

Regulation on the credit activity of non-bank payment service providers, approved by the Decision of the Executive Board of the NBM no.158 of 5 June 2019

Note: The translation is unofficial, for information purpose only

EXECUTIVE BOARD OF THE NATIONAL BANK OF MOLDOVA

DECISION No 158 of 5 June 2019

(in effect as of 21.07.2019)

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REGISTERED:
By the Ministry of Justice
of the Republic of Moldova
under no. 1459 on 14 June 2019

for the approval of the Regulation on the credit activity of non-bank payment service providers

Pursuant to art. 5, par. (1), letter m), art.11, par. (1), art. 27, par. (1), letter c), art. 49¹, par. (2) of the Law No 548/1995 on the National Bank of Moldova (republished in the Official Monitor of the Republic of Moldova, 2015, No 297-300, art. 544), with further amendments, and art. 25, par. (3) and (4), art. 93, par. 2, letter b), and art. 94, par. (1), letter c) of the Law No 114/2012 on payment services and electronic money (Official Monitor of the Republic OF Moldova, 2012, No 193-197, art. 661), with further amendments, the Executive Board of the National Bank of Moldova

DECIDED:

1. To approve the Regulation on the credit activity of non-bank payment service providers (see attached).

2. The electronic money issuing entities which received the license according to the provisions of the Law No 114/2012 on payment services and electronic money before the date of adoption of the Law No 208/2018 on the amendment of some legal acts and which intend to provide the payment services stipulated in art. 4, par. (1), item (1) of the Law No 114/2012 on payment services and electronic money, shall submit to the National Bank of Moldova, simultaneously with the original of the license, for reissuance purposes, their internal procedures related to the credit activity, drafted under the provisions of the present regulation.

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

Octavian ARMAȘU

Nr. 158. Chișinău, 5 June 2019.

REGULATION
on the credit activity of non-bank payment service providers

Chapter 1
GENERAL PROVISIONS

1. The Regulation on the credit activity of non-bank payment service providers (hereinafter – Regulation) shall be applied to the non-bank payment service providers with the purpose to regulate the activity of credit granting (loan) related to payment services (hereinafter – credit), as referred to in art. 4, par. (1), item (4) and (5) of the Law No 114/2012 on payment services and electronic money (hereinafter – the Law), under the terms and conditions specified in art. 25, par. (3) and (4), art. 78, par. (2) and art. 88, par. (1¹) of the law.

2. The provisions of the present regulation shall be applied correspondingly to subsidiaries with the head office in the Republic of Moldova operated by non-bank payment service providers with their head office abroad, licensed under art. 17 and art. 84 of the Law. The non-bank payment service provider is not entitled to conduct activities of granting credits through agents.

3. The present Regulation sets the principles that shall be applied and the requirements to be met by the non-bank payment service provider in the process of performing the credit activity related to the execution of payment operations, in case the funds are covered through a credit line for a user of payment services and/or issue of credit cards, and regulates the following:

- 1) conditions for credit granting;
- 2) credits and related interest rate classification, specific credit risk provisions establishing, creating and adjusting;
- 3) reporting requirements;
- 4) supervision of non-bank payment service providers credit activity.

4. For the purpose of this Regulation, the terms below shall have the following meanings:

beneficiary – user of payment services, that can benefit from a credit related to payment services;

creditworthiness of the beneficiary - the beneficiary's ability to repay the credit at maturity, under the credit agreement, including the related interest and costs;

total cost of credit – all the costs, including the interest, commissions, taxes and any other kind of fees which the consumer is required to pay in connection with the credit agreement;

expired credit – a credit which reimbursement was not paid more than 30 days from the maturity date of payments stipulated in the agreement. If a credit expires, its balance is considered expired, as well;

credit related to payment services – a credit granted to the beneficiary by the non-bank payment service provider, exclusively in connection to the execution of a payment transaction, according to art. 4, par. (1), item (4) and (5) of the Law;

extended credit – a credit which reimbursement term, under the agreement, is extended based on an additional agreement. To qualify a credit as “prolonged”, the agreement has to be signed before the qualification of the credit as “expired”, according to the maturity date stipulated in the initial agreement. The expiry of the credit shall be interpreted according to the initial agreement and the notion “expired agreement”;

renegotiable credit – non-reimbursed credit (initial credit) which clauses regarding the performance of expired payments have been subsequently modified;

disclosure of information – providing information related to the credit activity by the non-bank payment service provider to the public through different means (mass-media, information board, webpage of the non-bank payment service provider, etc.);

reimbursement schedule – information on the amounts and payment terms (periods) of the beneficiary according to the credit agreement, which shall be coordinated between the non-bank payment service provider and is an integral part of the credit agreement;

borrowing rate – means the interest rate expressed as a fixed or variable percentage applied to the amount of credit drawn down;

credit risk – the risk of failure to make a total settlement (redemption) at maturity of the obligation related to the credit granted, and at any moment in the future;

payment – interest rate or initial amount of the credit and the interest rate, or a part of the credit and the interest rate, or a part of the credit paid according to the conditions and credit reimbursement procedure stipulated in the agreement;

total credit portfolio – the sum of all credits granted by the non-bank payment service provider;

non-bank payment service provider – payment institution, postal operator or electronic money institution, that is entitled to provide payment services according to art. 4 and 7 of the Law;

credit risk specific provisions – provisions that are created by the non-bank payment service provider with the purpose to cover some potential losses caused by the failure to pay the credit;

total amount of credit – the ceiling or the total sums made available to the beneficiary under a credit agreement;

total cost payable by the beneficiary – the sum of the total amount of the credit and the total cost of the credit.

For the purpose of this Regulation, the terms and expressions of the Law shall be used.

Chapter 2 CONDITIONS FOR THE DEVELOPMENT OF CREDIT ACTIVITY

5. The non-bank payment service provider can grant credits for the payment services as referred to in art. 4, par. (1), item (4) and (5) of the Law, in the conditions specified in art. 25, par. (3) and (4), art. 78, par. (2) and art. 88, par. (1¹) of the Law, only if it holds a corresponding license.

6. The non-bank payment service provider can grant credits related to payment services as referred to in item 5, only if all of the following conditions are met:

- 1) the credit shall be ancillary and granted exclusively in connection with the execution of a payment transaction, except for cash withdrawal;
- 2) the credit granted in connection with a provided payment service shall be repaid within a short period which shall in no case exceed 12 months;
- 3) such credit shall not be granted from the funds received or held for the purpose of executing a payment transaction, or the funds received and held for electronic money issuance;
- 4) the regulated capital of the non-bank payment service provider shall at all times be

appropriate, under the terms and conditions stipulated in art. 13 and 83 of the Law.

7. The non-bank payment service provider shall perform its credit activity stipulated in item 5 only in national currency, in accordance with the rules of a prudent and sound practice, in compliance with the law and provisions of the present Regulation.

8. The non-bank payment service provider who intends to perform the credit activity stipulated in item 5, shall submit to the National Bank of Moldova a notification regarding the intention to perform credit activity, by attaching the internal procedures for the conduct of the credit activity.

9. The internal procedures provided for in item 8 shall include at least the following:

- 1) beneficiary identification measures (personal data processing);
- 2) identification and managing of risks related to the credit activity;
- 3) transparency, criteria and conditions for granting credits;
- 4) conditions of prolongation/renegotiation/events outside the control of the agreement;
- 5) rules/requirements for the prevention and combating money laundering and terrorism financing;
- 6) creditworthiness of the beneficiary assessment;
- 7) specific credit risk provisions;
- 8) credit risk mitigation measures.

10. The National Bank of Moldova shall examine if the internal procedures submitted in accordance with item 8 have been elaborated in accordance with the rules of a prudent and sound practice, in compliance with the provisions of the present Regulation and other regulatory acts, within the terms provided in the Administrative Code No 116/2018.

11. Any subsequent modification of internal procedures may be approved by the non-bank payment service provider, only after the preliminary examination by the National Bank of Moldova, pursuant to item 10, of submitted documents compliance with the provisions of the Regulation and other corresponding regulatory acts.

12. The non-bank payment service provider, as a holder of the corresponding license, may start its credit activity stipulated in item 5, only after the receipt of the confirmation from the National Bank of Moldova of the submitted documents compliance with the provisions of the Regulation and other relevant regulatory acts.

13. The non-bank payment service provider can grant credits as referred to in item 5 only based on the assessment of beneficiary's creditworthiness.

14. The non-bank payment service provider shall assess the creditworthiness of the beneficiary on the basis of sufficient information, where appropriate obtained from the beneficiary and, where necessary, on the basis of a consultation of the relevant database and credit history bureaus. The non-bank payment service provider shall provide to the credit history bureaus all information held regarding the beneficiaries, by complying with the provisions of Law No122/2008 on credit history bureaus and other regulatory acts.

15. If the parties agree to change the total amount of credit after the conclusion of the credit agreement, the non-bank payment service provider updates the financial information at his disposal concerning the beneficiary and assesses the beneficiary's creditworthiness before any significant increase in the total amount of credit.

16. The non-bank payment service provider shall inform the applicant about the decision regarding the demand for credit with no more than 7 calendar days after the submission of demand for credit, in the form confirmed by the parties.

17. Reimbursement of credits for payment services shall be made according to the conditions established in the credit agreement between the parties. The non-bank payment service provider shall grant the applicant a new credit exclusively after the full payment of debts towards the non-bank payment service provider.

18. The non-bank payment service provider shall establish in its Internal Regulations the limits of the credit activity for a single beneficiary, as well as for the total credit portfolio, including relative values in relation to the equity capital. The maximum limit of the total credit portfolio shall not exceed 20% of the equity capital of the non-bank payment service provider. The respective limits shall not be violated during the performance of the credit activity.

Chapter 3 **DISCLOSURE OF INFORMATION** **AND REQUIREMENTS FOR CREDIT AGREEMENTS**

19. The non-bank payment service provider shall disclose and update, provided that modifications are made, the information regarding the credit activity which shall include the following, but not be limited to:

- 1) general features for each type of granted credit;
- 2) terms and conditions for credit granting;
 - a) total amount of credit (minimum/maximum);
 - b) the borrowing rate, fixed/variable, as well as the method for the calculation of the borrowing rate illustrated by means of at least two representative examples;
 - c) the duration of credit agreement (minimum/maximum);
 - d) other payments beside the borrowing rate, which are included in the total cost of the credit;
- e) method and frequency of payments;
- f) required documents for credit granting;
- g) effects of anticipated reimbursement of credit;
- h) credit agreement related penalties;
- i) conditions for the modification of interest rate;
- j) annual percentage rate (APR) of charge, which shall be highlighted (in bold), in a format and language accessible to the public. The disclosed information on APR from the webpage of the non-bank payment service provider shall be directly accessed from the starting page, through a maximum number of 3 clicks.

20. The non-bank payment service provider shall specify in the credit agreement, in a clear and concise manner, the following information:

- 1) the identities and geographical addresses of the contracting parties;
- 2) the duration of credit agreement;
- 3) the total amount of credit;
- 4) the borrowing rate, the conditions or changing the borrowing rate. Depending on different circumstances, different interest rates shall be applied and all the range of information related to these matters shall be specified, such as terms, conditions, procedures, etc.;
- 5) the amount, number and frequency of payments which shall be performed by the beneficiary, and if necessary, the order in which payments shall be done;
- 6) the interest rate of expired payments which is applicable to the outstanding balance of the credit, the adjustment measures, and if necessary, any due penalties in case of non-payment;

7) the annual percentage rate of charge (APR) and the total costs of credit for the beneficiary, which shall be highlighted (in bold) and calculated at the moment of conclusion of credit agreement;

8) warning regarding the consequences of the failure to make the payments within the deadlines of the contract;

9) revocation right, its term of exercise and other conditions for its exercise, including the information regarding the obligation of the beneficiary to pay the credit or the part of the credit used from the total amount of the credit with the interest, as well as the amount of the payable interest.

21. The non-bank payment service provider is obliged to provide for free, at the request of the beneficiary, the information regarding the credit granted, on paper or on another durable medium (hereinafter – statement of account), containing the following particulars:

- 1) the precise period to which the statement of account relates;
- 2) the amounts and dates of drawdowns;
- 3) the balance from the previous statement, and the date thereof;
- 4) the new balance;
- 5) dates and amounts of payments made by the beneficiary;
- 6) the borrowing rate applied;
- 7) any charges that have been applied.

22. In addition to the information provided in par. 21, the non-bank payment service provider is obliged to inform the beneficiary, in the manner chosen by the beneficiary and accepted by the non-bank payment service provider, about the modification of the borrowing rate, as well as about any other modifications operated by the non-bank payment service provider, before the entry into force of the respective modifications.

Chapter 4

CREDITS AND RELATED INTEREST RATE CLASSIFICATION, SPECIFIC CREDIT RISK PROVISIONS ESTABLISHING, CREATING AND ADJUSTING

23. Any granted credit and the interest rate shall be included in one of the following criteria of classification:

- 1) standard – a credit which terms and conditions are up-to-date, which does not have expired payments and was not prolonged and/or renegotiated;
- 2) supervised – a credit which payments expired from 31 to 60 days, including;
- 3) substandard – a credit which payments expired from 61 to 90 days, including;
- 4) doubtful – a credit which payments expired from 91 to 120 days, including;
- 5) compromised – a credit which payments expired for more than 121 days.

24. Prolongation and renegotiation of a credit cannot determine its classification in a better category than the one assigned on the date of its prolongation or renegotiation.

25. The prolonged and renegotiated credit cannot exceed the term of 12 months.

26. The credit which was prolonged or renegotiated shall be classified as follows:

- 1) In case of prolongation:
 - a) for the category “supervised” – for credits which on the date of prolongation are classified in the “standard” or “supervised” category, and
 - b) for the category of credit established on the date of prolongation – for the credits which are classified in the “substandard” or “doubtful” category at the same date, if on the date of prolongation, the payments have been done to the non-bank payment service provider or shall be paid in the first 2 months after the date of prolongation. In this case, the credit will remain in one of these categories for a period of 2 months after prolongation, if

the interest rate and the base sum of the credit was paid regularly (at least on a monthly base). After the expiry of 2 months after prolongation, these credits shall be classified in a category one level less favorable, but not higher than the category “supervised”. Otherwise, a more rigid classification shall be done.

2) In case of renegotiation:

a) for the category “substandard” – for credits which on the date of renegotiation are classified in the category “supervised”, and

b) for the category of credit established on the date of renegotiation – for the credits which are classified in the category “substandard” or “doubtful” at the same date, if on the date of renegotiation, the payments have been made to the non-bank payment service provider or shall be paid in the first 2 months after the date of renegotiation. In this case, the credit will remain in one of these categories for a period of 2 months after renegotiation, if the interest rate and the base sum of the credit was paid regularly (at least on a monthly base). After the expiry of 2 months after renegotiation, these credits shall be classified in a category one level less favorable, but not higher than the category “supervised”. Otherwise, a more rigid classification shall be done.

27. During the credit activity stipulated in item 5, the non-bank payment service provider shall constitute, adjust and use specific credit risk provisions, according to the provisions specified in the present regulation and internal procedures.

28. The creation of credit risk specific provisions shall be made by applying the risk provision rate on the related credits and interest rates, as follows:

- 1) standard - 2%;
- 2) supervised - 5%;
- 3) substandard - 30%;
- 4) doubtful - 60%;
- 5) compromised - 100%.

29. New credits shall be classified at the moment of their identification as asset (credit issue) in the balance of non-bank payment service provider.

30. The creation of credit risk specific provisions shall be performed in full amount from the account of expenditures and shall be indicated in the balance sheet and the Report “Profit and loss statement” of the non-bank payment service provider.

31. The adjustment of credit risk specific provisions shall refer to the modification of the current level, for the purpose of restoring equality between the calculated and formed levels, which shall be done on a monthly basis, in the last business day of the month.

32. The adjustment of amount of provisions shall be made in full volume from the account of expenditures or profits, and shall be indicated in the balance sheet and the Report “Profit and loss statement” of the non-bank payment service provider.

33. The credit risk specific provisions shall be used for the coverage of credits and interest rates classified as “compromised”. Their removal from the balance (invalidation) and recording in the extra-balance account shall be made based on the decision of the non-bank payment service provider, which does not cancel the debt of the beneficiary and does not indicate that the non-bank payment service provider cannot continue to exercise his right for debt recovery in order to satisfy the claims related to the respective debt.

34. The non-bank payment service provider which develops the credit activity stipulated in item 5, shall submit in electronic form, on a quarterly basis to the National Bank of Moldova and within 15 business days from the closure of the reporting quarter, the report on the classification of credits and related interest rate, and their credit risk specific provisions according to the annex.

Chapter 5
SUPERVISION OF NON-BANK PAYMENT SERVICE PROVIDER CREDIT ACTIVITY

35. For the purpose of determining the compliance degree with the provisions of the present regulation and other regulatory acts, the National Bank of Moldova shall conduct on-site or/and off-site inspections of the non-bank payment service provider credit activity of.

36. For supervisory purpose of the non-bank payment service provider credit activity, the National Bank of Moldova is entitled to demand, while the non-bank payment service provider is obliged to provide, any information related to its credit activity.

Annex

to the Regulation on credit activity of non-bank payment
service providers

Code of provider

ORD0520
Code of form

**ORD 5.20 Classification of credits related to the payment services
and the required amount of specific provisions of credit risk**

on the date of _____ 20__

Category of classification	Amount of issued credits	Total sum		Provision coefficient (%)	Calculated sum of provisions	
		credits (MDL)	Interest and other incomes (MDL)		Credits (MDL) (col.2x4)	Interest and other incomes (MDL) (col. 3x4)
A	1	2	3	4	5	6
Standard				2		
Supervised				5		
Sub-standard				30		
Dubious				60		
Compromised				100		
Total				x		

Executor and contact number _____

Modality for drafting the Report regarding the classification of credits for payment services and the required amount of specific provisions of credit risk

1. This report provides the information regarding the amount and sum of credits for payment services, interest and other incomes, as well as the required amount of specific provisions of credit risk in the last day of the quarter.
2. The first column shall include the number of issued credits, which have not been reimbursed in the last day of the quarter.
3. The second and the third column shall include the gross sum of credits and respectively their interest in balance on the date of reporting, depending on the classification category.
4. Colum 5 and 6 include the total calculated sum of provisions for each category of credit and their interest rates, and are calculated by multiplying the amount indicated in column 2 and column 3 respectively, by the provisioning coefficient indicated in column 4.
5. In columns 2, 3, 5 and 6, the sums shall be indicated in full and in national currency.