious operations and without real coverage, for the purposes of erroneous presentation of the financial position or exposure of the bank;

s) the bank endangers the reliability and/or viability of the bank by inadequate management of attracted funds;

t) the bank deliberately allows the compromising the integrity of data related to informational systems;

u) the bank allows any breaches of this law, of normative acts issued for its application, of the provisions of Article 5² of Law no. 548/1995 on the National Bank of Moldova, of the status and/ or of internal regulations of the bank approved for the application of this law and of normative acts issued for application of this, to the extent that these situations aren't covered by the provisions of the letters a) – o) of this article;

to the extent when these situations are not applicable in accordance with provisions from letters a)- p) of this Article;

v) the bank does not comply with the measures required by the National Bank of Moldova.

(2) The National Bank of Moldova may impose penalties and sanctioning measures provided for in Article 141 and where any person is found guilty of the following facts:

a) acquiring, directly or indirectly, including in the quality of effective beneficiary, of a qualifying holding in a bank or, by case, increasing, directly or indirectly, of such a qualifying holding so that as a result of which the proportion of the voting rights or of the capital held would reach or exceed the thresholds of 1%, 5%, 10%, 20%, 33% or 50% or so that the bank becomes a subsidiary, without complying with the requirement to request prior permission of the National Bank of Moldova, in accordance with Article 45 paragraph (1) letter a) or without taking into account the refusal formulated by the National Bank of Moldova;

b) disposing, directly or indirectly, of a qualifying holding in a bank or reducing a qualifying holding so that the proportion of the voting rights or of the capital held would fall below the thresholds of 1%, 5%, 10%, 20%, 33% or 50% or so that the bank would cease to be a subsidiary, by non-respecting the obligation of notifying the National Bank of Moldova as referred to in Article 50;

c) the failure to submit the information and documents requested by the National Bank of Moldova under Article 51, paragraph (3) and (6) and/or incomplete/erroneous presentation of data.

[Article 140 amended by Law No 160 of 26.07.2018, in force as of 17.09.2018]

[Article 140 completed by Law No 110 of 15.06.2018, in force as of 06.07.2018]

Article 141. Applicable sanctions and restrictive measures

(1) Sanctions to be applied in accordance with this law:

a) warning in writing;

b) a public statement which identifies the individual, the legal entity, including the bank and the nature of the breach;

c) apply and collect irrevocably from a bank a fine of up to 5% of the bank's own funds calculated as of the day of the latest report and/or from direct and indirect holders of holdings in the share capital of the bank of up to 100% of the size of the holding in the bank's share capital calculated at face value;

d) administrative pecuniary penalties of up to 10 % of the total annual net turnover including the gross income consisting of interest receivable and similar income, income from shares and other variable or fixed-yield securities, and commissions or fees receivable of the undertaking in the preceding business year; where an undertaking is a subsidiary of a parent undertaking, the relevant gross income shall be the gross income resulting from the consolidated account of the ultimate parent undertaking in the preceding business year;

e) apply to a member of the management body or a person in a key position a fine amounting to 1–100 average wages of the penalized individual for the latest 12-month period, including all benefits (increments, bonuses and other top-ups to the base wage);

f) apply to an individual another fine than that specified at letter e), amounting to MDL 5,000 (five thousand) – MDL 100 million;

g) withdrawal of approval granted to persons as referred to in Article 43;

h) fine equal up to the double value of the benefit obtained as a result of the breach, if it can be determined.

(2) Sanctioning measures that can be applied in accordance with this Law are:

a) an order requiring the individuals or legal entities responsible to cease the conduct and to desist from a repetition of that conduct;

b) temporarily prohibiting the exercise of certain functions in a bank by the persons referred to in Article 43 responsible for committing the infringement;

c) withdrawal of the license granted the bank in accordance with Article 22;

d) suspension of the voting rights of the shareholder or of shareholders held responsible for the breaches;

(3) Administrative measures provided for in paragraph (2) may be applied at the same time with the penalties or independent of those.

(4) The persons referred to in Article 43 to which the approval of the National Bank of Moldova or of another competent authority has been withdrawn shall not have the right to exercise any functions within the banking and non-banking financial sector of the Republic of Moldova during 10 years from the date of withdrawal of the approval.

(5) Penalties described in paragraph (1) letters a), b), d) - g) and the administrative measure described in paragraph (2) letter a) shall be applied to persons that can be imputed the fact, as it wouldn't have occurred if those persons exercised accordingly their responsibilities deriving from their legal duties, in accordance with the normative acts issued for the application of this law and the internal arrangements or, if applicable, to persons that the National Bank of Moldova finds they do not follow a prudent and sound banking practice and/or they do not comply with the reputation and competency requirements according to the nature, size and complexity of the bank's activity and powers entrusted.

(6) The fines shall be paid to the state budget.

Article 142. Application of sanctions and other restrictive measures

(1) Penalties and sanctioning measures applied under Article 141 shall be effective and proportionate to the facts and deficiencies found and be likely to have a deterrent effect.

(2) When determining the type of sanction or the sanctioning measure and the amount of the fine, the National Bank of Moldova considers all the relevant circumstances of the infringement, including the following, as the case may be:

a) the gravity and the duration of the breach;

b0 the degree of responsibility of the individuals or legal entities responsible for the breach;

c) the financial strength of the individuals or legal entities responsible for the breach, as indicated, for example, by the total turnover of a legal person or the annual income of an individual;

d) the importance of profits gained or losses avoided by the individuals or legal entities responsible for the breach, insofar as they can be determined;

e) the losses for third parties caused by the breach, insofar as they can be determined;

f) the level of cooperation of the individual or legal entity responsible for the breach with the National Bank of Moldova;

g) previous breaches by the individual or legal entity responsible for the breach;

h) any potential systemic consequences of the breach.

(3) The penalties shall be prescribed within 3 years from the date when the breach was found to have been committed. In case of continuous breach, the 3 years term starts to run from the date of the cessation of the breach. The running of the 3 years term shall be suspended during the suspension period of the verification procedure.

(4) While applying the penalties and administrative measures in accordance with this law, provisions become applicable, accordingly, to Article 75^2 paragraph (5) regarding repeated infringement, and to paragraph (6) and (10) – (15) of the Law no. 548/1995 on the

National Bank of Moldova. The notification of acts with regard to the penalties and administrative measures shall be carried out within conditions provided for in Article 11² of this law.

(5) Application of sanctions and of sanctioning measures under this law does not remove material, civil or criminal liability, as the case may be.

Article 143. Finding of facts and issue of decisions

(1) Finding the facts described in this chapter, which are breaches of this law or of the normative acts issued for its application, shall be done by the staff of the National Bank of Moldova, empowered for that purpose, based on the reports made by the bank in accordance with the law or upon the express request of the National Bank of Moldova, or during the on-the-spot inspections, in line with the Law on the National Bank of Moldova 548/1995, if this law does not provide otherwise.

(2) Provisions of this chapter shall also apply accordingly to the Moldovan branches of the banks in other states.

(3) The acts on a bank, providing measures, or applying penalties and administrative measures, in accordance with this article, shall be issued by the Executive Board of the National Bank of Moldova. The penalties and sanctions provided at Article 141, paragraph (1), letters a) and b) and paragraph (2), letter a) may be applied by the Governor, First Deputy Governor or the Deputy Governors of the National Bank of Moldova.

(4) For the purpose of this chapter, the provisions of the Article 75^1 of the Law no. 548/1995 on the National Bank of Moldova, shall apply accordingly.

(5) The provisions of the Article 144, paragraph (6) and of Article 146, paragraph (3) of the Administrative Code no.116/2018, do not apply in case of license withdrawal for the banking activity.

Article 144. Challenging the acts of the National Bank of Moldova

(1) The acts of the National Bank of Moldova providing measures or applying penalties or administrative measures in accordance with this law, may be contested in the competent administrative court, while complying with this Article and with Articles 11 and 11^1 of Law No 548/1995 on the National Bank of Moldova.

(2) By derogation from legislation on administrative court, in case of withdrawal of license in accordance with Article 22, paragraph (2), only the bank's shareholders having at least 25% of the voting rights, the depositors having at least 1/4 of the amount of the deposits or other creditors having at least 1/4 of the total amount of liabilities, except deposits, have the right of appeal in competent court the decision of the National Bank of Moldova, within 30 days from the date of the withdrawal of license, while indicating grounded reasons proving that the bank is not found in any of the situations listed in Article 22 paragraph (2) for which withdrawal of license has been decided.

(3) The National Bank of Moldova is the sole authority empowered to decide on the opportunity considerations, assessments and qualitative analyses, which stay at the basis of its acts regarding application of penalties, sanctioning measurers and other measures.

(4) The measures and penalties applied by the National Bank of Moldova may be challenged in a competent court. In the lawsuit against the National Bank of Moldova with regard to the application of this law, the following conditions shall be applied:

a) where the court recognizes that the actions of the National Bank of Moldova regarding a bank and/or persons/shareholders are illegal, the National Bank of Moldova shall return material prejudice, and all the effects produced due to the cancelled act of the National Bank of Moldova that has been issued to enforce Articles 45, 46 and 52 and any

subsequent act and operation meant to enforce the cancelled act shall be maintained, including the remaining in force of the withdrawal of license;

b) contestation or appeal in court shall not influence the liquidation process and shall not suspend execution of acts imposed by the National Bank of Moldova;

c) the court decides of the legacy of the actions undertaken for the purposes of this law and decides only upon the fact whether these have been done with or without intention;

d) the staff of the National Bank of Moldova, the Supervisory Board members or of the Executive Board of the National Bank of Moldova, the special administrator, liquidator and the persons employed to provide assistance to them shall not be accountable for the prejudice, actions or omissions that took place while exercising their duties, only in accordance with Article 35 of Law no.548/1995 on the National Bank of Moldova.

[Art.144 paragraph 4 letter d) amended by the Law no.178 of 11.11.2021, in force on 29.11.2021]

Article 144[1]. Peculiarities of liability for the damage caused by the illegal administrative act of the National Bank of Moldova issued for application of this Law or regarding the non-settlement within the legal term of an application by it, relating to application of this Law.

(1) The compensation for the damage caused by the illegal administrative act of the National Bank of Moldova issued for application of this Law or regarding the non-settlement within the legal term of an application by it, relating to application of this Law may be requested by submitting a request in this regard to the National Bank of Moldova:

a) at the same time with the preliminary appeal; or

b) within 30 days from the date on which the court decision by which the illegal administrative act was called off or the claim was settled, but no decision was made regarding the reparation of the damage, remained irrevocable, or, if the administrative act was canceled by the National Bank of Moldova, within 30 days from the date on which the decision regarding the cancellation of the illegal administrative act remained indisputable.

(2) Within 30 days from the date of submission of the request to the National Bank of Moldova, it shall decide on the request provided for in paragraph (1).

(3) Actions for compensation of damages caused by the illegal administrative act of the National Bank of Moldova issued for application of this Law or regarding the non-settlement within the legal term of an application by it, relating to application of this Law shall be submitted to the court subject to mandatory compliance with the procedure laid down in paragraphs (1) and (2).

(4) The obligation to compensate the damage caused does not arise to the extent that the injured party has failed, intentionally or by negligence, to remove the damage by legal means.

(5) Until proven otherwise, it is presumed that the acts of the National Bank of Moldova issued for application of this Law pursue the public interest in ensuring the stability and viability of the banking system.

(6) The amount of the patrimonial damage caused to the bank's shareholders, to which have become applicable the provisions of Article 45 (2) and (4), Article 46 (4), Article 52 (2), (3), (4), (6) and Article 52[1] by the illegal administrative act of the National Bank of Moldova, issued for application of provisions of these articles, shall be determined according to an independent and objective assessment, ordered by the court before which the case concerning compensation for damage was brought. The assessment shall be performed by an internationally renowned audit entity, which meets the criteria established

by the regulations of the National Bank of Moldova issued under Article 88 and paragraph (7) of this Article.

(7) For the purposes of paragraph (6) of this Article and Article 144^2 (5), the criteria that must be met by an audit entity to qualify as an internationally renowned audit entity shall be established by the normative acts of the National Bank of Moldova.

Article 144^2. Peculiarities of determining the amount of damage caused to the former shareholders of a bank, by the illegal administrative act of the National Bank of Moldova regarding the withdrawal of the bank's license and initiation of the process of forced liquidation of the bank.

(1) The person, who was a shareholder in the bank at the date of adoption of the illegal administrative act of the National Bank of Moldova regarding the withdrawal of the license and initiation of the process of forced liquidation of the bank (hereinafter – *the former shareholde*r) may request compensation for the damage caused by this act, according to applicable legal provisions, taking into account the peculiarities provided in Article144^1 (1) - (5), as well as in the present Article.

(2) The amount of compensation for the lost profit shall be determined as the amount of income that the former shareholder would have effectively received, provided that the administrative act of the National Bank of Moldova was the only and sufficient basis that deprived the former shareholder of the opportunity to receive it. The lost profit shall be compensated only if it was not considered in determining the share price of the bank (hereinafter - *the share price*).

(3) The actual damage shall be determined according to the share price on the day of the adoption of the administrative act of the National Bank of Moldova regarding the withdrawal of the banking license and initiation of the process of forced liquidation of the bank (hereinafter - *the date of determination*).

(4) The share price, provided for in paragraph (3) is the price that a potential buyer, having all the substantial information, would have paid on the date of determination, taking into account the bank's prospects and taking into account the bank's real financial situation (including regulatory capital, liquidity and quality of assets), the bank's business model and structure, as well as market circumstances (including access to liquidity and cost of financing) and the macroeconomic situation.

(5) The share price shall be determined according to the assessment of the situation of the bank's financial operations, performed by an internationally renowned audit entity that meets the criteria established by the normative acts of the National Bank of Moldova issued under Article 88 and Article144^1 (7). That assessment shall be ordered by the court before which the case concerning compensation for damage was brought.

(6) The share price shall be determined based on a prudent and realistic assessment, performed according to internationally accepted valuation standards and techniques, taking into account the peculiarities of the bank's operation, including regulatory capital requirements, which the bank should comply with in order to continue its activities.

(7) While assessing the financial and economic performance of the bank at the date of determination, account shall be taken of the information known at the date of assessment, including information obtained after the adoption by the National Bank of Moldova of the decision to withdraw the bank license and initiate the forced liquidation of the bank. To assess the financial and economic performance of the bank at the date of determination, the audit entity shall apply the international financial reporting standards applicable to banks.

(8) If, according to the auditor's report, at the date of determination, the bank's debts exceed its assets, it shall be considered that the bank cannot operate on a continuous basis and that the concerned shares are of no value to a potential buyer. If, according to the auditor's report, the bank's assets exceed its debts, this shall not necessarily be a sufficient indicator of existence of the patrimonial damage.

(9) If the legislation provides for the application of less prudential requirements, for a short period of time, to stabilize the bank's situation, the bank's compliance with these requirements and non-application of sanctions by the National Bank of Moldova shall not be sufficient evidence of a positive share price value.

(10) In the assessment process provided for in paragraph (5), the following assumptions shall be considered:

a) at the date of determination, the bank must immediately repay any extraordinary public financial support received by it, as well as any emergency liquidity provided by the National Bank of Moldova to the bank, and the financial situation of the bank must be assessed taking into account the financial losses, which the bank would have borne as a result of this repayment;

b) after the date of determination, no liquidity assistance or extraordinary public financial support shall be provided by the public authorities. If such assistance or support have been provided, the assessment of the bank's prospects and financial and economic performance indicators must assume that such support has not been provided.

(11) Any payments received by the former shareholder in the process of liquidation of the bank shall be deducted from the calculation of the damage.

(12) The compensation for damage shall be carried out exclusively in money. Compensation in kind for damage shall not be permitted.

[Law is completed by articles 144^1,144^2 by the Law no.178 of 11.11.2021, in force on 29.11.2021]

Article 145. Suspension of execution of the acts of the National Bank of Moldova

The suspension of the execution of the National Bank of Moldova acts may be required only in line with the provisions of Article 11^1 of the Law No 548/1995 on the National Bank of Moldova.

Article 146. Publication of penalties

(1) Publication of penalties is carried out according to the provisions of Article 75³ of Law no. 548/1995 on the National Bank of Moldova.

Article 147. Reporting of breaches

(1) The National Bank of Moldova shall establish effective and reliable mechanisms to encourage reporting of potential or actual breaches of this law and normative acts issued for its application.

(2) The mechanisms referred to in paragraph 1 shall include at least:

a) specific procedures for the receipt of reports on breaches including the potential ones and taking further actions;

b) appropriate protection for employees of banks who report breaches committed within these banks against retaliation, discrimination or other types of unfair treatment at a minimum;

c) protection of personal data concerning both the persons who reports the breaches and those who are allegedly responsible for the breach concerned, in accordance with the Law No 133/2011 on the Protection of Personal Data;

d) clear rules that ensure that confidentiality is guaranteed in relation to the person who reports the breaches committed within the bank, except the case when disclosure is required in the context of further investigations or subsequent judicial proceedings.

(3) The banks shall have in place appropriate procedures for their employees to report breaches of this law and the normative acts issued for its application, through a specific, independent and autonomous channel.

TITLE VI
TRANSITIONAL AND FINAL PROVISIONS

Article 148. Transitional provisions

(1) The licenses issued for the activity of banks, which were issued under the Law No 550/1995 on Financial Institutions, shall be valid until being granted new licenses, within conditions set out in paragraph (2), letter a) of this article.

(2) Within 5 months from the enforcement date of this law:

a) the banks which hold licenses issued by the National Bank of Moldova for banking activity, under Law No 550/1995 on Financial Institutions, shall obtain the new licenses and certified copies of the licenses for subsidiaries. Banks shall submit to the National Bank of Moldova the original copies of the licenses for financial activities. The National Bank of Moldova shall re-issue new licenses for financial activities on the day of submission of the original copies of the license held, and certified copies of the licenses – within 3 days from the day of submission of the authorized copies of the licenses.

b) the banks shall identify the persons in key positions according to Article 43 and will submit the sets of documents needed for approval or notification;

c) the banks shall decide and will establish the specialized committees of the Board of the bank, as provided by Article 44;

d) the banks shall bring their statutes in compliance with the provisions of this law;

e) the banks shall revise the regulations of their subsidiaries developed in line with the provisions of the Law on Financial Institutions no. 550/1995 in the corresponding acts related to subsidiaries in line with this law;

f) the National Bank of Moldova shall develop and approve its normative acts for the application of this law, specifying the terms and conditions for their enforcement by banks and the subsidiaries of banks from other countries established in the Republic of Moldova.

(3) No payment shall be levied for issuing licenses for performing activities allowed to banks and for the certified copies of the licenses as specified in paragraph (2), letter a) of this Article, as well as for registering the amendments and supplements to the banks' statutes and the regulations of the subsidiaries related to their adjustment to the provisions of this law.

(4) Any reference, in existing normative acts, to the enforcement date of this Law, to the term "financial institution" shall be treated as referral and/or reference to the term "bank" stipulated in article 3 of this Law.

(5) From the date of entry into force of this law, the provisions of Chapters I, II, III, III^{1}, IV, V, VI, VII and Article 37^{9} of the Law on Financial Institutions no.550 / 1995 are abrogated.

Article 149. Final provisions

(2) This law shall come into force on January 1, 2018.

(3) The normative acts issued by the National bank of Moldova under the Law No 550/1995 on Financial Institutions, with subsequent amendments and supplements, shall continue to apply until their explicit abolishment.

CHAIRMAN OF THE PARLIAMENT **Andrian CANDU**

No 202. Chisinau, 6 October 2017