

The Law of the Republic of Azerbaijan on Banks

(with additions and amendments of 4 March 2005; 6 March 2007; 17 April 2007; 19 October 2007; 2 October 2008; 26 May 2009; 30 June 2009; 5 March 2010; 30 September 2010; 17 May 2011, 21 June 2013, 20 June 2014, 28 October 2014, 6 October 2015, 4 March 2016, 6 May 2016, 7 April 2017, 20 October 2017, 17 November 2017 and 29 December 2017)

This Law defines the principles, rules and standards for organization, internal management, regulation of activities and liquidation of banks with the purpose of alignment of the legal framework of the banking system to international standards, increasing the role of banking services in the economy, enforcement of the protection of bank depositors and creditors, and overall maintenance of stable and safe performance of the banking system.

Chapter I. General Provisions

Article 1. Key Definitions

1.0. The definitions applied in this Law shall have the following meanings:

1.0.1. Bank—legal entity, that attracts deposits and other returnable funds from individuals and legal entities, issues loans on its behalf and from its own funds, as well as makes transfers and cash settlements in aggregate at a client’s request.

1.0.2. Bank Holding Company — company, that has one or more subsidiary banks with a banking license, the activities of which are regulated and supervised by the bank regulatory authorities of the country where the headquarters is domiciled.

1.0.3. Subsidiary Bank— bank, more than fifty percent of voting shares in the charter capital of which is owned by the founder bank or the bank holding company, or such a bank, in which, in accordance with agreement, by and between itself and the founder bank or the bank holding company, the founder bank or the bank holding company are authorized to influence significantly the decision making process.

1.0.4. Bank branch — separate unit of the bank, which is not a legal entity, located outside the bank location, for the liabilities of which the bank itself is responsible, enabled to implement all or partial banking operations scope allowed to the bank.

1.0.5. Bank department — separate unit, which is not the legal entity, located outside the bank, for the liabilities of which the bank itself is responsible, which attracts deposits and/or conduct transfers, and cash settlements in the territory of the Republic.

1.0.6. Bank representative office — separate unit of the bank, which is not the legal entity, located outside the bank, not entitled to be engaged in banking activities, that solely represents and protects its interests.

1.0.7. Non-bank credit institution — legal entity that has the status of a non-bank credit institution under the law.

1.0.8. Bank license — special permit issued in accordance with the procedures herein, that provides exclusive rights to attract deposits or other returnable funds from individuals or legal entities, issue loans on its behalf and at its own expenses, as well as make transfers and cash settlements at a client's request.

1.0.9. Bank loan (hereinafter — loan) — monetary funds, issued as a debt for fixed amount with or without securitization, subject to repayment of interest (commissioning fees) at a predetermined time (with the right of prolongation of the term) in accordance with the signed contract. The term "loan" also includes another right, related to requirement of repayment of any undertaken liability on repayment of funds, guarantee, warranty, purchase of debt securities at discount or through interest repayment and repayment of funds issued in any form or under the terms and conditions herein.

1.0.10. Deposit — funds, deposited or transferred to current, savings (deposit) or other account on bank's balance, stipulating the repayment of or transfer to another account at the requirement of a client (depositor) with or without payment of interest or commissioning fees under terms and conditions of an appropriate contract.

1.0.11. Qualifying holding — direct or indirect ownership of shares, containing 10 or more of shareholder capital or voting shares, or entitling to influence significantly the decision making of the legal entity, which is the party to the contract.

1.0.12. Administrator- members of a Supervisory Board, an Audit Committee and the Management Board of a bank, as well as chief accountant of the bank (head of accounting service), employees of an internal audit division, managers and chief accountants of branches, departments and representative offices of a bank.

1.0.13. Related party — persons specified in Clause 49-1.1 of the Civil Code of the Republic of Azerbaijan, any person that has a direct or indirect qualifying holding, that enables to significantly influence the bank's decision-making under contract regardless of the share in bank's authorized capital, members of the bank's Audit Committee, employees of an internal audit division, other bank employees participating in decision-making, chief accountants of the bank and of its branches, persons who have family ties, as specified by Clause 49-1.1.3 of the Civil Code of the Republic of Azerbaijan, with those persons, persons entitled to act on behalf of a related party, and *legal entities* in which the persons specified under Clauses 49-1.1.6 and 49-1.1.7 of the Civil Code of the Republic of Azerbaijan have at least 20 per cent qualifying holding, and *persons with whom transactions that considerably differ from market conditions with obviously no economic grounds are conducted*.

~~*A person entitled to act on behalf of a related party on the basis of an agreement entered into between persons entitled to act on behalf of related parties; a legal entity that can be considerably influenced by a related party; a representative of a related party.*~~

1.0.14. Clearing—process of reformation of claims and liabilities, formed on payment amounts, transferred to one or several participants of payment systems or received from them, into one net claim or net liability, representing their difference.

1.0.15. The word «local» with respect to a bank, branch or representative office means the bank, branch or representative office major operations of which are performed in the territory of the Republic of Azerbaijan.

1.0.16. The word «foreign» with respect to a bank, branch or representative office means a bank, branch or representative office, major operations of which are performed outside the territory of the Republic of Azerbaijan.

1.0.17. Credit institution—bank, a local branch of foreign bank or a non- bank credit institution.

1.0.18. Fit and proper person - individual, who is civilly impeccable, as well as who is found honest and trustful for his/her social position, whose qualifications, experience, business interests allow him/her to maintain a qualifying holding in the bank, to be an administrator, temporary administrator and liquidator;

1.0.19. Civil impeccability shall be defined as the absence of criminal conviction for deliberately performed crimes by owners of qualifying holdings, if it is a legal entity, management of its executive authorities, as well as management of bank's subsidiaries; for administrator, temporary administrator and liquidator- absence of conviction, absence of criminal records on grave crimes against property or for economic activities, absence of restrictions by a court order, for holding of the position or engagement in professional activities, absence of the fact on insolvency announcement by the court.

1.0.20. Prudential- method of deliberate behavior, management and control, which is based on norms, rules, requirements and instructions directed at bank's safe performance.

1.0.21. Bank's aggregate capital (own funds) —the capital used for the purposes of prudential reporting, difference between the amount of components (elements), included to Tier I capital (main) and Tier II (additional), established by regulatory acts of the FMSA and deductions therefrom.

1.0.22. FMSA – a body launched by a relevant executive authority with the purpose of maintaining regulation and supervision in financial markets.

1.0.23. *The Fund – the legal entity established under the Law of the Republic of Azerbaijan on Deposit Insurance.*

1.0.24. *Insolvent bank – a bank that is or may become insolvent where one or several of grounds specified in Articles 57.1.1 – 57.1.3 herein are identified.*

1.0.25. *Resolution – is the implementation of the actions specified in Article 57.6 of the present Law by the FMSA for the immediate and less costly removal of the insolvent bank, including the bank holding company from the financial market.*

1.0.26. *Resolution related actions plan – document addressing the method, conditions, period and economic substantiation of insolvent bank's resolution.*

1.0.27. *Bridge bank – a bank established and managed by the FMSA to transfer insolvent bank's healthy assets and liabilities in full or in part and manage them temporarily.*

1.0.28. *Buyer bank – banks that obtain assets and liabilities of the bank that became insolvent in the order specified in the present Law.*

1.0.29. *Investor – a legal entity or an individual applied to the FMSA to purchase the bank that became insolvent under the order specified herein or a bridge bank.*

1.0.30. *Temporary administrator – a person designated by the FMSA to exercise all authorities on the management of the bank, as well as the authorities of the general meeting of shareholders on behalf of the FMSA as part of the insolvent bank’s resolution efforts in the cases specified herein.*

1.0.31. *Healthy asset – is the asset classified as a standard asset under regulations of the FMSA.*

1.0.32. *Systemically important bank – the bank that meets the criteria set by regulations of the FMSA.*

1.0.33. *Voluntary restructuring of bank’s liabilities – is the set of administrative, legal, financial, logistic and other actions and procedures implemented on the basis of the restructuring plan to improve the bank’s financial condition (hereinafter – the restructuring plan).*

Article 2. Banking system and its legal framework

2.1. The banking system of the Republic of Azerbaijan shall be comprised of the FMSA (FMSA), the Central Bank of the Republic of Azerbaijan (hereinafter referred to as the Central Bank) and credit institutions.

2.2. The Central Bank— central state bank, the activities of which are regulated by the Constitution of the Republic of Azerbaijan, The Law of the Republic of Azerbaijan on the Central Bank of the Republic of Azerbaijan, the Civil Code of the Republic of Azerbaijan, this Law and other relevant statutory acts, as well as international treaties, which the Republic of Azerbaijan is a signatory to.

2.3. Activities of credit institutions in the Republic of Azerbaijan are regulated by the Constitution of the Republic of Azerbaijan, this Law, the Civil Code of the Republic of Azerbaijan, the Laws of the Republic of Azerbaijan on the Central Bank of the Republic of Azerbaijan and on Non-bank Credit Institutions, on Credit Unions, other legislative acts of the Republic of Azerbaijan, regulations of the FMSA and the Central Bank issued in connection herewith, as well as international treaties, which the Republic of Azerbaijan is a signatory to.

2.4. Credit institutions, when taking decisions related to current banking activities, shall be independent from public authorities and municipal bodies, and they may not interfere into the activities of credit institutions. Credit institutions may not be forced to be engaged in the activities, which are irrelevant to their types of activities under the law.

2.5. Credit institutions, in all cases other than the responsibilities undertaken by credit institutions and the state, shall not be taken responsible for state liabilities, and the state shall not be taken responsible for the liabilities of credit institutions.

Article 3. General rules for implementation of the banking activity

3.1. Banks and non-bank credit institutions may exercise banking activities in the territory of the Republic of Azerbaijan on the basis of a special permit (license), issued by the FMSA.

3.2. Deposit operations may be implemented solely by banks and the national operator of postal communication.

3.3. Except for Articles 3.1 and 3.4, Para 3 of Article 35.4 and Article 42 herein, other provisions shall not apply to licensed and regulated credit unions and other non-bank credit institutions in accordance with the Laws of the Republic of Azerbaijan on Non-bank Credit Institutions and on Credit Unions and other legislative acts.

3.4. Licensing and regulation of the banking activity of non-bank credit institutions, specified in Article 3.3 herein shall be performed in accordance with the Laws of the Republic of Azerbaijan on Non-bank Credit Institutions and on Credit Unions and regulatory acts of the FMSA.

3.5. In the event the FMSA identifies that any person is engaged in activities specified in Article 3.1 herein, without a license, it shall send a request to that person on termination of such an activity, take other actions specified in the law and inform the Central Bank and relevant public authorities on the case.

Article 4. Name of the Bank

4.1. The brand name of the bank established under its Charter shall necessarily contain the word «bank». No bank shall be entitled to be named differently from the name specified in its Charter in any document, announcement or advertisement.

4.2. The use of the word “bank” in the name of a legal entity not involved in a banking activity, shall be prohibited (word combination containing the word «bank»), except for the cases when it is obvious from the text in which the word «bank» was used, that this word has no relevance to banking activities.

4.3. Names of subsidiary banks shall include the name of a parent bank. The word «bank» shall be indicated to mean the legal dependence and ownership in the names of branches, departments or representative offices of banks.

4.4. The names of banks, whose licenses are revoked, shall be supplemented by the words «under the liquidation ».

4.5. The words ‘the Republic of Azerbaijan’, ‘state’, and ‘national’ shall be used in the name of a bank only in the cases, stipulated in the legislation.

4.6. Banks may not use similar names.

Article 5. Participation of foreign capital in the banking system of the Republic of Azerbaijan

5.1. The limit of participation of the foreign capital in the banking system of the Republic of Azerbaijan shall be established by the FMSA.

5.2. The limit of participation of foreign citizens and foreign legal entities in local banks, with the exception of foreign banks or foreign bank holding companies, shall be established by the FMSA.

5.3. The FMSA shall receive necessary information to discharge its supervisory functions for regulation and supervision of local subsidiary banks, branches and representative offices of foreign banks and foreign bank holding companies, as well as foreign branches and representative offices of local banks on the basis of cooperation with relevant foreign bank regulatory and supervisory authorities not contradicting the legislation of the Republic of Azerbaijan (including respective international treaties to which the Republic of Azerbaijan is a signatory). The FMSA may exchange information with foreign banks' supervisory and regulatory authorities maintaining the confidentiality of the data therein. At that the FMSA may enter into cooperative agreements with foreign banking regulatory and supervisory authorities.

5.4. Foreign citizens and foreign legal entities as well as foreign banks and foreign bank holding companies, registered in offshore zones, a list of which is established by the FMSA, may not be founders or shareholders of local banks, as well as set local subsidiary banks, open local branches and representative offices.

Chapter II. Issuance of licenses and permits for banking activities

Article 6. Banking licenses and permits

6.1. The FMSA shall enjoy exclusive rights to issue and revoke banking licenses, as well as issue permits to banks to open branches, departments and representative offices, and revoke issued permits.

6.2. Banking licenses and permits shall be issued in writing for unlimited period of time and may be used only by persons they are issued to, and may not be transferred to third parties. Banking licenses and permits shall take effect from the date of issue by the FMSA.

6.3. If the applicant does not have sufficient organizational – technical base or qualifications, the FMSA shall impose restrictions to types of activities entitled to banks, as per Article 32 herein, in bank licenses or permits it issues.

Article 7. Application for obtaining of banking licenses and permits

7.1. In order to obtain a bank license and permit, bank's founders or their representatives authorized under the legislation shall submit a written application to the FMSA. The pro-forma and contents of the application, attached documents shall comply with the requirements, determined by regulatory documents of the FMSA.

7.2. The FMSA, when reviewing the application on obtaining bank license and permit, may receive information from financial, tax and law-enforcement bodies on a financial status, professional activities of owners of qualifying holdings (if legal entities, on senior

management) and administrators, whether they had any criminal convictions in the past. This requirement shall also apply to persons, who in future will wish to obtain qualifying holding in the bank (if legal entities, to senior management), newly appointed administrators and management of executive authorities of legal entities, reorganized into subsidiary structures of the bank. For these purposes, financial, tax and law enforcement bodies shall submit data to be required by the FMSA.

7.3. The state duty shall be paid for an initial application review and issue of a banking license in the amount and in accordance with the procedures, stipulated under the law of the Republic of Azerbaijan on State Duties.

Article 8. Rules to review applications for obtaining banking licenses

8.1. The review of application on obtaining banking licenses shall comprise two stages:

8.1.1. an initial application by bank's founders or representative(s) authorized in accordance with the legislation on obtaining a bank license and its review (first stage); and

8.1.2. upon the state registration of the bank, a final application for obtaining a bank license and its review (second stage).

8.2. The following documents shall be attached with an initial application:

8.2.1. For each owner, who will obtain the voting shares of the bank:

8.2.1.1. if this owner is a legal entity – audited financial statements covering its name, address, type of commercial activity, at least past three fiscal years (if a legal entity was established lesser than three years, latest financial year(s)), data and documents, reflecting auditor's opinion, as well as a copy of the decision of a competent management authority for obtaining implied participation share of such a person;

8.2.1.2. if this person is a foreign legal entity, in addition to the documents, identified in Article 8.2.1.1 herein, a document legalized in a statutory order, verifying the home country registration, a Charter (statute), audited financial statements for the period of at least three fiscal years and auditor's opinion;

8.2.1.3. if this owner is an individual, data and documents indicating his/her first, middle and last name and citizenship, information from identification document or another document, verifying his/her identity, permanent residence and type of occupation;

8.2.1.4. if the owner is a foreign citizen – in addition to the documents, specified in Article 8.2.1.3 herein, letters of reference from one or more financial institutions of his/her home country, and/or extraction of bank account record;

8.2.2. Data on the amount of bank's proposed charter capital, proposed share of each owner (shareholder) in bank's charter capital, their qualifying holdings in other institutions,

as well as for each legal entity information on qualifying holdings of other entities in the capital of this legal entity;

8.2.3. If the owner of bank's proposed qualifying holding is a legal entity, a list of its executive managers. An application on civil impeccability, signed by each manager, whose signatures are notarized;

If the manager is a foreign citizen, a statement on existence or absence of criminal convictions, issued by law enforcement bodies of his/her home country, legalized under the legislation;

8.2.4. If the legal entity with qualifying holding, is incorporated to a group of companies, information on the group, including the information on persons, qualifying holdings in other institutions, incorporated to the group, and administrators of these entities;

8.2.5. If the owner of bank's proposed qualifying holding is an individual, his/her signed and notarized application on impeccability;

If the owner of the qualifying holding is a foreign citizen, a statement on existence or absence of criminal convictions, issued by relevant authorities of his/her home country and legalized under the legislation;

8.2.6. Copies of foundation documents of the bank and bank charter, including a protocol on establishment of the bank, approval of its charter and formation of executive bodies;

8.2.7. A business plan, determining bank's commercial strategy, implied types of activities, organizational structure, including an internal control system and financial forecasting for initial three years (balance sheet, profit and loss statement);

8.2.8. A list of proposed bank administrators, as well as notarized copies of documents, reflecting the information on qualifications and experience, approved by notary, an application filled in by these persons, the size and list of qualifying holdings in a bank and other legal entities, a signed and notarized statement on civil impeccability;

If the administrator is a foreign citizen, a statement on existence or absence of criminal conviction, issued by the relevant authority of the home country, and legalized under the legislation;

8.2.9. For a local subsidiary bank of a foreign bank or a foreign bank holding company – documents, indicated in Article 13.2 herein;

8.2.10. A bank document, verifying the payment of state duties for review of an initial application.

8.3. If the FMSA finds errors or deficiencies in an initial application or documents attached therewith, submitted for review, it shall accordingly notify applicants within 15 days and suggest eliminate all errors and deficiencies. If the FMSA fails to notify applicants in writing within the established term, documents shall be deemed as accepted for review.

8.4. The FMSA shall review the initial application within 90 calendar days from the date of submission of the notification indicated in Article 8.3. herein, in the event of participation of foreign founders - no later than 180 calendar days and take an appropriate decision. In each instance, the FMSA shall send the decision to applicants.

8.5. The FMSA's decision on positive review of the initial application shall include:

8.5.1. minimum amount of initial charter capital to be paid taking into account the bank's business plan and types of banking activities specified in submitted documents;

8.5.2. all restrictions included to the banking license and substantiation thereon;

8.5.3. terms and conditions to be complied with by applicants until issue of the banking license, and requirements thereon;

8.6. If the FMSA rejects the initial application for obtaining a banking license, it shall substantiate the rejection in its decision.

8.7. If the initial application is rejected, and another application is submitted to the FMSA for obtaining a banking license, it shall be reviewed as a new application.

8.8. If the FMSA accepts the initial application for obtaining a bank license, it shall open an account on applicant bank's name in its balance for transfer of a minimum size of the initial charter capital at the application of the bank therein.

8.9. The established bank shall pay the minimum size of the initial charter capital within 180 calendar days from the date of decision on acceptance of its application and undergo the state registration in accordance with the Civil Code of the Republic of Azerbaijan as well as other legal acts accepted in compliance with such. Within this term, the established bank shall organize a corporate governance system (establish bodies in accordance with the provisions herein, form an organizational structure, be ready for launch of an information technologies system, set accounting and reporting policies, develop internal procedures, determine relevant management and minimum staffing requirements), complete logistic and security measures.

8.10. The following documents shall be attached with the final application for obtaining a banking license:

8.10.1. copies of the state registration certificate and the charter, as well as bank procedures;

8.10.2. copy of the decision of general meeting of shareholders on establishment of the bank and appointment of its administrators;

8.10.3. if requirements are established at the decision of the FMSA on acceptance of the initial application for obtaining a banking license, document(s) verifying the compliance with the requirements therein;

8.10.4. in the event of significant changes to the data submitted in the initial application, written data, which clearly explain such changes;

8.10.5. documents, verifying the formation of the bank's corporate governance system, including management bodies, provision of logistic and security measures;

8.10.6. bank document, verifying the payment of the state duty fee for obtaining a bank license.

8.11. The final application of the bank and attached documents shall be reviewed at the latest within 30 calendar days. If errors or deficiencies are found in the final application and/or documents attached, the FMSA shall send a relevant notification for their correction to the applicant. Re-submitted documents shall be reviewed by the FMSA at the latest within 15 calendar days. If the FMSA determines that the documents are in compliance with the requirements of Article 8.10 herein, and the minimum charter capital has been received by the FMSA, it shall take a decision on issue of a banking license and within 5 calendar days send a written notification to the applicant.

Article 9. Licensing of local branches of foreign banks

9.1. No foreign bank shall be allowed to establish branches in the Republic of Azerbaijan without the bank license, issued by the FMSA.

9.2. Review of application on obtaining a banking license to establish a local branch of the foreign bank shall comprise two stages:

9.2.1. initial application for obtaining a banking license and its review (first stage);

9.2.2. final application for obtaining a banking license upon the state registration and its review (second stage).

9.3. The following documents, legalized under the legislation of the Republic of Azerbaijan shall be attached with the initial application for establishment of the branch of a foreign bank in the Republic of Azerbaijan:

9.3.1. charter of the bank and a copy of the decision of a competent management authority on establishment of the branch;

9.3.2. list of bank owners, with qualifying holding, with the indication of shares;

9.3.3. if the bank is incorporated within a group of companies, information on the group, including data on the persons, with qualifying holding in other institutions, included into the group and their administrators;

9.3.4. data on amount of capital assets, allocated by the founder bank to the branch;

9.3.5. audited financial statements for the minimum of three previous fiscal years and auditor's opinion;

9.3.6. statute of the branch. The statute should hold information on the types of banking activities, oversight of the branch by the bank, and the order of liquidation of the branch along with other data related to the activities of the branch;

9.3.7. business plan, defining the commercial strategy of the branch, implied activities, organizational structure, including the internal control structure, as well as financial forecasts for initial three years of branch operations (balance sheet, income statement);

9.3.8. documents, specified in Article 13.2.1 herein;

9.3.9. document, verifying the responsibility of the bank for the liabilities of its branch;

9.3.10. list of administrators, proposed for appointment to the branch, as well as notarized copies of documents, reflecting the information on qualifications and experience of each of them (education and work experience), application filled in by these persons, the size and the list of their qualified holdings in the bank and other legal entities, signed and notarized statement on civil impeccability;

If the administrator is a foreign citizen, a note on existence or absence of criminal convictions, issued by relevant authorities of his/her home country, and legalized in accordance with the legislation;

9.3.11. bank document verifying payment of state duty for review of the initial application.

9.4. The review of initial and final applications, submitted by foreign banks for obtaining a banking license for local branches, and issue of a banking license shall be ensured in accordance with the procedures, stipulated under Article 8 herein.

Article 10. Requirements for administrators

10.1. Administrators of banks, their branches, divisions, representations and local branches and representations of foreign banks shall be fit and proper persons.

10.2. The following persons shall not be administrators of banks, their branches, representative offices and local branches and representative offices of foreign banks:

10.2.1. administrator, who participated in the process of setting a business strategy and decision making in the bank, that was liquidated or announced insolvent in a mandatory

order due to deterioration of the financial position and violation of prudential requirements, *for not less than one year* prior to the date of decision on liquidation or bankruptcy (such persons may not be administrators in other bank for the period of *two* years);

10.2.2. persons, dismissed from the position of administrator of any bank, branch, or division under the claim by the FMSA for his/her replacement with other persons for the period of no less than three years (except for the persons, to whom a court decision on reinstatement of his/her position is put in force);

10.2.3. persons, who are deprived of the right to be bank administrators in accordance with the procedures of the legislation;

10.2.4. persons, who are members of bank's other management bodies (with the exception of the general meeting of shareholders);

10.2.5. persons, taking other positions in the bank, excluding members of the management board;

10.2.6. for a Supervisory Board member — persons, who are members of more than three legal entities or management authorities of any other bank;

10.2.7. for Management Board members, chief accountants (head of accounting service), head of internal audit unit, manager and senior accountant of the branch, bank department - persons, holding positions in other banks, local branches of foreign banks, other legal entities, including legal entities, related to the bank (with the exception when they are members of Supervisory Board in other banks and legal entities in which the bank has the owning share);

10.2.8. persons who are relatives of the bank administrator, his/her spouse, parents, including parents of spouse, grandparents, children, including adopted children, brother and sister (with the exception of bank branch administrators);

10.2.9. persons, serving in public authorities or municipal bodies (with the exceptions stipulated under the legislation).

10.3. The Administrator shall be appointed to the position upon compliance with the following requirements:

10.3.1. for the chairman and members of Supervisory Board, Audit Committee of the bank - higher education in economics or law, or work experience, which allows, irrespective educational background, to participate in the process of defining the financial strategy and decision making in financial entities;

10.3.2. for the chairman and members of Management Board, as well as heads of internal audit units and bank branches —higher education in economics or law and minimum 2 years of work experience in the banking system, or higher education and minimum 4 years of work experience in the banking system;

10.3.3. for the chief accountant of the bank and bank branch (head of accounting service) –higher education in economics and minimum 2-years of work experience as an accountant in the bank or special education and minimum 5 years of work experience as an accountant, including minimum 2 years of work experience in the banking system. These requirements shall also be applicable to the deputy chief accountant, who has the signature authority.

10.3.4. for the bank branch administrator- higher or secondary special education and 6 months of work experience in banking.

10.4. The bank or a foreign bank with a local branch shall send a written notification to the FMSA on all implied appointments and changes, to the position of the bank administrator or the local branch of the foreign bank. The notification shall be attached with the information and documents, stipulated under Articles 8.2.8, 9.3.10 and 11.3.5 herein in relevant cases. The FMSA shall issue its attitude with respect to the notification to the bank or the local branch of the foreign bank within 30 calendar days, and fix the time for qualification testing of administrators. If the applicant does not receive a notification within this time, the incumbent of administrator shall be considered as approved.

If appointments stipulated for the position of the administrator are not in harmony with the legislation, the FMSA shall require their replacement.

Bank's Management Board Members, head of internal audit department, chief accountant of the bank (head of accounting services) and his/her deputies, holding a signature authority, as well as heads and chief accountants (head of accounting service) of local branches of domestic and foreign banks and their deputies, holding a signature authority, shall be certified in the FMSA. Upon approval by the FMSA on these appointments, administrators shall get down to implementing their duties.

The FMSA shall determine the rules for certification.

10.5. Requirements implied in this article shall be applicable to the entire period of activities of the bank and local branches of foreign banks.

Article 11. Obtaining permits for opening branches, departments and representative offices of local banks

11.1. A local bank shall not be entitled to open a branch, division or representative office without the permission of the FMSA.

11.2. Rules for obtaining permits to open divisions of local banks and local representative offices and revoking such permits, as well as conditions and requirements regarding their activities shall be established by regulatory procedures of the FMSA.

11.3. In order to obtain a permit to open local or foreign branches and representative offices, the local bank shall apply in writing to the FMSA. The following documents shall be attached with the application:

11.3.1. approved copy of the decision made by the competent management authority on opening a bank branch or representative office;

11.3.2. Statute of the branch or foreign representative office. The statute, along with other information, shall contain the address of the branch or foreign representative office, types of banking activities (only for branches), authorities of administrators, bank control and monitoring procedures, procedures for branch or representative office's liquidation;

11.3.3. business plan, defining branch's commercial strategy, types of implied activities, organizational structure, as well as financial forecasts for the branch for initial three years of the branch's performance;

11.3.4. copy of the decision of a competent bank authority on appointment of administrators (managers) of the branch or foreign representative office;

11.3.5. for each administrator of the branch or foreign representative office, a list of qualifying holding in the bank and other legal entities, notarized copies of certificates, reflecting the information on qualifications and experience (education and work experience), an application filled in by these persons, a signed and notarized statement on civil impeccability;

11.4. If the FMSA finds errors or deficiencies in the application or documents attached therewith, it shall within 10 calendar days send notification to the applicant on and propose to remedy these errors or deficiencies. If the FMSA finds no errors or deficiencies in the application or documents attached therewith, it shall send written notification on acceptance of its application to a bank within 10 days. If the FMSA fails to send a written notification within this period, documents shall be considered as accepted for review.

11.5. The FMSA shall review the application in accordance with the procedures herein no later than 90 calendar days from the date of sending notification on acceptance of the application on opening a branch or a foreign representative office of the local bank, and take a relevant decision. In each instance the FMSA shall send its decision to the bank. In the event of approval of the application, the FMSA shall issue a permit immediately. The permit shall include information on the type and scope of activities, a branch or foreign representative office may be engaged in, as well as a list of limitations, included in the permit. The decision of the FMSA on rejection of the application for approval or restrictions applied to the permit should substantiate the FMSA's decision.

11.6. If the permit is issued for opening a foreign branch or foreign representative office of a local bank, it shall also consider the ability to supervise activities of the branch or representative office on the basis of the mutual cooperation, in accordance with the procedures, established by the banking supervisory and regulatory authority of the host country.

11.7. Local bank, that opened the foreign branch or representative office, shall notify the FMSA in writing upon obtaining the relevant decision in the host country within 5 calendar days.

Article 12. Obtaining permits for opening local representative offices of foreign banks

12.1. Foreign bank shall not be entitled to open a representative office in the Republic of Azerbaijan without the permit of the FMSA.

12.2. In order to obtain a permit to open a local representative office, the foreign bank shall apply to the FMSA. The application shall be attached with the following legalized documents:

12.2.1. copy of the charter of the bank and the decision of a competent authority to open a representative office;

12.2.2. information on the bank, its organizational structure and management authorities with the indication of the competent management authority, that has taken a decision on establishment and liquidation of the representative office;

12.2.3. a list of the major shareholders of the bank with their share of voting shares;

12.2.4. bank's audited financial statements for the last fiscal year and auditor's opinion;

12.2.5. statute of the representative office indicating its authorities and address;

12.2.6. statement, issued by the bank on qualifications and work experience of administrators of the representative office, as well as existence or absence of imprisonment;

12.2.7. documents, specified in article 13.2.1 herein.

12.3. If the FMSA finds errors or deficiencies in the application or documents attached therewith, it shall within 10 calendar days send a notification to the applicant on those errors and deficiencies and propose to remedy such errors or deficiencies. If the FMSA finds no errors or deficiencies in the application or the documents attached therewith, it shall send a written notification on acceptance of its application to the bank within 10 days. If the FMSA fails to send a written notification within this period, the documents shall be considered as accepted for review.

12.4. The FMSA shall review the application in accordance with the procedures herein at the latest within 60 calendar days from the date of sending a notification on acceptance of the application on opening a representative office of the foreign bank, and take a relevant decision. In each instance, the FMSA shall send the decision to the relevant foreign bank.

12.5. The FMSA shall issue the permit after the state registration of the representative of the foreign bank and issue of the copy of the state registration document and a written statement on absence of significant changes to the initial data.

12.6. The permit issued to the local representative office of the foreign bank shall contain the data on the scope of works to be implemented by the representative office, as well as the list of all limitations included to the permit. The decision on rejection of application or introduction of limitations in the permit shall contain all reasons.

Article 13. Additional requirements on issue of a license to a local subsidiary bank of the foreign bank and foreign bank holding company, local branches of a foreign bank and opening a representative office of a foreign bank

13.1. Banking licenses to local subsidiary banks of a foreign bank or a foreign bank holding company, local branches of a foreign bank, local branches of the foreign bank and permits for opening local representative offices of foreign banks shall be issued only upon consultations between the FMSA and foreign competent authorities, that regulate and supervise activities of the foreign bank or the foreign bank holding company, and establishment of required consolidated supervision of such a bank or a bank holding company by those authorities.

13.2. The application for banking license for a subsidiary bank of the foreign bank or foreign bank holding company, branches of foreign bank or application for permit of the opening of local representative office of the foreign bank, shall also include the following documentation in addition to the documents specified in Articles 8 and 9 herein:

13.2.1. for the subsidiary bank, branch or representative office of the foreign bank— a written notification of the banking regulatory and supervisory authority of the home country of the foreign founder bank, on existence of a bank permit to be engaged in attraction of deposits and other returnable funds from individuals and legal entities in this country, as well as bank's supervision by this regulatory and supervisory authority and a written permit by the authority herein to establish the subsidiary bank or open the branch, representative office of this bank;

13.2.2. for the subsidiary bank of the foreign bank holding company- a written notification of the regulatory and supervisory bank authority of the home country of the bank holding company, on supervision of this company, existence of or management of one or more banks, holding licenses for engagement in attraction of deposits and other reimbursable funds from individuals and legal entities and a written permit of this authority to found a subsidiary bank.

13.3. At least one of the members of Management Board in subsidiary banks of foreign banks and foreign bank holding companies, and one of the administrators in local branches of foreign banks shall be a citizen of the Republic of Azerbaijan.

Article 14. Terms and conditions for issue of a bank license or permit

14.1. Given the necessity to ensure reliable and prudential management of banks and local branches of foreign banks, a bank license shall be issued only upon compliance with the following terms and conditions in accordance with this Law if:

14.1.1. Bank's starting charter capital or funds of the local branch of a foreign bank, equivalent to the starting charter capital, shall not fall behind the amount established during the approval of initial application by the FMSA;

14.1.2. there shall be no facts on threatening of influence of one or more founders with qualifying holding on the bank's reliable and prudential management;

14.1.3. relations between the bank and the foreign bank or foreign bank holding company, with qualifying holding shall not hinder the FMSA and the Central Bank to ensure supervisory functions, regulatory and supervisory authorities of the host country of the founder bank or bank holding company, provide efficient supervision thereon over them, and banking regulatory and supervisory authorities of the home country shall cooperate with the FMSA;

14.1.4. individuals, who are owners of the majority of participation shares and management of executive bodies of legal entities are fit and proper persons with acceptable and necessary characteristics;

14.1.5. administrators of a bank or a local branch of a foreign bank shall comply with the requirements of Article 10 and, if relevant, the requirements of Article 13.3. herein;

14.1.6. internal management and control procedures of the bank or the local branch of the foreign bank are adequate;

14.1.7. the business plan, including financial forecasts of the bank or the local branch of the foreign bank are adequate;

14.1.8. the local subsidiary bank is not the subsidiary of a foreign legal entity (with exception of the foreign bank or the bank holding company);

14.1.9. the bank is the subsidiary bank of a foreign bank or a foreign holding company, the foreign bank or the foreign holding company shall guarantee reimbursement of future liabilities of the subsidiary bank in the cases, stipulated under the Civil Code of the Republic of Azerbaijan;

14.1.10. if the foreign bank guarantees timely and proper recovery of future liabilities of the subsidiary bank;

14.1.11. the bank is the subsidiary bank of the foreign bank or the foreign holding company, the banking regulatory and supervisory authority of the home country of the foreign founder bank or the foreign bank holding company issued the permit for foundation of the subsidiary bank and upon consultations between the FMSA and this authority it was identified that this authority shall ensure proper consolidated supervision of the foreign bank or the foreign bank holding company and their subsidiary banks (foreign and local);

14.1.12. banking regulatory and supervisory authority of the home country of the foreign founder bank, has issued the permit to open a local branch and ensures proper supervision of banking activities;

14.1.13. if a bank is the member of a group of companies, such membership shall not prevent supervisory functions of the FMSA and the Central Bank;

14.1.14. the financial status of founders or the foreign bank that has established the local branch, confirmed through relevant documents, is satisfactory;

14.1.15. documents submitted for licensing of the bank or local branch of the foreign bank comply with the requirements of the legislation of the Republic of Azerbaijan.

14.2. Given the necessity to ensure reliable and prudential management of local and foreign branches, foreign representative offices of local banks, and local representative offices of foreign banks, the FMSA shall permit opening only upon compliance with the following terms and conditions in accordance with this Law if:

14.2.1. bank's financial standing supported by relevant documents is satisfactory;

14.2.2. administrators of the branch or representative office comply with the requirements of Article 10 herein;

14.2.3. procedures for internal management and control, proposed for the branch, are adequate;

14.2.4. business plan, including financial forecasts of the bank are adequate;

14.2.5. the banking regulatory and supervisory authority of the home country of the foreign branch, representative office of the local bank shall ensure proper supervision of the branch, and representative office, on the basis of mutual cooperation with the FMSA;

14.2.6. the banking regulatory and supervisory authority of the home country of the foreign founder bank issued a license to open a local representative office and shall ensure proper supervision of the banking activity;

14.2.7. the place, where the local branch of the bank will operate, complies with logistic requirements, established by the FMSA to realize banking activities;

14.2.8. operations on bank accounts conducted by the branch, are recorded in founder bank's reports in the time frame, established by the FMSA;

14.2.9. documents, submitted to obtain permit to open a branch or a representative office comply with the requirements of the legislation of the Republic of Azerbaijan.

14.3. application on obtaining a banking license or permit is rejected, applicants upon obtaining the FMSA's decision on rejection may apply to court in the order specified in the Administrative Procedural Code of the Republic of Azerbaijan.

Article 15. Registry of banking licenses and permits

15.1. The FMSA shall maintain a centralized registry of banks, branches, divisions and representative offices available to public. The Registry shall include names, addresses of banks, branches, divisions and representative offices, information on administrators, registration numbers and dates of issue or revocation of licenses and permits, data on banks, branches, divisions and representative offices the activities of which are terminated.

15.2. Banks shall send a written notification to the FMSA on changes to data, included to the registry within five calendar days.

Article 16. Revocation of a bank license or permit

16.1. The issue on revocation of the banking license of the bank or the local branch of the foreign bank may be reviewed only by the FMSA on the basis of one or more of the following conditions:

16.1.1. by application (decision) of founders (shareholders) of the bank;

16.1.2. in the event of the decision of a foreign bank to close its local branch;

16.1.3. bank is announced bankrupt;

16.1.4. if data submitted in the application for licensing are identified to be incorrect;

16.1.5. if the bank or local branch of the foreign bank does not start functioning in accordance with the bank license within twelve months from the date of license validity or it was identified by the FMSA that the bank or the local branch of the foreign bank did not attract deposits or other reimbursable funds, or did not issue loans within six months;

16.1.6. if the amount of charter capital or aggregate capital of the bank and the amount of assets of the local branch of the foreign bank equivalent to charter capital or aggregate capital (assets equivalent to aggregate capital of the local branch of the foreign bank) shall respectively fall behind the amount of minimum charter capital or aggregate capital, established by the FMSA for banks;

16.1.7. if the capital adequacy ratio of bank's aggregate capital or funds of the local branch of the foreign bank equivalent to aggregate capital is below 3 percent;

16.1.8. if the bank or local branch of the foreign bank fails to fulfill their liabilities before creditors, including failure to ensure security of entrusted assets;

16.1.9. if the bank or the local branch of the foreign bank fails to ensure the management or current activities in a reliable and prudential manner or violates the requirements of this Law, the Law of the Republic of Azerbaijan on Prevention of Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism, regulatory acts of the FMSA and the Central Bank over two times;

16.1.10. bank provides activities, not stipulated in the license or permit;

16.1.11. facts, indicated in Articles 14.1.2—14.1.4 are identified and the requirements of Articles 14.1.5—14.1.7 herein are not met;

16.1.12. bank transforms into another bank's subsidiary bank without FMSA's permit;

16.1.13. in the event of revocation of the license of the foreign bank or the foreign bank holding company, that has the local subsidiary bank or branch;

16.1.14. in the event of reorganization of the bank without permit of the FMSA;

16.1.15. in the event of impossibility of supervision by the FMSA or the Central Bank of subsidiary banks of the foreign bank and foreign bank holding company, as well as the bank, that is the member of a group of companies, due to insufficient supervision by the banking regulatory and supervisory authorities of the home country;

16.1.16. in the event of deliberate submission of incorrect reports and data to the FMSA or the Central Bank;

16.1.17. in the event of non-submission of monthly reports as of the date of past three reporting periods to the FMSA or the Central Bank;

16.1.18. if the bank or the local branch of the foreign bank fails to follow instructions or other written prescriptions issued by the FMSA or the Central Bank in accordance with this Law and regulatory procedures of the FMSA or the Central Bank.

16.1.19. *if specified in the actions plan related to resolution of the insolvent bank;*

16.1.20. *if the actions plan related to the bank's resolution fails to be implemented within the implied timeframe or actions to rehabilitate bank's solvency yield no results.*

16.2. Permit issued to branches and representative offices of local banks, including local representative offices of the foreign bank may be only revoked by the FMSA if:

16.2.1. the data submitted on application for permit are identified to be incorrect;

16.2.2. the banking license is revoked;

16.2.3. the bank is announced insolvent;

16.2.4. the bank is liquidated;

16.2.5. operations do not start within twelve months from the date of validity of the license or it was established by the FMSA that the activity of the local bank was terminated within six months;

16.2.6. any of the requirements set in Articles 14.2.1-14.2.5 herein are not fulfilled;

16.2.7. the bank, branch or representative office that obtained permit fails to ensure the management or current activities in a reliable and prudential manner or violates the requirements of this Law, the Law of the Republic of Azerbaijan on Prevention of Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism, regulatory acts of the FMSA and the Central Bank over two times;

16.2.8. activities, not stipulated in the banking license or permit were implemented;

16.2.9. a decision is made on closing the branch or representative office;

16.2.10. banking regulatory and supervisory authority of the home country of the foreign branch or representative office of the local bank fails to adequately supervise their activities.

16.3. The FMSA shall notify the bank on its decision on revocation of the banking license in writing indicating grounds.

16.4. In the event of availability of one of the grounds specified in Articles 16.1.9., 16.1.15, 16.1.16, 16.1.17, 16.1.18 and 16.2.7 herein, the Central Bank shall apply in writing to the FMSA for revocation of a bank license or permit on the issues under its competence.

Article 17. Revocation of a banking license or permit at the bank's own request

17.1. The bank shall apply to the FMSA for revocation of its banking license or permit, issued for opening the branch or representative office.

17.2. Bank shall attach the liquidation plan, approved by the bank, financial statements as of three previous months approved by an external auditor starting from the date of application with the request on revocation of its issued license. The FMSA shall take a decision on the bank's request at the latest within 90 calendar days from the date of application, and take a decision on the bank's request.

The FMSA shall review the request for revocation of the permit, and an attached liquidation plan at the latest within 30 calendar days from the date of application, , and take a decision on the bank's request.

17.3. If the liquidation plan and solvency of the bank or the local branch of the foreign bank are considered acceptable, as well as in the event of availability of sufficient amount of liquid assets to meet their liabilities upon revocation of the banking license, the FMSA shall take an appropriate decision on the application, and the bank or the local branch of the local bank shall be liquidated in accordance with Article 58 herein.

17.4. The FMSA shall immediately send a substantiated decision on rejection of the application on revocation of the bank's license or permit to the bank or foreign founder company and its local branch.

Article 18. Publishing and enactment of decision on revocation of banking license or permit

18.1. The FMSA shall send a notification on liquidation to the state registration and tax authorities within 5 calendar days from the date of taking a decision on revocation of the bank license or the permit of the local representative office of the foreign bank and publish an official announcement in mass media. If not otherwise specified, the decision on revocation of the banking license or the permit of the local representative office of the foreign bank shall take effect on the date following the date of publishing.

18.2. Starting from the effective date of revocation of the banking license or the permit of the local representative office of the foreign bank, the words “under liquidation” shall be added to the name of the relevant bank, branch or representative office and it shall be prohibited to implement any activities on the basis of the banking license or the permit. Thereafter the bank, branch or representative office shall be liquidated given the requirements of this Law under the legislation, with the exception of the instances on initiation of bankruptcy procedures of the bank or the local branch of the foreign bank in accordance with the legislation.

18.3. The decision of the FMSA on revocation of the banking license or the permit of the local and foreign banks may be appealed in the court as per procedures of the Administrative Code of Practice. Submission of the appeal shall not stop the implementation of the decision of the FMSA.

Chapter III. Establishment, management and internal audit of banks

Article 19. Establishment of banks

19.1. *Except for the cases specified in Article 57-8 herein*, a bank shall be established by at least three legal entities and/or individuals as an open joint-stock company.

19.2. Political parties, social societies, funds and other non-commercial organizations may not be shareholders of the bank.

19.3. A bank may issue nominal shares only. Except for cases specified under Clause 106-1.5 of the Civil Code of the Republic of Azerbaijan, owners of preference shares shall not have voting rights.

19.4. Owners, who are founders of the bank, shall not have any additional privileges or additional obligations compared to future bank shareholders.

Article 20. Charter and reglament of the bank

20.1. Bank founders shall develop and approve the charter in accordance with the Civil Code of the Republic of Azerbaijan. Changes to the bank charter shall be made by the advance written consent of the FMSA.

20.2. Each bank, in accordance with its charter, shall function on the basis of internal regulations, approved in the order stipulated under this Law and defining the following:

20.2.1. organizational and managerial structure of the bank, including its operational and administrative departments, their divisions and functions, subordination and reporting procedures;

20.2.2. responsibilities of heads of departments and divisions, managed and controlled by the bank;

20.2.3. functions of the internal audit service, other permanent internal commissions and committees;

20.2.4. authorities of bank administrators and heads of structural units on implementation of banking activities;

20.2.5. rules for appointment and dismissal of administrators of branches and divisions, as well as their authorities for implementation of banking activities.

20.3. A notarized copy of the bank charter, internal procedures, approved by the bank, as well as a list of bank executives, authorized to sign contracts related to bank's activities shall be submitted by the bank to the FMSA in one copy and retained by the FMSA.

20.4. Changes to the charter of the bank shall undergo the state registration in accordance with the procedures, defined by the Civil Code of the Republic of Azerbaijan. Changes made to the charter and reglament of the bank shall be submitted to the FMSA within five calendar days.

Article 21. Capital requirements for banks and local branches of foreign banks

21.1. Bank shall permanently maintain aggregate capital, and the local branch of the foreign bank shall retain assets, equivalent to aggregate capital within the threshold of aggregate capital established by the FMSA for banks. The structure, components and procedures for calculation of aggregate capital of the bank, and assets of the local branch of the foreign bank equivalent to aggregate capital, shall be established by the FMSA.

21.2. No bank without preliminary written permit of the FMSA may reduce the aggregate capital via payment of its value during purchase of shares or reduction of the nominal value of shares.

21.3. No foreign bank, without preliminary written consent of the FMSA, may reduce assets of its local branch equivalent to aggregate capital, via recall of assets, equivalent to charter capital.

21.4. Charter capital of the bank and assets of local branch of the foreign bank equivalent to charter capital, shall be formed only by funds of shareholders or foreign banks, paid in the national currency of the Republic of Azerbaijan.

21.5. Administrators of the bank or the local branch of the foreign bank in all cases, when it is established that aggregate capital or assets equivalent to aggregate capital reached 25 percent of the minimum amount of aggregate capital for banks or 3 percent of the adequacy rate, established by the FMSA, shall immediately notify the FMSA to that end in writing.

Article 22. Restriction of qualifying holdings in bank's charter capital

22.1. Any person shall be entitled to obtain the majority of shares in the charter capital of the bank, including the shares in addition to those that he/she already holds, obtaining of pre-dominant shares, as well as increasing the majority of shares which would result in achievement or surpass of 20 percent, 33 percent, 50 percent of voting shares, or charter capital, or resulted in transformation of a bank into a subsidiary structure of this person in accordance with the procedures herein.

22.2. The bank, that received information that the person with qualifying holding in capital, has bought or increased qualifying share in the capital of another legal entity, shall immediately submit a written notification to the FMSA.

22.3. The bank, that obtained information that any person has bought or increased qualifying holding in the capital of the legal entity with majority of shares in bank's capital, shall immediately notify the FMSA in writing.

22.4. The competent authority of the bank, shall submit the following documents to the FMSA in order to obtain a qualifying holding stipulated in article 22.1 herein, together with an application and a decision :

22.4.1. if this owner is a legal entity:

22.4.1.1. name, address, type of commercial activity of the legal entity, audited financial statements, covering at the minimum past three fiscal years (if the age of the legal entity is less than three years, last fiscal years) and auditor opinions, as well as an approved copy of the decision of the competent management authority, allowing to purchase the implied participation share of this person;

22.4.1.2. a list of managers and executive managers of this legal entity and statement on civil impeccability, signed by each executive, and approved by a notary;

22.4.1.3. foreign legal entities, in addition to the above documents, shall submit the following documents, legalized in accordance with the legislation:

A document verifying the registration in its home country, charter (statute), audited financial statements for the minimum period of previous three fiscal years and auditor's opinion;

If the executive is a foreign citizen, a note on existence or absence of criminal conviction, issued by the executive authority of his/her home country;

22.4.1.4. if the person is a foreign bank, an additional note, issued by the regulatory and supervisory banking authority of its home country, verifying the existence of a bank license to conduct bank activities, related to attraction of deposits and other reimbursable assets from individuals and legal entities in this country, and its consent to purchase a participation share in the organization;

22.4.2. if the person is an individual:

22.4.2.1. first, middle and last name and citizenship, data on an identification document, and another document confirming his/her identity, data and documents reflecting the type of activity, legal entities under his/her ownership and control, and the type of their occupation, signed and notarized statement on his/her civil impeccability;

22.4.2.2. if an individual is a foreign citizen, in addition to the above data and documents, a note on existence or absence of his/her criminal conviction, issued by the relevant authorities of his/her home country, and references from one or more financial organizations and/or extracts from bank accounts;

22.4.3. data on the amount of qualifying holding of this person in the capital of banks or other legal entities;

22.4.4. data on the amount of qualifying holdings of banks' or other legal entities' in this person's capital;

22.4.5. key directions of activities of legal entities, specified in Articles 22.4.3 and 22.4.4. herein and addresses of their headquarters.

22.5. The FMSA, in accordance with Article 22.4 of this Law, shall review the submitted application within 90 calendar days. If within this period the FMSA shall not provide a written notification to the bank, the application shall be deemed as approved. The FMSA may reject the issuance of permits if:

22.5.1. the documents stipulated in Article 22.4 herein are not submitted completely;

22.5.2. managers of legal entity's executive authorities are not fit and proper persons;

22.5.3. an individual is not a fit and proper person;

22.5.4. legal entity's financial standing is not satisfactory to obtain qualifying holding;

22.5.5. the bank is re-organized into a subsidiary structure of a foreign legal entity, which is not a bank or a bank holding company as a result of purchase of the participation share;

22.5.6. the banking regulatory and supervisory authority of the foreign country does not permit the foreign bank or the foreign bank holding company to re-organize the bank into their subsidiary structure;

22.5.7. the FMSA shall fail to fulfill supervisory functions, as a result of purchase of the participation share due to the fact, that the foreign bank or the foreign bank holding company to be related to the bank shall not be properly supervised in their home countries or supervisory authorities of that country refuse to cooperate.

22.6. The permit issued by the FMSA shall indicate deadline for the qualifying holding to be purchased.

22.7. If any person purchases such a participation share without preliminary consent, the FMSA shall issue a written instruction to that person on liquidation of his/her share purchased without permission until the fixed date.

If the deadline, fixed for purchasing of majority of participation shares, is not complied with, the FMSA, upon the expiry of this term, shall issue a written instruction to that person on liquidation of that share until the fixed date.

The voting right of those persons in the part to be liquidated, shall not be considered at gatherings of the general meeting of shareholders.

22.8. Any person, with the majority participation shares in the bank's capital shall notify the FMSA to that end in writing, before reduction of his/her voting shares or his/her share in charter capital to the level below 20 percent, 33 percent or 50 percent.

22.9. Banks, as soon as they are notified on purchasing or cancellation of any shares, resulting in reduction or increase of shares in their capital, compared to what is indicated in Articles 22.1 or 22.8 herein shall notify the FMSA accordingly. Banks also, no less than twice a year, shall inform the FMSA in writing on their major shareholders, their addresses, and data on the size of these persons' shares.

22.10. The FMSA shall apply to the court on alienation or re-call by the bank of shares of the person, that has the majority shares in bank's capital in the event of the following facts:

22.10.1. if any of the heads of executive authorities of the legal entity or an individual is not a fit and proper person;

22.10.2. in the event of influence on a bank to the extend, when it threatens financial soundness of the bank or its reliable management;

22.10.3. in the event of revocation of the bank license of the bank or the foreign bank holding company;

22.10.4. if the banking regulatory and supervisory authorities of the home country failed to ensure proper supervision of the foreign bank or the foreign bank holding company, or they refuse to cooperate with the FMSA in this area.

22.11. The court shall review the application of the FMSA, submitted under Article 22.10 herein, no later than 30 calendar days.

Article 23. Banks' management structure

Each bank is managed by a general meeting of shareholders, a Supervisory Board – that ensures its management and oversight, an Audit Committee – that provides auditing of the bank and a responsible executive body – a Management Board.

Article 24. General meeting of shareholders

24.1. The exclusive competence of the general meeting of shareholders shall include:

24.1.1. approve the bank's charter, make additions and amendments therein;

24.1.2. approve bank's regulations, make additions and amendments therein;

24.1.3. establish bank's interest rates, policy on allocation and categorization of assets, as well as bank's overall financial, accounting, administrative and human resource policies;

24.1.4. take decisions on participation of the bank in capital of other legal entities, establish branches and representative offices of the bank and terminate their activities, approve their statutes;

24.1.5. take decisions on planned and, if necessary, extraordinary audit and appoint an external auditor for this purpose;

24.1.6. adopt and approve the bank's budget;

24.1.7. appoint and dismiss bank's Management Board members, approve the statute of the Management Board;

24.1.8. appoint and dismiss the members of the Supervisory Board and the Audit Committee of the Bank, approve statutes of these management authorities, establish terms and conditions for recruitment of bank administrators;

24.1.9. define authorities for acceptance of liabilities and extension of rights on behalf of the bank and at bank's expense for transfer of these authorities to other employees of the bank, with the exception of authorities of Supervisory Board members;

24.1.10. adopt rules for disclosure of commercial interests of bank administrators on the basis of Article 28 of this Law and adopt additions and amendments therein;

24.1.11. establish subsidiary economic units of the bank and terminate their activities, make decisions on procurement of another bank;

24.1.12. take decisions on increase or decrease of charter capital, establish terms and provisions for issuance of bank stocks, as well as consent to purchase of bank's qualifying holding;

24.1.13. approve annual financial statements of the bank, approved by external auditors and recommended by Audit Committee, as well as take decisions on establishment of reserves and payment of dividends at the expense of net profit;

24.1.14. take decisions on bank's sale, reorganization and liquidation;

24.1.15. resolve other issues, related to their competence under the Civil Code of the Republic of Azerbaijan, this Law and charter of the bank;

24.2. issues, assigned to exclusive competence of the general meeting of shareholders, under articles 24.1.2–24.1.7 herein may be delegated to the Supervisory Board for resolution.

24.3. The Foundation Meeting of the bank shall be deemed as valid with the participation of all founders or their representatives. Next general meetings of shareholders shall be deemed as valid in the event of participation of all shareholders, holding the minimum of 60 percent of voting shares. At the foundation meeting of the bank, decisions on its foundation, approval of charter and formation of management authorities shall be made unanimously. Decisions on additions and amendments to the charter, appointment and dismissal of the members of Supervisory and Management Boards, the sale, and reorganization of the bank, purchase of another bank and termination of activities of the bank shall be taken by the majority of 75 percent percent of shareholder votes, represented at the meeting. A decision on closing a transaction, at the value of 5 per cent or more of bank's assets, with a related party shall be taken by the opinion of an independent auditor engaged by the bank and simple majority of votes of the general meeting of shareholders having the right to vote. All other decisions are made by simple majority of participating shareholder votes.

24.4. Except for cases specified under Clauses 49-1.2 and 49-1.3 of the Civil Code of the Republic of Azerbaijan shareholders shall enjoy voting rights pro-rata to their shares in the bank's charter capital. Every shareholder may use his/her voting right at the general meeting of shareholders personally or via his/her authorized representatives. The power of attorney shall be developed in writing and attached with meeting minutes. The Power of Attorney shall be issued prior to the meeting. No separate power of attorney shall be

required for persons, who represent shareholders legally. Such persons shall present the document verifying their authority.

24.5. Shareholders may hold planned and extraordinary meetings. The date, venue, timing and notifications on the rule of familiarization with materials on the agenda of every meeting of shareholders shall be sent to shareholders at least 45 calendar days prior to the date of the meeting and information shall be released to the media to that end. It is not allowed to make decisions on issues not included to the agenda, which is sent together with the notification. A planned meeting shall be held no less than once a year. Planned meetings shall be held at the latest within two months upon the development of financial statements of the bank for each year and completion of an external audit.

Extraordinary meetings may be summoned at the request of shareholders, who own at least 5 percent of voting shares, the Supervisory Board, the Audit Committee and the Management Board. The procedure for summoning an extraordinary meeting shall be regulated by the Civil Code of the Republic of Azerbaijan.

24.6. If all shareholders with voting rights are represented at the shareholder meeting, the meeting shall be deemed authorized irrespective of the time and method of its calling. If all shareholders with voting rights agree unanimously, this meeting may discuss issues not included to the agenda and take decisions thereon.

Article 25. Supervisory Board

25.1. The authorities of the Supervisory Board of the Bank shall include:

25.1.1. oversee management and activities of the bank, as well as receive reports from the Management Board;

25.1.2. issue recommendations for the general meeting of shareholders and the Management Board;

25.1.3. call each general meeting of shareholders via sending notifications and approve an agenda for each meeting, with the exception of extraordinary meetings, held at the request of shareholders, as well as the Audit Committee and the Management Board under their agenda;

25.1.4. in the event of revealing the violation of the existing legislation by the bank, accordingly notify the general meeting of shareholders, the Audit Committee and the Management Board, and submit a notification to the FMSA on violations of the requirements of the banking legislation and the Law of the Republic of Azerbaijan on Prevention of Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism;

25.1.5. in accordance with this Law dismiss Management Board members from their positions, temporarily replace them with other persons, complying with the requirements of Article 10 herein until approval of new members by the general meeting of shareholders;

25.1.6. manage and represent the bank in the event of conflict of interests between the bank and one or more of the Management Board members;

25.1.7. adopt procedures and internal statutes, necessary to ensure reliable and prudential bank management, as well as develop and apply an internal control system to fight legalization of criminally obtained funds or other property and the financing of terrorism;

25.1.8. take decisions on establishment of bank's capital reserves;

25.1.9. permit conduction of relevant transactions on behalf of the bank at the value exceeding 50 percent of bank's charter capital, and in the cases implied in the bank's charter;

25.1.10. except for cases within the competence of the general meeting of shareholders, take a decision on closing a transaction, at the value of up to 5 per cent of bank's assets, with related parties;

25.1.11. take decisions on detailed or target review of bank operations;

25.1.12. review findings of internal and external audits, as well as examinations of inspection authorities and take measures with respect to findings of these examinations;

25.1.13. other authorities stipulated herein, in bank's charter and regulatory documents of the FMSA.

The Supervisory Board, before the execution of authorities stipulated in Article 25.1.6 herein, shall send a written notification to the FMSA with the indication of foundations and call an extraordinary meeting of the general meeting of shareholders. The FMSA may express its attitude with respect to the decision of the Supervisory Board.

Decisions of the Supervisory Board adopted on the basis of Articles 25.1.5, 25.1.6 and 25.1.8 herein shall be included to the agenda of the general meeting of shareholders and discussed.

25.2. The Supervisory Board of the bank shall consist of odd number members, with the minimum membership of three persons. Members of the Board are individuals, appointed by the general meeting of bank's shareholders for the period of no more than 4 years from among the shareholders and/or third parties. Board members may be re-elected for additional terms. The general meeting of shareholders shall appoint a chairman from among the members of the Supervisory Board. Compensation for the members of the Supervisory Board may be fixed at the general meeting of shareholder in the form of interest from bank's retained earnings or in the form of salary.

25.3. Individuals, not complying with the requirements of Article 10 herein, may not be members of the Supervisory Board and at the decision of the general meeting of shareholders should be released from the duties of members of the Supervisory Board.

25.4. The Supervisory Board shall be deemed competent when more than half of its members assemble. The procedure for calling meetings shall be established in bank's charter or Statute on the Supervisory Board.

25.5. Meetings of the Supervisory Board shall be held at least once in three months. Meeting minutes shall be developed under the Civil Code of the Republic of Azerbaijan.

25.6. Decisions of the Supervisory Board shall be taken by a simple majority of votes of members, participating in the meeting. Each member shall enjoy the right for one vote. No abstaining by members shall be allowed. In the event of equal votes, the vote of the Chairman of the Supervisory Board shall be deemed decisive.

Article 26. Management Board

26.1. Bank's Management Board shall be taken responsible for management and implementation of bank activities.

26.2. The Management Board shall consist of odd number of members, no less than three persons. Members of the Management Board shall be appointed by bank's general meeting of shareholders for the period of no more than 4 years. They may be re-elected for an additional term. The general meeting of shareholders shall appoint one of the members of the Management Board as a Chairman. Authorities of the Chairman of the Management Board shall be determined by the Statute of the Management Board.

26.3. Individuals, who do not meet the requirements of Article 10 herein may not be Management Board members and shall be released from the duties of Management Board members at the decision of the general meeting of shareholders.

26.4. The Management Board shall be deemed competent if more than half of its members shall be present at meetings.

26.5. Decisions of the Management Board shall be adopted by a simple majority of votes of members, present at the meeting. Each member shall enjoy the right for one vote. No abstained voting shall be allowed for members. In the event of equal votes, the vote of the Management Board Chairman shall be deemed decisive.

Article 27. Audit Committee and internal audit

27.1. Every bank shall have an independent Audit Committee and internal audit unit (department, division etc.).

27.2. The competence of Audit Committee shall include:

27.2.1. set the audit policy and strategy of the bank;

27.2.2. approve internal audit plans and oversee the audit unit;

27.2.3. issue proposals to bank's competent management authorities with respect to designation of an external audit;

27.2.4. ensure joint operation with external auditors, assist in implementation of findings and recommendations of audit;

27.2.5. maintain contacts between bank's management authorities and external auditors, as well as supervisory authorities;

27.2.6. deliver proposals to the general meeting of shareholders and the Supervisory Board on improvement of internal control systems;

27.2.7. other authorities, stipulated in regulatory documents of the FMSA.

27.3. Bank's Audit Committee shall consist of odd number of members, not less than three persons. Members of the Committee shall be designated by the general meeting of shareholders of the bank for the period of no more than 4 years. Committee members can be re-elected for an additional term. A general meeting of shareholders shall appoint one of the members of the Committee as a Chairman of the Committee. The general meeting of shareholders may fix compensation for the members of the Audit Committee in the form of a salary.

27.4. Individuals, who fail to meet the requirements of Article 10 herein, may not be members of the Audit Committee and at the decision of the general meeting of shareholders shall be released from the duties of members of the Audit Committee.

27.5. An Audit Committee meeting shall be deemed competent when over half of its members assemble. The procedure for calling meetings shall be established in the Statute on the Audit Committee.

27.6. Decisions of the Audit Committee shall be taken with a simple majority of votes of the members, participating at a meeting. Each member shall be entitled to one vote, and no abstained voting shall be allowed. In the event of equal votes, the vote of the Committee Chairman shall be decisive.

27.7. An Internal Audit unit (department, division etc.) shall function under the control of the Audit Committee and ensure ongoing oversight over efficiency of activities of the internal control and risk management systems jointly with bank's executive authorities.

27.8. The manager and employees of the Internal Audit Department shall be appointed and dismissed by the bank's Supervisory Board upon representation from the Audit Committee.

27.9. Performance standards and procedures of the bank's Audit Committee and internal audit unit shall be established by the FMSA.

Article 28. Disclosure of commercial interests

28.1. Each member of the Supervisory Board, the Audit Committee and the Management Board shall disclose his/her and his/her family members' direct or indirect major commercial interests to the Management Board and the Supervisory Board. Such data shall be disclosed by these persons when they are elected to bank's managerial authorities and following periods in accordance with internal procedures of the bank.

28.2. When an issue, related to interests of one of the members of bank's Supervisory Board, Audit Committee, Management Board and any other committee or working group, as well as internal audit unit's associates, is taken to discussion, this member should inform on his/her interests before discussions, not participate in discussions and decision making, and his/her participation shall not be considered for the quorum.

28.2-1. Members of bank's Supervisory Board, Audit Committee and Management Board, as well as heads of bank's structural units (branch, representative office, division, etc.) should submit the information on acting of themselves and of persons specified under Clauses 49-1.1.3 and 49.1.1.5 of the Civil Code of the Republic of Azerbaijan as a related party with respect to the transaction closed, as well as the information on features of their own interests with respect to the transaction (its formation, size, etc) in the manner specified under Clauses 49-1.5, 49-1.6 and 49-1.7 of the Civil Code of the Republic of Azerbaijan.

28.3. Members of bank's Supervisory Board, Audit Committee and Management Board, when making transactions with bank's shares, shall disclose data under the Civil Code of the Republic of Azerbaijan.

Article 29. Reorganization of banks

Reorganization (merger, consolidation, dissolution, separation or conversion) of the bank, including the bank, the license of which has been revoked, shall be allowed in accordance with the procedures established by the FMSA, with its prior written consent.

Article 30. Limitation of banks' participation in capital of legal entities

30.1. A bank shall not be entitled to purchase a participation share in another legal entity, if such a purchase results in one of the following:

30.1.1. if balance amount of the participation share exceeds 10 percent of bank's aggregate capital;

30.1.2. if aggregate balance amount of all such participation shares of the bank exceeds 40 percent of bank's aggregate capital.

30.2. Bank, may obtain the participation share, which may establish or increase the majority of participation share in the capital of legal entities, as well as reorganize the legal entity into the subsidiary structure of the bank with a prior written consent of the FMSA.

30.3. When taking measures for financial remediation of the person, who is the debtor of the bank or, in accordance with Article 30.1 herein, within the term of two years, stocks (shares) that are transferred to the ownership of the bank as an exchange for debts, shall not be considered during the calculation of qualifying holding.

30.4. Banks, in order to obtain permits under Article 30.2 herein, shall submit to the FMSA a written application with the following documents attached:

30.4.1. verified copy of the decision of a competent management authority on implied acquisition of a qualifying holding in capital of other legal entities;

30.4.2. data on the amount of bank's qualifying holdings in capital of other legal entities and the size of a qualifying holding, to be formed as a result of increase in implied qualifying holding;

30.4.3. data on addresses and main directions of activities of legal entities, in the capital of which the bank implies to acquire a qualifying holding, audited financial statements for at least preceding three years (all preceding years, if the age of the legal entity is less than three years) and auditor's opinions (requirements for reporting, reflecting the financial status are not applicable to newly established legal entities);

30.4.4. if the legal entity, as a result of obtaining an implied qualifying holding, is reorganized into a subsidiary structure of the bank, a list of executives of this legal entity and a signed and notarized statement by each manager on civil impeccability;

If the executive is a foreign citizen, a note on existence or absence of criminal conviction issued and legalized in accordance with the legislation by the relevant authorities of his/her home country;

30.4.5. if the legal entity, whose qualifying holding the bank shall purchase, is a foreign bank, additional statement, issued by the banking regulatory and supervisory authority of foreign bank's home country, verifying existence of a bank license to attract deposits and other reimbursable assets from individuals and legal entities in that country, and its non-objection against purchase of implied qualifying holding in the institution.

30.5. The FMSA shall review the documents submitted under Article 30.4 herein at the latest within 90 calendar days. If within this period the FMSA fails to notify the bank on its attitude regarding the application, the application shall be deemed as approved. The FMSA shall not issue permits to the bank to participate in the capital of other legal entities, if the following shall be revealed:

30.5.1. not all documents, stipulated in Article 30.4 herein are submitted;

30.5.2. executives of authorities of legal entity, reorganized into a subsidiary of the bank as a result of purchase of implied participation share, are not fit and proper persons;

30.5.3. the financial status of the legal entity, whose participation share the bank is implying to obtain, is not satisfactory or purchase of such a share shall result in worsening of financial standing of the bank;

30.5.4. the FMSA and the Central Bank shall not be capable to discharge their supervisory functions due to the fact, that the banking regulatory and supervisory authority of the home country of a foreign bank, whose participation share is to be purchased, shall fail to ensure adequate supervision or such a body refuses to cooperate.

30.6. The FMSA, when issuing the permit to the bank, shall establish the maximum term for purchasing the participation share.

30.7. If the bank purchases a qualifying holding without the permit or fail to comply with the term, established for purchasing a participation share, the FMSA shall send a written notification to this bank requiring the termination of its participation share prior to the date indicated in the notification, or informing that the permit became invalid.

30.8. If the banking regulatory and supervisory authority of the foreign bank's home country, fails to ensure adequate supervision of this bank or this authority refuses to cooperate with the FMSA, the FMSA shall issue a written instruction to the bank on alienation or re- call of the qualifying holding in the capital of the legal entity within the established term.

Chapter IV. Requirements on banks' activities

Article 31. Requirements on banks' reliable operations

31.1. Banks shall implement the management and current operations in a reliable and prudential manner in accordance with the requirements of the Constitution of the Republic of Azerbaijan, the Civil Code of the Republic of Azerbaijan, the Law of the Republic of Azerbaijan on Prevention of Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism, other legislative acts, as well as this Law, regulatory acts of the FMSA and the Central Bank, bank's Charter, all limitations, specified in the banking license or permit.

31.2. Banks shall permanently maintain aggregate capital and liquid reserves in accordance with the established procedures, take necessary actions against price fluctuations of assets to implement their liabilities and avoid losses, maintain records and other accounting documentations in the statutory order, form and apply control mechanisms over the bank operations, provide the diversification (allocation) of assets for maximum reduction of loss risks.

Article 32. Types of bank activities

32.1. Banks, unless it is restricted by the bank license obtained from the FMSA, may be engaged in the following activities:

32.1.1. attract demand and term deposits (savings) and other reimbursable funds;

32.1.2. issue loans (secured and/or unsecured), including consumer and mortgage lending, factoring with and without the right of regress, forfeiting, lease services and other types of lending;

32.1.3. open and maintain accounts of individuals and legal entities, including correspondent accounts of banks;

32.1.4. clearing, cash paying and receiving services, transfer of funds, securities and payment instruments;

32.1.5. issue payment instruments (including credit and debit cards, traveler checks and bills of exchange);

32.1.6. purchase and sell financial assets (including checks, bills of exchange, debt liabilities and deposit certificates), ~~foreign currency~~, precious metals and precious stones, currency and interest instruments, shares and other securities, as well as forward contracts, swap agreements, futures, options and other derivatives, related to currency, shares, bonds, precious metals or interest rates at its own expense or at the expense of its clients;

32.1.6-1. conduct currency exchange operations at its own or at customers' expenses;

32.1.7. attract and allocate precious metals as deposits;

32.1.8. issue guarantees, including warranties to implement liabilities or open letters of credit at own expenses or at the expense of clients;

32.1.9. *deleted;*

32.1.10. provide financial consulting, agent and advisory services;

32.1.11. provide information and services on loans and checking creditability;

32.1.12. accept documents and valuables, including monetary funds for storage (store in dedicated rooms and safes);

32.1.13. collection and transportation of valuables, including banknotes and coins;

32.2. Banks, in addition to the activities enumerated in Article 32.1 herein, may also be involved in the activities in other laws, with the exception of activities stipulated in Article 33 herein.

32.3. If an additional special permit (license) is required for any type of activity, specified in Article 32.1 herein, in accordance with the legislation, banks may be engaged in such activities only upon obtaining a relevant special permit (license).

Article 33. Types of activities not provided by banks

33.1. No bank may be engaged in wholesale or retail trade, production, transportation, agriculture, development of mineral resources, construction and insurance, or with the exception of insurance companies, participate in such activities as a partner, a companion or a shareholder, with the exception of insurance organizations, be a partner, a companion or a shareholder in the above, except for the types of activities allowed in Article 32 herein.

33.2. In order to meet claims on liabilities, a bank may be engaged in the activities, stipulated in Article 33.1 herein, only with the permission of the FMSA and only for the period of time, specified in such a permit, or participate in legal entities, implementing these activities as a partner, a companion or a shareholder.

Article 34. Prudential standards and requirements

34.1. Banks, for the period of their activity, shall comply with prudential standards and requirements, as well as open currency position, established by the FMSA in relation to its own assets, off-balance sheet liabilities and the amount of capital.

New standards and requirements established by the FMSA, changes and amendments therein shall take effect no earlier than one month upon an official notification of banks, and changes to the requirements, related to the minimum size of charter or aggregate capital, — no earlier than six months upon an official notification of banks. New prudential standards and requirements shall be irrevocable.

34.2. The FMSA shall establish the following prudential standards and requirements to maintain financial stability of banks and local branches of foreign banks :

34.2.1. minimum size of charter capital (for local branches of foreign banks - assets equivalent to charter capital);

34.2.2. minimum size of aggregate capital (for local branches of foreign banks - minimum size of assets equivalent to aggregate capital);

34.2.3. Tier I and aggregate capital to risk weighted assets (for local branches of foreign banks — funds equivalent to Tier I and aggregate capital to risk weighted assets) ratio (capital adequacy ratios);

34.2.4. liquidity indicators;

34.2.5. maximum amount of credit risks for one borrower or a group of related borrowers;

34.2.6. maximum amount of aggregate large credit risks;

34.2.7. maximum amount of loans issued to related parties ~~and persons acting on behalf of related parties~~;

34.2.8. maximum amount of aggregate loans, issued to related parties ~~and persons acting on behalf of related parties~~;

34.2.9. maximum amount of bank's participation in the capital of other legal entities;

34.2.10. maximum aggregate amount of participation of banks in capital of other legal entities;

34.2.11. limits on an open currency position;

34.2.12. requirements on special reserves, established for loan loss provisioning against costs, depending on classification and evaluation of assets, off-balance sheet liabilities;

34.2.13. requirements on non-accrual assets;

34.2.14. requirements on operations with *related parties*;

34.2.15. requirements on matching of maturities and interest rates of assets and liabilities.

34.2.16. regulations on maintenance of cash operations in credit institutions.

34.3. The FMSA, when regulating activities of banks and local branches of foreign banks, as necessary, shall apply all or part of prudential standards and requirements, specified in Article 34.2 herein.

34.4. Banks shall comply with the corporate governance standards, established by the FMSA.

34.5. In order to reduce banks' activity risks, protect interests of depositors and creditors, the FMSA shall be entitled to establish additional standards and requirements accepted in the international banking supervision practice, in addition to the standards and requirements, stipulated in Article 34.2 herein. *The FMSA shall be entitled to establish standards and requirements with respect to systemically important banks different from the ones established in Article 34.2. herein for banks.*

34.6. The FMSA may establish requirements for the banks with foreign capital and local branches of international banks, on placement of their assets in the Republic of Azerbaijan.

Article 35. Relations between banks

35.1. Banks may conduct all types of operations on mutual basis, open deposits, including correspondent and other accounts with one another in accordance with the the Civil Code of the Republic of Azerbaijan, except for the cases restricted under this Law, regulatory instructions and prescriptions of the FMSA and the Central Bank, as well as licenses and permits.

35.2. Banks may cooperate with each other on banking activities. When banks enter into agreements for this purpose of inter se transfer of funds and securities, use of clearing and settlement mechanisms, receipt of securities as deposits, and provision of other banking services, launch of not-for-profit unions to support members' interests, as well as implementation of activities supporting development and stability of the banking system, participant banks of such contracts shall submit copies of contracts to the inter se within 7 calendar days upon signing these contracts.

35.3. Banks shall be prohibited to enter into agreements directed at monopolization of banking services and limitation of competition in banking, as well as conduction of agreed transactions. The inter se and relevant public authorities shall oversee implementation of anti-monopoly procedures in banking.

35.4. In order to provide reliability of the banking system, banks shall be obliged to deliver data on borrowers' creditability and reliability to the centralized credit registry, established at the FMSA. The work scope of the centralized credit registry, including the nature of data, procedures and terms and conditions for delivery of and obtaining data shall be established by the regulatory documents of the FMSA.

Banks may establish an inter se special credit registry within the permit scope of and under certain terms and conditions of the FMSA.

Data in credit registries may be issued only to banks, non-banking credit institutions specified in the Law of the Republic of Azerbaijan on Non-bank Credit Institutions and borrowers (interbank registry data to the FMSA as well) at their request. The data collected in and received from credit registries shall be subject to the rules of bank secrecy, established under this Law.

Data shall be delivered on commercial basis to compensate for credit registry costs.

35.5. Disputes between local banks, a local bank and local branches and representative offices of foreign banks as well as between local branches of foreign banks shall be resolved in the courts of the Republic of Azerbaijan, in accordance with the procedures stipulated in the Civil Practice Act of the Republic of Azerbaijan.

Article 36. Relations between banks and their clients

36.1. Relations between banks and their clients shall be regulated in accordance with the Civil Code of the Republic of Azerbaijan, legal documents, adopted by the FMSA in accordance with that Code, and a contract.

36.2. Clients shall be independent in selection of banks for implementation of banking activities and for this purpose may use services of one or more banks. Rules for opening, maintenance and closing of accounts shall be compliant with the Civil Code of the Republic of Azerbaijan, legal documents adopted by the FMSA in accordance with this Code, as well as the present Law.

Procedures for opening special election accounts, maintenance and termination of operations shall be determined in accordance with the Election Code of the Republic of Azerbaijan upon the consent of the FMSA.

36.3. A bank, at the request of its client, or an individual or a legal entity, willing to become its client, shall provide its banking license, information on financial standing (accounting balance for preceding month, quarter and year, income statement) as well as auditor opinion for the last reporting year.

36.4. Banks shall submit information on provisions and rules for acceptance of deposits, issue of credits, maintenance of cash payment and receiving operations and money transfers to clients in writing in the premises they are located in.

36.5. A bank shall not be entitled to determine and control the purposes for which the client uses his/her funds, impose any restrictions, not stipulated in the law or contract on the right of the client to use his/her funds as he/she wishes.

36.6. Every bank shall be free to set contractual service terms and conditions with its clients, include interest rates, commissions and other payments for banking services, as well as order and rules for payment of loans issued by the bank. When making changes to the par value of banknotes and price scales (denomination) in the Republic of Azerbaijan, the banks shall not charge commissioning fees and any other payments for replacement of old banknotes with the new ones.

Interests on loans shall be calculated and paid in accordance with the terms and conditions of the contract made between the bank and its clients. Interest rates and other payments, to be paid on bank debts, shall be calculated only to outstanding amount for the days of debts.

36.7. All disputes between local banks and local clients, as well as all disputes between local branches of foreign banks and local clients shall be resolved in courts of the Republic of Azerbaijan in accordance with the procedures established under the legislation.

Article 37. Bank's correspondent accounts and authorities on assets transferred to the bank

37.1. Funds and other valuables of legal entities and individuals, retained in the bank, may be seized in the order and under conditions stipulated in the legislation, by the decision of a court or a court officer. Bank, from the moment of receiving a relevant decision on imposing an arrest on a bank account, shall stop all payment operations on deposits and other accounts to the amount of arrested funds.

The arrest on correspondent accounts of the bank may be imposed only by a court decision to the volume of liabilities on claims to the bank.

Implementation of a bank transaction that causes suspicions on legalization of criminally obtained funds or other property and the financing of terrorism shall be suspended by the financial monitoring authority in the term and order specified in the legislation.

37.2 Funds and other valuables of a client maintained by the bank may be confiscated only under a valid decision of a court.

37.3. Bank shall not be liable for losses, incurred by clients or creditors as a result of seizure of funds and other valuables, their confiscation or use for compensation of claims.

Article 38. Payments and money transfers

38.1. Banks shall make settlements and money transfers in accordance with the Civil Code of the Republic of Azerbaijan and normative acts adopted by the FMSA and the Central Bank in accordance with this Code, business circulation tools applied in the banking practice, and relevant contracts.

38.2. Banks shall make international payments and money transfers in accordance with the legislation of the Republic of Azerbaijan, including the legal documents of the FMSA and the Central Bank, international treaties to which the Republic of Azerbaijan is a signatory, as well as business circulation tools applied in the banking practice, and relevant contracts.

38.3. The FMSA may establish minimum requirements on maintenance of reliability and security of used automated settlement and money transfer systems, and protection of banking information by banks.

Article 39. Retention of documentation

39.1. Banks shall retain appropriate documents on banking operations contracts and completed contracts (transactions), including the data in electronic carriers, as well as other documents, generated as a result of activities, in accordance with the procedures and for the period established under the legislation.

39.2. Documentation, that allow to identify a client, as well as verify settlement and transfer operations shall be retained by the bank for the minimum period of five years upon termination of relations with clients and completion of payments (transfers).

Article 40. Maintenance of operations with banks' related parties

40.1. Banks may not issue loans to related parties ~~and persons acting on behalf of related parties~~ when:

40.1.1. a loan granted to related parties amounts to and exceeds 5 per cent of the bank's assets, and there is no independent auditor opinion, and decision of the general meeting of shareholders having voting rights;

40.1.1-1. a loan granted to related parties amounts to up to 5 per cent of bank's assets, and there is no decision of the bank's Supervisory Board, except for cases when the authority to take a decision on granting loans to those related parties is assigned to the general meeting of shareholders,

40.1.2. as a result of issuance of a loan the total amount of loans granted by a bank to a legal entity exceeds 10 percent of bank's aggregate capital, and 3 percent to individuals;

40.1.3. as a result of issuance of a loan by a bank to related parties ~~and persons acting on behalf of related parties~~, the aggregate amount of loans exceeds 20 percent of bank's aggregate capital.

40.2. If loans to related parties ~~and persons acting on behalf of related parties~~ are issued with violation of the provisions of Article 40.1 herein, such a loan shall be repaid immediately. Members of bank's Supervisory Boards, who voted for the relevant decision, shall be taken responsible for the payment of principal amount, interests and other payments on loans, issued with violation of the requirements of Article 40.1 herein.

40.3. Banks shall be prohibited to issue preferential loans to or conduct other operations with preferential terms with related parties ~~and persons acting on behalf of related parties~~ compared to other persons.

40.4. Other regulations on closing transactions with related parties shall be determined by Clause 49-1 of the Civil Code of the Republic of Azerbaijan.

Article 41. Bank secrecy

41.1. In accordance with the Civil Code of the Republic of Azerbaijan, the bank shall ensure confidentiality of bank accounts, operations and residues on the account, as well as client information, including name, address and management. Banks shall maintain confidentiality of data on existence of client property in the bank's depository, data on owners of such property, its type and value.

41.2. In accordance with the Civil Code of the Republic of Azerbaijan, the data comprising bank secrecy shall be provided only to clients themselves or their representatives, as well as to external auditors and the FMSA. Such data may be delivered to public authorities and their officials only under the valid court decision related to prosecution of a criminal case, seizure on client's funds and property in the bank's depository, enforcement and their confiscation. Due to direction of implementation documents to enforced execution, data on balance of client accounts shall be submitted to court officers on the basis of the data received from the sources determined under the legislation. In the event of occurrence of an insurance case implied in the Law of the Republic of Azerbaijan on Deposits Insurance, the data on depositors shall be delivered to the Deposits Insurance Fund in the order specified in the legislation.

Data on a bank account and bank operations of any legal entity or private entrepreneur, that are taxpayers serviced by the bank, shall be submitted to tax authorities only in the cases and in accordance with the procedures stipulated in the Tax Code of the Republic of Azerbaijan.

Data on funds inflown to and outflow from a special election account, shall be submitted to the Central Election Committee in accordance with the procedures stipulated in the Election Code of the Republic of Azerbaijan.

When opening accounts or supplying financial services to customers, a bank should comply with requirements of normative acts of the Republic of Azerbaijan of legal nature, as well as international treaties seconded by the Republic of Azerbaijan allowing for exchange of tax and financial data and, under those international treaties, deliver information on financial operations of legal entities and individuals of foreign countries in the territory of the Republic of Azerbaijan to authorized public authorities of those foreign countries based upon the requirements of Article 76-1 of the Tax Code of the Republic of Azerbaijan.

41.3. In the event of death of owners of accounts or deposits, notes on their accounts and deposits shall be submitted to notaries on heritage cases under their execution, as well as consular departments, implementing relevant notary actions.

41.4. In accordance with a contract between the FMSA and a banking regulatory and supervisory authority of the foreign countries, if the object of data exchange is the information on subjects performing activities or getting prepared to perform activities in the territory of a relevant state, such information shall not be deemed disclosure of banking secrecy, provided that such data may not be submitted to third parties and may be used for banking supervision purposes only.

41.5. Bank's current and former administrators and other employees, as well as bank's shareholders shall bear civil, administrative and criminal liability in accordance with the procedures stipulated in the relevant legislation of the Republic of Azerbaijan with respect to illegal disclosure of data comprising banking secrecy made available to them in connection with administrative or employment duties in the bank.

41.6. In the event the data containing bank secrecy shall be illegally disclosed by the bank, the clients whose rights have been violated may require compensation for the losses incurred from the bank in accordance with the Civil Code of the Republic of Azerbaijan.

Article 42. Prevention of legalization of criminally obtained funds or other property and the financing of terrorism

42.1. Credit institutions shall deliver data on funds and other transactions to be monitored with respect to legalization of criminally obtained funds or other property and the financing of terrorism to the financial monitoring service, develop and apply their internal control system, ensure other measures specified in the laws of the Republic of Azerbaijan and international pacts seconded by the Republic of Azerbaijan.

Credit institutions shall take actions on identification of a client, beneficiary and authorized representative, as well as verification of the identity data obtained thereon, and comply with the requirements on documentation and maintenance of the data in the cases and under the order specified in the legislation.

No anonymous accounts, including anonymous deposit accounts, may be opened, and anonymous deposit certificates issued.

42.2. Requirements other than those stipulated in Article 42.1 herein shall be established through the Law of the Republic of Azerbaijan on Prevention of Legalization of Criminally Obtained Funds and the Financing of Terrorism and other normative acts of legal nature.

Chapter V. Accounting and reporting in banks. Supervision of bank's activities

Article 43. Accounting and financial reporting in banks

43.1. A bank and a local branch of the foreign bank shall maintain the accounting in compliance with the legislation and the International Accounting Standards, develop reports, reflecting their activities and financial standing, including annual reports. Reports, reflecting the financial standing, including annual financial statements shall be submitted to the FMSA and the Central Bank. Rules for accounting in banks and the format, content and frequency of reporting shall be determined by the FMSA with the consent of a relevant executive authority. The form, content and frequency of reports reflecting financial standing, including annual financial reports shall be determined by the Central Bank by coordinating with a relevant executive authority and the FMSA.

43.2. Financial reporting of a bank shall reflect activities and financial standing of the bank separately and on a consolidated (united) basis for its subsidiaries, branches, departments and representative offices.

43.3. A foreign bank, which has one or more local branches, in accordance with the requirements established in Articles 43.1 and 43.2 herein, shall provide development of

financial reports, reflecting the activities and financial standing for each local branch separately and on a consolidated basis.

Article 44. External audit

44.1. Financial activity of a bank or a local branch of the foreign bank shall be subject to annual external audit by the auditor licensed (permitted) to ensure auditor activities.

44.2. Audit shall be performed in accordance with the Law of the Republic of Azerbaijan on the Auditor Service.

44.3. The external auditor, which audits the bank or a local branch of the foreign bank, along with the rights and obligations stipulated in the Laws of the Republic of Azerbaijan on the Auditor Service and on Mandatory Insurance of Auditor's Professional Responsibility shall:

44.3.1. develop a report and an opinion whether the financial report creates a complete and true picture on its financial standing;

44.3.2. help the bank maintain accounting, financial control systems and procedures on an appropriate level;

44.3.3. inform the FMSA on illegal and detrimental actions of an administrator and any employee known to him, as well as deficiencies in the management or current activities.

44.4. Foreign bank, which has a local branch or representative office, shall provide a consolidated audit of the local branch and representative office.

44.5. The FMSA shall establish minimum requirements in accordance with international banking supervision practices on audit of a bank and local branches of foreign banks. If the external audit fails to comply with FMSA's requirements, the latter shall require auditor's replacement, and conduction of another audit at the expense of the bank.

Article 45. Publication of a balance sheet and an opinion of an external auditor

45.1. A bank and a local branch of the foreign bank no later than five months upon the end of a fiscal year shall provide bank's shareholders, as well as clients upon their request, with consolidated financial statements of the bank or the local representative office of the foreign bank, approved by an external auditor, along with auditor's opinion.

45.2. Bank shall, no later than five months upon the end of a fiscal year, submit to the FMSA a consolidated report on its activities and financial standing, approved by the auditor, along with the auditor's opinion.

A foreign bank, with one or more local branches, shall send for each branch independently financial statements approved by an external auditor to the Central Bank, as well as auditor's opinion within five months, approved consolidated financial statements along with auditor's opinion within eight months.

45.3. Financial statements, specified in Article 45.1 herein, shall be published by the bank and local branches of the foreign bank in mass media. The format, content and terms of the published report shall be determined by the FMSA.

Article 46. Reports from banks and supervision of their activities

46.1. In order to evaluate bank's financial standing, the bank shall submit to the FMSA prudential reports and statistical banking reports of its own and subsidiaries separately and on a consolidated basis, banking statistics reports to the FMSA and the Central Bank. The format, content and rules for submission of prudential reports shall be determined by the FMSA. The format, content and rules for submission of banking statistics reports shall be determined by the Central Bank by coordinating with the FMSA.

46.2. Banks and local branches of a foreign bank shall be audited on site once a year only by examiners of the FMSA or external auditors, appointed by the FMSA. If there is a threat of loss of banking assets, as well as to identify facts of violation of the legislation, the FMSA may conduct additional examinations in banks and local branches of foreign banks. The examination team may also include, on the basis of cooperation, employees of the banking regulation and supervision authorities of other banks, with which the FMSA has entered into cooperation agreement on auditing. Procedures for examinations shall be established by resolutions of the FMSA.

46.3. In accordance with Articles 46.1 and 46.2 herein, the FMSA and its appointed auditors shall:

46.3.1. have access to any bank, its branch, department, subsidiaries, as well as local branches of foreign banks and review their reports, accounting books, documentation and other records, and require explanations thereon;

46.3.2. require from administrators, employees and agents of the bank, its subsidiaries, persons with qualifying holdings, related parties ~~and persons acting on behalf of related parties~~, branch, department of the bank and a local branch of the foreign bank submission of all necessary data on any issue, related to management and current activities of these structures, including customer operations.

46.4. Local representative office of a foreign bank shall submit to the FMSA reports on their management procedures and on current activities, to show that its activities are in harmony with the requirements of the legislation and its Charter. The format, content and procedure for reports' submission shall be established by the FMSA.

In order to clarify report data, inspectors of the FMSA may provide on-site examination of the representative office of the foreign bank.

46.5. The bank, its subsidiaries, branch and division, local branch and a representative of the foreign bank, shall provide necessary conditions and organizational and technical facilities for the FMSA's examiners or their appointed auditors when implementing these duties.

46.6. The FMSA shall not be authorized to conduct examinations in banks and local branches of foreign banks, receive their reporting or data at the request of other persons, with the exception of inquiries under the cooperation arrangements from foreign banking regulatory and supervisory authorities, as well as in cases of valid court orders.

46.7. The relevant executive authority exercising tax control in the Republic of Azerbaijan shall inspect activities of the bank and local branches of foreign banks only as taxpayers. During examinations, data and documents may be received only in accordance with the rules established under the Tax Code of the Republic of Azerbaijan for disclosure of the data representing the bank secrecy.

Article 46-1. Fees paid to the FMSA

Banks shall pay fees to the FMSA in the amount and under the order established by the authority in question.

Chapter VI. Enforcement measures and sanctions against banks

Article 47. Enforcement measures applied to banks

47.1. If the FMSA detects that the bank violates prudential norms and requirements, implements its activities through violation of the requirements of this Law, the Law of the Republic of Azerbaijan on Prevention of Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism and legal documentation of the FMSA, and violates limitations, included to the banking license or permit issued by the FMSA, or other grounds, capable to result in such violations, depending on the nature of violation, the *it* shall be entitled to impose one of the following enforcement measures to banks depending on the nature of violations:

- 47.1.1. request a commitment letter from the bank on elimination of violations;
- 47.1.2. enter into an agreement with the bank;
- 47.1.3. issue instructions to the bank;

47.2. if the FMSA requests a commitment letter from the bank on elimination of violations or facts, likely to cause violations, the letter submitted by the bank to the FMSA, shall contain measures, to be taken by the bank to eliminate deficiencies, and the term for their implementation.

47.3. The agreement made by and between the FMSA and the bank, shall establish urgent measures to eliminate detected deficiencies and priority measures to be applied.

47.4. The instruction of the FMSA, obligatory for the bank, shall contain a written instruction to the bank on execution of corrective measures, indicated in Article 48 herein, and terms for correction of deficiencies.

When imposing corrective measures, aimed at remediation of bank's financial standing, the bank shall submit a plan on implementation of measures in accordance with the issued instructions to the FMSA within two weeks.

Court appeal on the obligatory instruction of the FMSA shall not suspend execution of such an instruction.

47.5. A bank shall inform the FMSA on execution of a relevant commitment letter, agreements and instructions, specified in Articles 47.2, 47.3 and 47.4 herein within the terms specified in those documents.

Article 48. Corrective actions applied to banks

48.1. The FMSA may impose the following corrective actions to the bank in accordance with Article 47 herein:

48.1.1. limit or suspend implementation of certain banking activities;

48.1.2. temporarily remove administrators;

48.1.3. terminate banking operations and transactions with related parties;

48.1.4. limit receiving deposits;

48.1.5. limit or suspend attraction of funds from sources other than the funds attracted from founder banks, subsidiary banks or local branches of foreign banks;

48.1.6. limit, suspend or liquidate acquisition of shares in capital of other legal entities;

48.1.7. stop opening new branches and departments or suspend activities of existing branches and departments, or terminate their activities;

48.1.8. suspend financial privileges;

48.1.9. tighten rules and terms and conditions to issue loans and attract deposits;

48.1.10. request increase in capital;

48.1.11. request establishment of capital reserves from profits;

48.1.12. depending on the quality of assets, request establishment of special reserves and/or reduction of charter capital to the volume of the bank's loss amount;

48.1.13. suspend issuance of guarantees (warranties) on liabilities of other persons;

48.1.14. limit or suspend payment of dividends;

48.1.15. introduce changes to bank's procedures for operations and internal control;

48.1.16. request calling an extraordinary general meeting of bank's shareholders.

48.2. Corrective actions, specified in Article 48.1 herein, shall be applied separately or several of them simultaneously.

48.3. The right of the bank to attract deposits from individuals shall be suspended too in the event of grounds specified in the Law of the Republic of Azerbaijan on Deposit Insurance.

Article 49. Sanctions

49.1. Banks and banks administrators may be subject to sanctions in the cases and the order specified in the Code of the Republic of Azerbaijan on Administrative Offences. The FMSA, in cases stipulated in Article 47.1 herein, along with the corrective actions stipulated in Article 48.1 herein, may also:

49.1.1. apply fines and penalties to the bank and bank administrators, as per the Code of Administrative Offences of the Republic of Azerbaijan;

49.1.2. dismiss administrators from their positions.

49.2. If the FMSA imposes a sanction, stipulated in Article 49.1.2. herein, bank administrator's dismissal from his/her position shall be executed immediately at the decision of the bank's competent management authority.

49.3. The FMSA shall review the issue on deciding to revoke the banking license on the basis stipulated in Article 16 herein.

49.4. Imposing sanctions shall not release the bank from fulfillment of liabilities before creditors, including bank customers, and bank administrators (with the exception of those dismissed from their duties) from implementation of their duties.

Article 50. How to impose sanctions

50.1. Sanctions against banks and bank administrators shall be imposed in the cases and in accordance with the procedures stipulated in the Code of Administrative Offences of the Republic of Azerbaijan. The procedure for review of materials on imposing sanctions, stipulated in Articles 49.1.2 and 49.3 herein, and documentation of their results shall be established by the FMSA.

50.2. Sanctions, stipulated in Articles 49.1.2 and 49.3 herein, shall be applied by the decision of the FMSA.

50.3. The FMSA, when taking a decision on imposing sanctions stipulated in Article 49 herein, shall immediately send an appropriate notification on such decisions to the relevant bank.

50.4. Sanctioned persons may appeal against the decision under the Administrative Procedural Code of the Republic of Azerbaijan. The appeal submission shall not prevent execution of the sanctions specified in Articles 49.1.2 and 49.3 herein.

~~Chapter VII. Temporary administrator~~

~~Articles 51. Basis for appointment of temporary administrator~~

~~51.1. The FMSA shall appoint a temporary administrator when the following is determined:~~

~~51.1.1. the amount of bank's aggregate capital reached 25 percent of the minimum amount for aggregate capital, determined by the FMSA for banks or its adequacy ratio reached 3 percent;~~

~~51.1.2. bank is not capable to execute payments on liabilities;~~

~~51.1.3. application delivered on launch of insolvency procedures on the bank;~~

~~51.1.4. banking license should be revoked for other reasons, stipulated herein.~~

~~51.2. The FMSA shall be entitled to appoint a temporary administrator to the bank, if the bank shall fail to fulfill the requirements stipulated in Articles 47, 48 and 49.1.2 herein.~~

~~Article 52. Appointment of a temporary administrator~~

~~52.1. A temporary administrator shall be appointed from among employees of the FMSA or outsiders (individuals and/or legal entities) for the maximum period of 12 months. The appointment term may be extended by the FMSA for the maximum period of 6 months.~~

~~52.2. Salary and expenses of the temporary administrator shall be paid by the bank, while the shortfall by the FMSA.~~

~~52.3. Related parties, as well as bank's creditors and debtors (with the exception of the FMSA) may not be appointed as temporary administrators.~~

~~52.4. The decision on appointment of or extension of the term of the temporary administrator shall contain relevant basis, data on the temporary administrator and the term of his/her service. The FMSA, upon taking the decision, shall deliver it immediately to chairmen of bank's Supervisory and Management Boards.~~

~~52.5. The temporary administrator in his/her activities shall be guided by this Law, valid legislative acts, including regulatory documents, as well as instructions and recommendations of the FMSA.~~

~~52.6. Bank's Supervisory Board shall take a decision on replacement of or consent to the appointed temporary administrator and submit a verified copy of the decision to the~~

~~FMSA within 5 calendar days from the date of submission of the verified copy of the decision of the FMSA on appointment of the temporary administrator. If the bank fails to issue its attitude to the request of the FMSA, it shall be deemed to agree with the decision on appointment of the temporary administrator.~~

~~52.7. The FMSA, when receiving an objection against the newly appointed temporary administrator, shall re-consider its decision, take a decision on cancellation of the appointment or its retention in force, explaining the decision within 5 calendar days. The decision of the FMSA on appointment of another temporary administrator or retention of the previous one shall be immediately delivered to the relevant bank.~~

~~52.8. The temporary administrator, appointed by the FMSA, irrespective the cases, stipulated in Articles 52.6 and 52.7 herein, shall immediately start the execution of his/her duties upon release of the decision of the FMSA on his/her appointment. In case of change of temporary administrator's appointment, he/she shall immediately hand over management of bank assets, accounting books and records to a newly appointed temporary administrator.~~

~~52.9. If the bank disagrees with the resolution of the FMSA on appointment of the temporary administrator, as well as the resolution of the FMSA on approval of appointment of the temporary administrator, it may submit an appeal to the court in the order specified in the Administrative Procedural Code of the Republic of Azerbaijan upon submission of the latter.~~

Article 53. Authorities of temporary administrator

~~53.1. From the date of appointment of the temporary administrator:~~

~~53.1.1. authorities of bank's management bodies with respect to the bank management shall be terminated;~~

~~53.1.2. authorities of management bodies, with respect to the bank management shall be transferred to the temporary administrator. He/she shall not be entitled to take any decisions on sale, reorganization and liquidation of the bank. The bank may be sold and reorganized by the court's decision only;~~

~~53.1.3. develop and submit to the FMSA a report on current financial standing of the bank within 60 calendar days. The report shall include revaluation of assets to be sold at bank's liquidation. An independent auditor may also be involved to the report development. Auditor services shall be paid by the bank. The FMSA shall take an appropriate decision on the report submitted;~~

~~53.1.4. transactions on behalf of and at the expense of the bank shall be made with a written agreement of the temporary administrator, otherwise they shall be deemed invalid.~~

~~53.2. The temporary administrator, along with authorities of bank's management bodies, shall also:~~

~~53.2.1. take measures to safeguard bank's property and documentation;~~

~~53.2.2. identify bank's creditors and amount of bank's obligations before them;~~

~~53.2.3. take measures under the legislation on re-payment of bank's debts;~~

~~53.2.4. sign contracts and documents on behalf of the bank;~~

~~53.2.5. if necessary, in accordance with the legislation, cancel signed contracts, implying bank's investment, or introduce additions and amendments therein, as well as make changes to contractual commissioning fees, interests and their terms;~~

~~53.2.6. issue claims to courts on behalf of and in the interest of the bank;~~

~~53.2.7. issue orders on dismissal, demotion, temporary suspension, including distribution of roles among the bank employees;~~

~~53.2.8. in accordance with Article 57 herein take measures on remediation of bank's financial standing.~~

~~53.3. The temporary administrator, with the consent of the FMSA, may involve other persons, including administrators and employees of the bank in bank's management.~~

~~53.4. Administrators and employees of the bank, from the date of start of duties, shall transfer seals and stamps of the bank, accounting books and other documents, property and other valuables to the temporary administrator and provide him/her with necessary data required for his/her performance.~~

~~53.5. Law enforcement bodies, upon the request of the temporary administrator, shall provide his/her access to bank's premises, handover of management of bank assets, accounting books and records as well as their security.~~

Article 54. Control by the FMSA over temporary administrator's performance

~~54.1. The FMSA shall ensure control over the temporary administrator throughout his/her activity.~~

~~54.2. The FMSA shall be authorized to:~~

~~54.2.1. issue recommendation for the temporary administrator on main directions of bank management and, in accordance with Article 57 herein, on relevant measures with respect to remediation of bank's financial standing;~~

~~54.2.2. issue obligatory instructions for the temporary administrator in writing;~~

~~54.2.3. request data on activities of the temporary administrator;~~

~~54.2.4. receive report from the temporary administrator;~~

~~54.2.5. extend the term of appointment of the temporary administrator in accordance with Article 52.1 herein.~~

~~54.3. The temporary administrator shall be accountable to the FMSA only.~~

Article 55. Moratorium

~~In order to evaluate bank's assets and financial standing, as well as prevent depreciation of assets value throughout appointment of the temporary administrator for the bank, a court may completely or partially stop payments on deposits of legal entities and individuals and other liabilities of the bank at the application of the FMSA. The court shall take a decision on this application within 48 hours and the judgement shall be sent to immediate execution.~~

Article 56. Termination of temporary administrator's activity

~~56.1. The activity of the temporary administrator may be stopped by the decision of the FMSA in the following instances:~~

~~56.1.1. upon the expiry of the term established by the FMSA;~~

~~56.1.2. premature termination of the performance of the temporary administrator by the FMSA;~~

~~56.1.3. in the event a court appoints a liquidator to the bankrupt bank.~~

~~56.2. In the event of termination of the performance of the temporary administrator due to financial remediation and improvement of activities of the bank (including premature), all restrictions imposed to the bank by the FMSA and the temporary administrator shall be cancelled.~~

~~56.3. If measures taken by the temporary administrator fail to result in bank's financial remediation and improved performance or deficiencies in bank activities are not removed, the FMSA may take a decision on premature termination of authorities of the temporary administrator, and revoke the bank license and permit for implementation of banking operations on the basis stipulated herein.~~

~~56.4. Upon termination of temporary administrator's authorities he/she shall develop and submit to the FMSA a final report within 30 days.~~

Chapter VIII. Resolution of an insolvent bank

Article 57. Appointment of a temporary administrator to an insolvent bank

~~57.1. The FMSA may appoint a temporary administrator to a bank with respect to its insolvency in the event one or several of the following grounds are identified:~~

57.1.1. *the amount of bank's aggregate capital reached 25 percent of the minimum amount of aggregate capital set by the FMSA or its adequacy ratio reached 3 percent;*

57.1.2. *except for the cases specified in Article 57-11 of this Law, if a bank fails to make payments on any of its liabilities or does not have sufficient liquid funds to meet maturing liabilities;*

57.1.3. *if a banking license needs to be liquidated on other grounds specified herein;*

57.2. *The FMSA shall be entitled to appoint a temporary administrator to the bank if the latter fails to meet the requirements of Articles 47.5, 48.1 and 49.2 of the present Law;*

57.3. *The decision of the FMSA on appointment of a temporary administrator to the bank shall be substantiated by referring to bank's prudential statements, the report on findings of the inspection in the bank or external audit reports. The decision on appointment or extension of the appointment period of a temporary administrator shall include information on him/her and his/her period of authority. On the day the FMSA takes a decision on appointment of a temporary administrator to an insolvent bank it shall appoint him/her to a bank from among its employees or outsiders (individuals and/or legal entities) and start the bank's resolution process. The FMSA shall inform bank's Management and Supervisory Boards accordingly immediately after the decision on appointment of the temporary administrator has been taken.*

57.4. *From the day the temporary administrator is appointed to the bank;*

57.4.1. *all authorities on bank management, including authorities of the general meeting of bank's shareholders shall be suspended;*

57.4.2. *all authorities on bank management, including authorities of the general meeting of bank's shareholders shall pass to the temporary administrator.*

57.5. *The temporary administrator shall develop and deliver to the FMSA an actions plan addressing the method, conditions, economic substantiation and periods of resolution based upon financial indicators of the insolvent bank within 30 calendar days at latest starting from the day following the day of his/her appointment.*

57.6. *The insolvent bank shall be managed by the temporary administrator for the period of up to 9 months, which may be extended by the FMSA for up to 3 months. Within this timeframe the FMSA shall take the following actions with respect to resolution of the insolvent bank:*

57.6.1. *merger of an insolvent bank with a sound bank;*

57.6.2. *transfer of insolvent bank's assets and liabilities to a buyer bank in part or in full;*

57.6.3. *launch of a bridge bank, transfer of insolvent bank's sound assets and liabilities to the bridge bank and sale of the bridge bank to an investor;*

57.6.4. *sale of the insolvent bank to the investor;*

57.6.5. *liquidation of the insolvent bank.*

57.7. *The temporary administrator shall ensure that funds to be received by bank's creditors as part of the bank's resolution do not fall behind the funds to be obtained in case of bank's liquidation.*

57.8. *A court may terminate payments on deposits of legal entities and individuals and bank's other liabilities totally or partially (impose moratorium) at the FMSA's application to assess bank's assets and financial standing, and prevent drops in value of assets over the period a temporary administrator is appointed to the bank.*

Article 57-1. Bank's management by the temporary administrator

57-1.1. *A temporary administrator shall meet the requirements established for bank administrators by the present Law.*

57-1.2. *Insolvent bank's related parties, bank's shareholders, creditors and debtors may not be appointed a temporary administrator. If availability of similar cases are detected upon the temporary administrator's appointment, the activity of the administrator shall be terminated.*

57-1.3. *Expenses related to the management of the bank shall be covered by the bank. In the event of lack of bank's own funds to manage the bank, it shall be managed at the expense of the FMSA on the basis of FMSA's cost estimates. Resolution of the bank, which has not sufficient funds to be managed, shall be completed within 3 months.*

Article 57-2. Temporary administrator's bank management related authorities

57-2.1. *From the day the FMSA's decision on appointment of a temporary administrator to the bank its managerial bodies shall hand over bank's seals, stamps, all property, accounting books and other documents to the temporary administrator and deliver all bank activities related information.*

57-2.2. *A relevant executive authority shall arrange temporary administrator's entry to the bank building, takeover and protection of bank's assets, accounting books and records at the appeal of the FMSA.*

57-2.3. *From the day the temporary administrator is appointed transactions signed by bank's managerial bodies and executed operations shall be deemed invalid. In addition to exercising authorities of bank's all managerial bodies the temporary administrator shall:*

57-2.3.1. *take actions to protect bank's property and documents;*

57-2.3.2. *identify bank's creditors and the amount of bank's money liabilities due to them;*

57-2.3.3. *take actions to repay bank's debts;*

57-2.3.4. *sign agreements and documents on bank's behalf;*

57-2.3.5. *waive the discharge of contractual liabilities which caused deterioration of bank's financial standing as a result of terms and conditions obviously contradicting bank's interest, including loan agreements, and take actions to terminate the said agreements in the order specified in the Civil Code of the Republic of Azerbaijan;*

57-2.3.6. *take actions on liquidation of or making additions and changes to the agreements implying investments to the bank in the event of damage to bank's financial resilience in the order specified in the Civil Code of the Republic of Azerbaijan;*

57-2.3.7. *restructure loans issued by the bank (prolongation, decrease or liquidation of interest rates, write-off of loss loans), if it is necessary to prevent deterioration of the quality of assets;*

57-2.3.8. *organize bank's audit review and expertise of legal documents;*

57-2.3.9. take actions specified in Article 57-10 herein, investigate the cases leading to bank's insolvency, apply to related authorities to bring to responsibility those suspected in occurrence of similar cases, and bring a case before the court to cover losses incurred by the bank;

57-2.3.10. issue orders, including dismissals in the bank and its affiliates, changes to labor conditions, demotions, temporary suspensions, and segregation of duties among employees;

57-2.3.11. take actions to decrease bank's expenses;

57-2.3.12. attract other persons, including bank's administrators and staff to bank's management at the agreement of the FMSA;

57-2.3.13. suspend profit sharing and payment of dividends;

57-2.3.14. develop and submit to the FMSA a draft actions plan on insolvent bank's resolution;

57-2.3.15. do works to implement the actions plan on insolvent bank's resolution;

57-2.3.16. submit monthly reports to the FMSA on his/her activities and the status of implementation of the resolution plan of the bank.

57-2.4. To improve bank's financial standing, recover loss capital and maintain liquidity the temporary administrator also shall:

57-2.4.1. identify the volume of bank's assets and liabilities as part of the development of the actions plan on bank's resolution, develop an updated balance sheet, revalue aggregate capital, and identify bank's capital deficit;

57-2.4.2. to raise bank capital:

57-2.4.2.1. add deposits of shareholders with qualifying holding held with the bank in the amount of the bank's lacking capital in return of increase in their share in the authorized capital;

57-2.4.2.2. add subordinated debt liabilities of shareholders with qualifying holding issued to the bank directly or indirectly from Tier II Capital to authorized capital in return of increase in their share in the authorized capital;

57-2.4.3. sell or pledge the bank's share in its affiliates (or a part thereof), real estate it owns and other assets.

Article 57-3. Actions to prevent deterioration of insolvent bank's assets and possible losses

57-3.1. The temporary administrator shall take actions to protect and safeguard bank property and documents. He/she shall maintain the inventory of bank's assets and liabilities within 30 calendar days upon his/her appointment and develop the bank's updated balance sheet.

57-3.2. Within 45 calendar days upon appointment the temporary administrator shall analyze bank's agreements, contracts, as well as conducted operations over recent two years to identify the cases leading to deterioration of bank's financial standing, including the following cases:

57-3.2.1. alienation of or transfer to use bank property on terms and conditions and at prices considerably below market conditions and prices;

57-3.2.2. make exemptions to customers under loan agreements not applicable under normal market conditions;

57-3.2.3. signing loan or other agreements to take possession of bank's assets;

57-3.2.4. signing transactions granting privileges and exemptions to bank's certain creditors related to payments or property;

57-3.2.5. signing contracts with related parties violating the requirements of the legislation or threatening interests of bank's depositors and creditors;

57-3.2.6. bank's purchase of property, goods and services at prices considerably higher than their real value on the basis of signed contracts;

57-3.2.7. overestimation of the value of property pledged as loan collateral.

57-3.3. Agreements specified in Article 57-3.2 of the present Law shall be deemed null and void. The temporary administrator shall take actions specified in the legislation to recover bank's assets lost on the basis of the said contracts and compensate the losses incurred by the bank.

57-3.4. Concerned persons may issue complaints in the administrative order and to court from the decisions of the temporary administrator related to the bank's management as part of this Law.

Article 57-4. Control over the activities of the temporary administrator

57-4.1. The FMSA shall control temporary administrator's activities as follows. It shall:

57-4.1.1. request information and receive reports on temporary administrator's activities;

57-4.1.2. issue recommendations and written mandatory instructions to the temporary administrator on the bank management and resolution related actions plan;

57-4.1.3. take decision on extension of the temporary administrator's appointment period;

57-4.1.4. review complaints of concerned persons on the decisions taken by the temporary administrator related the bank management as part of this Law.

57-4.2. The FMSA shall terminate activities of the temporary administrator if:

57-4.2.1. the temporary administrator's appointment period expires;

57-4.2.2. the temporary administrator's activities are prematurely terminated in the cases specified in Article 57-4.3 herein;

57-4.2.3. the insolvent banks is liquidated in a forced order or announced bankrupt;

57-4.2.4. the actions plan on insolvent bank's resolution has been completed.

57-4.3. If the period of the implementation of the insolvent bank's resolution plan is not completed within the specified timeframe or actions related to recovery of solvency does not yield results, the FMSA shall take a decision on premature termination of the temporary administrator's activities and revocation of the bank's license.

57-4.4. The temporary administrator shall develop and submit to the FMSA a final report within 30 days after termination of his/her activity.

Article 57-5. Actions plan on insolvent bank's resolution

57-5.1 The FMSA shall approve the actions plan on insolvet bank's resolution within 15 calendar days upon presentation by the temporary administrator. This period may be extended by the FMSA up to 15 calendar days.

57-5.2. The temporary administrator shall develop a draft actions plan by means of relevant analyses and estimations at minimum loss principle.

57-5.3. The actions plan shall address findings of inventory of insolvent bank's assets and liabilities and relevant actions on rehabilitation of bank's solvency or its liquidation by means of any measures specified in Article 57.6 of the present Law and based upon evaluation of bank's financial and property standing.

57-5.4. The actions plan shall specifically include the following:

57-5.4.1. *substantiation and comparative analysis of expenses (the rules and methodology of such analyses are determined by the FMSA) to choose any of the actions specified in Article 57.6 herein more favourable from losses and expenses standpoint as an insolvent bank's resolution measure;*

57-5.4.2. *means, rules and conditions for regulations of bank's relations with process participants, bank depositors and other creditors during its resolution;*

57-5.4.3. *terms and conditions of the auction to select a buyer bank and investors;*

57-5.4.4. *period to implement the actions plan;*

57-5.4.5. *the evaluated value of sellable assets during bank's liquidation.*

57-5.5. *The bank's temporary management and/or liquidation shall be conducted based upon the actions plan after its approval by the FMSA. The FMSA shall be entitled to make additions and changes to the actions plan.*

Article 57-6. Transfer of insolvent bank's assets and liabilities to the buyer bank

57-6.1. *According to the actions plan the temporary administrator shall ensure transfer of insolvent bank's assets and liabilities to the buyer bank as specified in this Law. The buyer bank willing to accept insolvent bank's assets and liabilities should be a sound bank. The FMSA shall evaluate buyer bank's financial standing, management system, creditability to meet liabilities before depositors and creditors, observance of prudential requirements, and risks likely to emerge in the banking system with the transfer of assets to identify whether the buyer bank is sound. The buyer bank, which gets a positive opinion of the FSMA as a result of the evaluation, may participate in the auction specified in Article 57-6.3 of this Law.*

57-6.2. *The temporary administrator shall compile a registry of assets and liabilities to be transferred. When transferring assets and liabilities he/she shall treat all creditors equally and in good faith in line with the sequence specified in Article 82 of this Law.*

57-6.3. *The buyer bank shall be selected at the auction in line with the rules established by the FMSA. The agreement signed with the buyer bank selected as a result of the auction shall reflect a written commitment of the said bank on acceptance of insolvent bank's assets and liabilities.*

57-6.4. *Insolvent bank's liabilities shall be transferred on the basis of a contract on transfer of debts signed with the buyer bank at their balance value. To sign a contract on transfer of debts, creditors' agreement, as well as making additions and changes to contracts signed between the insolvent bank and its creditors, shall not be required. The buyer bank shall receive borrowers' all rights and duties with respect to creditors.*

57-6.5. *Insolvent bank's assets shall be transferred on the basis of the agreement with the buyer bank on the assignment of claim and transmission of rights over securities being based on valid transactions and agreements with securities. No agreement of borrowers shall be required to sign such contracts. The buyer bank shall obtain creditor's all rights and duties with respect to borrowers related to claims transmitted to it and rights over securities. No additions and changes shall be required to contracts between relevant borrowers and the insolvent bank.*

57-6.6. *Contracts specified in Articles 57-6.4 and 57-6.5 in this Law may be developed as a single document (mixed contract).*

57-6.7. *The temporary administrator shall inform debtors and creditors on transfer of insolvent bank's assets and liabilities to another bank within 5 days upon signing relevant contracts.*

57-6.8. The FMSA shall take a decision on revocation of the insolvent bank's banking license upon completion of transfer of assets and liabilities to another bank and file a petition in court in the case specified in Article 59.1 of this Law.

Article 57-7. Insolvent bank's sale and merger to a sound bank

57-7.1. The temporary administrator shall sell the insolvent bank to an investor by approving with a court decision in line with the insolvent bank's resolution related actions plan.

57-7.2. The investor shall meet the requirements established by the FMSA.

57-7.3. From the day the decision on sale of the insolvent bank to the investor in the bank's resolution related actions plan is approved at the court:

57-7.3.1. the temporary administrator shall get the rights to dispose of shares on behalf of insolvent bank's shareholders;

57-7.3.2. if insolvent bank's aggregate capital falls behind authorized capital, the temporary administrator shall take a decision to determine new nominal value of bank shares and decrease bank's authorized capital to the relevant amount. In the event of loss of bank's capital the value of bank's authorized capital is reduced to a conditional financial unit;

57-7.3.3. bank's shareholders shall be prohibited to dispose of shares in any form, in particular, to alienate, encumber or place them into trust. Information on such encumbrance of shares shall be recorded in the registry of security holders on the basis of a request from the FMSA.

57-7.4. The insolvent bank's sale price shall be established at the auction held under the rules set by the FMSA. Auction results should allow to rehabilitate insolvent bank's solvency at less expenses and losses. The temporary administrator shall sell the insolvent bank to the investor selected at the auction.

57-7.5. The insolvent bank shall be sold to the investor on the basis of the agreement on procurement of bank shares.

57-7.6. The procurement agreement should cover the following:

57-7.6.1. commitment of the investor to align the insolvent bank to prudential requirements established for banks within a specified timeframe;

57-7.6.2. terms and conditions to annul the contract in the event the investor fails to capitalize the bank and/or rehabilitate its solvency, and meet the obligation to stabilize bank operations.

57-7.7. The contract on purchase of shares between the temporary administrator and the investor shall be deemed the basis to register the rights on shares in the registry of security holders in the name of the investor.

57-7.8. Insolvent bank's merger to another sound bank shall be provided in the form of sale to the investor bank in the order specified in Article 57-7 of this Law.

Article 57-8. Establishment and sale of a bridge bank

57-8.1. According to the insolvent bank's resolution plan, the FMSA shall take a decision on establishment of a bridge bank to transfer assets and liabilities of one or several insolvent banks in full or in part and manage them temporarily.

57-8.2. The FMSA shall be deemed a bridge bank's founder and sole shareholder. Bridge banks shall be regulated by the rules adopted by the FMSA. They shall not be subject to the norms established

by the FMSA for other banks and reserve requirements applied by the Central Bank to banks as a monetary policy tool.

57-8.3. The FMSA shall launch, issue and register shares of a bridge bank, and establish a special simplified procedure on issue of a banking license to a bank.

57-8.4. The bridge bank shall be sold to the investor through the auction held in line with the rules established by the FMSA. Authorities of bridge bank's management bodies shall be exercised by the temporary administrator and the bridge bank shall be managed by the temporary administrator until being sold to the investor.

57-8.5. An initial price for bridge bank's sale shall be established under the methodology adopted by the FMSA. The investor that offered the highest price to procure the bridge bank and committed to align the bridge bank to prudential requirements set for banks within a specified timeframe or to merge it to one of existing sound banks shall be deemed the auction winner.

57-8.6. When meeting liabilities FMSA creditors shall treat all creditors equally and in good faith in line with the sequence determined in Article 82 of this Law.

57-8.7. The bridge bank shall get all rights with respect to transferred assets (including all rights related to collateral agreements) and accept debtor's all rights and duties on transferred liabilities with respect to insolvent bank's creditors without making additions and changes to previously signed agreements.

57-8.8. The FMSA and the investor shall sign a contract on procurement of bridge bank's shares within 7 calendar days from the day a written notification on announcement of the auction winner is delivered to the investor. The agreement shall be deemed a basis to enter the rights on bridge bank's shares in the investor's name to the register of security holders.

57-8.9. The procurement agreement shall include the investor's commitment to align the bridge bank to prudential requirements set for banks or merge it to one of existing sound banks within the period defined in the agreement, not exceeding 3 months. The funds generated from the sale of the bridge bank shall be channelled to pay claims of insolvent bank's creditors.

57-8.10. In the event the investor meets all terms of the procurement agreement, the bridge bank shall lose the bridge bank status. The FMSA shall conduct inspections at the bank to determine whether bridge bank follows established norms within three months of the loss of the status.

57-8.11. The FMSA shall take a decision to terminate temporary administrator's activities within 3 business days from the day the bridge bank loses its status.

57-8.12. On the day the transfer of insolvent bank's assets and liabilities to the bridge bank is completed, the FMSA shall take a decision to revoke the insolvent bank's banking license and take a legal action in the case specified in Article 59.1 of this Law.

57-8.13. The FMSA shall ensure bridge bank's sale to the investor within 6 months upon its establishment. This period may be extended for up to 3 months at the decision of the FMSA which shall supervise the bridge bank until it loses its status.

57-8.14. In the event the bridge bank cannot be sold within the timeframe specified in Article 57-8.13 herein, the FMSA shall take relevant actions on revocation of the license and forced liquidation of the bridge bank at latest on the day following the relevant deadline.

Article 57-9. Participation of the state in rehabilitation of systemically important banks' solvency

57-9.1. Financial remediation actions may be taken with respect to systemically important banks by attracting public funds.

57-9.2. The criteria to assess a bank as a systemically important bank shall be established by the FMSA through coordination with the Central Bank and a relevant executive authority.

57-9.3. In the event the insolvent bank complies with the criteria set by the FMSA with respect to the systemically important bank, the FMSA shall develop an actions plan on bank's financial remediation.

57-9.4. The draft actions plan shall be developed by the FMSA by means of relevant analyses at estimation of least public funds to be allocated for bank's remediation and minimum losses.

57-9.5. The actions plan shall include rehabilitation of bank's solvency by means of the any of the below methods established through evaluation of bank's financial and property status based upon findings of the inventory of insolvent bank's assets and liabilities:

57-9.5.1. merger of at least 75 percent of insolvent bank's shares to a state owned bank or procurement by a similar state owned bank under the Civil Code of the Republic of Azerbaijan;

57-9.5.2. acquisition by the state of more than 50 percent of the shares of the insolvent bank, subject to further sale to the investor and increase of the authorized capital of the bank at the expense of state funds through additional issue of shares;

57-9.5.3. acquisition by the state of less than 50 percent of bank's shares provided that the state shall retain the bank's management and later the state's participation share shall be sold to bank's existing shareholders or bank's all shares shall be sold to another investor at the agreement of bank's shareholders;

57-9.5.4. for the purpose of systemically important bank's resolution take actions specified in Article 57.6 of this Law.

57-9.6. The actions plan shall particularly include substantiation and comparative analysis of expenses to select any of the methods specified in Article 57-9.5 herein more beneficial from standpoint of losses and expenses as a measure of rehabilitation of insolvent bank's solvency and the amount of public funds required for the bank's remediation.

57-9.7. Upon development by the FMSA the actions plan shall be submitted to the relevant executive authority to coordinate the amount of public funds required for the remediation of the bank and payment facilities. Relevant additions and/or changes shall be made to the actions plan at relevant executive authority's proposal, which shall deliver its substantiated opinion on the actions plan within 10 days upon submission. After receiving the relevant executive authority's opinion the FMSA shall deliver the systemically important insolvent bank's actions plan together with the said opinion to take a decision within 3 days to the relevant executive authority. If the relevant executive authority is positive with respect to the proposal on bank's remediation, it shall take a decision on bank's financial remediation and approve the relevant actions plan.

57-9.8. Procurement of the systemically important insolvent bank by the state shall be provided at the expense of the state budget or by means of issue and placement in the securities market of government guaranteed bonds by the relevant executive authority. If aggregate capital of systemically important insolvent bank falls behind its authorized capital, the new nominal value of bank shares shall be identified and the authorized capital decreased to the relevant amount. In the event of the loss of bank capital, the value of bank's authorized capital shall be reduced to a conditional financial unit and procured at this price.

57-9.9. *The FMSA appointed temporary administrator shall realize bank's remediation measures based upon the actions plan approved by the relevant executive authority. He/she shall exercise the authorities specified in Article 57-2 and 57-3 herein related to recovery of systemically important insolvent bank.*

57-9.10. *In the event any of the methods specified in Articles 57-9.5.1-57-9.5.3 herein shall not be applied within 3 months after the actions plan on recovery of systemically important insolvent bank is approved, the FMSA shall take actions on bank's resolution in the order specified in Article 57.6 herein.*

Article 57-10. Indemnification for bank's losses and return of funds paid as part of rehabilitation of bank's solvency

57-10.1. *If solvency of systemically important insolvent bank, remediated under terms specified in 57-9 herein, is rehabilitated in the order specified in Article 57-9 herein at the expense of state funds, bank's administrators and qualified holdings shall indemnify for bank's losses within the timeframe specified by the temporary administrator.*

57-10.2. *Bank administrators and qualified holdings shall indemnify for losses the bank incurred as a result of their illegal actions:*

57-10.2.1. *sale, donation, misappropriation or embezzlement of bank's fixed assets;*

57-10.2.2. *pledging bank's fixed assets or otherwise encumbrance of bank assets;*

57-10.2.3. *granting loans to persons who are clearly insolvent;*

57-10.2.4. *open deposit accounts in the country or abroad and record funds in those accounts as pledged collateral;*

57-10.2.5. *paying bonuses and dividends to bank's shareholders or administrators when bank operates with losses or in the amount disproportionate to bank's profit;*

57-10.2.6. *signing contracts, specified in Article 57-3.2 herein, which caused deterioration of bank's solvency;*

57-10.2.7. *misappropriation or embezzlement of bank property to ensure any type of tangible and non-tangible property riches and rights on such property for himself/herself, related parties or other persons in another form.*

57-10.3. *The temporary administrator shall determine the amount of damage caused to the bank by persons stipulated by Articles 57-10.2 of this Law and the amount to be returned, with an analysis of transactions carried out during the period covering a two-year period preceding the start of the rehabilitation of the bank's solvency and decisions taken and a separate report shall be prepared*

57-10.4. *The temporary administrator shall send a notification to persons who inflicted losses to the bank to pay for inflicted losses voluntarily on the basis of the developed act and determine the deadline to reimburse losses. If the persons who inflicted losses to the bank fail to reimburse the losses within the specified timeframe voluntarily, the temporary administrator shall apply to court for mandatory reimbursement of losses.*

57-10.5. *The temporary administrator may request from bank's shareholders, administrators, and related parties information on money funds or other property in their possession and ownership, income they earned over recent two years, dividends and bonuses they received from the bank within the frame of identification of losses inflicted to a bank. The FMSA may send an inquiry to public*

authorities, entities and organizations on presentation of information on money funds or other property possessed and owned by these persons and income they earned over recent two years.

57-10.6. If it is identified that the bank became bankrupt or insolvent as a result of illegal decisions, other actions and inactions and they are not solvent to cover these liabilities, the court may announce these persons insolvent to the amount of the loss they inflicted on the bank according to the Law of the Republic of Azerbaijan on Insolvency and Bankruptcy based upon the temporary administrator's appeal. If such illegal actions are taken by bank's shareholders to gain profit, the court may take a similar decision on shareholders who earned profit from similar illegal actions.

57-10.7. The provisions of Article 57-10 herein shall be applied to the resolution of insolvent banks realized by the temporary administrator based upon Article 57 herein.

CHAPTER VIII-I

VOLUNTARY RESTRUCTURING OF BANK'S LIABILITIES

Article 57-11. Voluntary restructuring of bank's liabilities

57-11.1. Bank's liabilities due to its creditors, except for liabilities to insured depositors, may be restructured voluntarily in the order specified in this Law.

57-11.2. If a bank is not capable or there is a threat of failure of not being capable to meet creditor's (s') claim(s) related to meeting its liability (ies) due to lack and short of funds or impossibility to use money funds due whatever reasons it may start voluntary restructuring of bank's liabilities based upon the relevant decision by the Supervisory Board. A copy of the Supervisory Board's decision on voluntary restructuring of bank liabilities shall be delivered to the FMSA no later than the first business day following the date the said decision was taken.

57-11.3. The FMSA shall start written agreement with the bank on the issues related to voluntary restructuring bank liabilities within 10 calendar days after receiving the Supervisory Board decision on voluntary restructuring of bank liabilities. This period may be extended up to 10 calendar days at the decision of the FMSA.

57-11.4. The bank shall develop a draft restructuring plan within 10 days after the FMSA starts a written agreement with the bank on voluntary restructuring bank liabilities and deliver to the FMSA in writing for review.

57-11.5. In the event the FMSA has proposals on draft restructuring plan delivered for review it shall submit a relevant written notification to the bank and request making changes and/or additions to the restructuring plan. After making additions and/or changes to the plan the bank shall submit the draft restructuring plan to the FMSA again. If the FMSA agrees with the draft restructuring plan it shall send a written notification to the bank.

57-11.6. After receiving a written notice of the FMSA on agreeing to the restructuring plan, the bank shall apply to court to commence voluntary restructuring bank liabilities within the timeframe provided for in the FMSA's notice under the civil procedure law. Restrictions provided for in Articles 57-11.8 and 57-11.21 herein shall apply from the date the court decision on launch of restructuring (hereinafter – the court decision on voluntary restructuring bank liabilities) takes effect and within the timeframe bank liabilities are restructured voluntarily on the basis of the restructuring plan not

exceeding 180 days in any case. This period may be extended ~~up to total of 90 days~~ by court at the appeal of the bank whose liabilities are under restructuring via coordination with the FMSA. Every appeal may be extended up to 180 days. No restrictions are imposed on the number of such extensions.

57-11.7. Within 7 calendar days after the court decision on voluntary restructuring bank liabilities is taken, the bank shall publish information on restructuring liabilities included to the restructuring plan at least in two regular print media covering the territory of the Republic of Azerbaijan and in one internationally recognized media outlet, as well as on its official website, which shall indicate that copies of the court decision on voluntary restructuring bank liabilities and the restructuring plan may be obtained from the court or the bank's legal address by all creditors whose claims are included to the restructuring plan.

57-11.8. According to Article 57-11.6 herein, the bank shall exercise the following rights from the date the court decision on voluntary restructuring bank liabilities shall take effect:

57-11.8.1. suspend implementation of purchase, exchange and gift or any other agreements on alienation of bank's any property, and signing agreements on debt, credit, guarantee or any other types of financing that impose the bank to any risks, including the credit risk;

57-11.8.2. suspend the discharge of liabilities included to the bank's restructuring bank approved by the court decision.

57-11.9. The bank shall convene a meeting of creditors whose claims are included to the restructuring plan to get an agreement on the plan. If changes are made to the coordinated plan according to Article 57-11.5 herein until the creditors' meeting is held, the restructuring plan shall be delivered to the FMSA for review at least 30 calendar days prior to the creditors' meeting.

57-11.10. The FMSA shall review the submitted restructuring plan within 10 calendar days as per Article 57-11.9 herein, and in case of availability of notes to the plan, request their elimination from the bank in writing. The bank shall consider proposals by the FMSA on the restructuring plan and deliver it to the FMSA with relevant changes. The bank shall publish information on the restructuring plan approved by the FMSA within 5 business days at least in two regular print media covering the territory of the Republic of Azerbaijan and in one internationally recognized media outlet, as well as on its official website, which shall indicate that copies of the restructuring plan may be obtained from the bank's legal address by all creditors whose claims are included to the restructuring plan.

57-11.11. Creditors, whose claims are to be restructured, shall take part in the meeting either personally or by their authorized representatives. To have the restructuring plan approved by creditors whose claims are included to the restructuring plan, according to the restructuring plan, agreement of at least two thirds of creditors who have claims to be restructured shall be required.

57-11.12. After the restructuring plan is approved as per Article 57-11.11 herein, the bank shall deliver the restructuring plan in writing to the FMSA within one day. If the restructuring plan is not approved as per Article 57-11.11 herein, the bank shall send a written information to the FMSA within one day on impossibility to restructure liabilities as per Article 57-11.11 herein. Where the restructuring plan is not approved as per Article 57-11.11 herein, the voluntary restructuring of bank liabilities shall be deemed failed. Provided that the restructuring plan is approved by creditors as per Article 57-11.11 herein, voluntary restructuring of bank liabilities shall be maintained with respect to all liabilities of the bank before creditors to be restructured under the restructuring plan.

57-11.13. After the FMSA reviews the restructuring plan, the bank shall take legal action under the civil procedure law for approval of the restructuring plan.

57-11.14. From the moment the court decision on approval of the voluntary restructuring of bank liabilities takes effect and within the period of its validity:

57-11.14.1. any proceeding started against the bank on any relevant execution document on the liabilities to be restructured should be suspended;

57-11.14.2. execution of claims by creditors whose liabilities are implied to be restructured against the bank arising from those liabilities shall be suspended.

57-11.15. The bank's restructuring plan shall address at least the following:

57-11.15.1. the purpose, order of maintenance and period of restructuring;

57-11.15.2. the list of liabilities to be restructured;

57-11.15.3. the list of actions to be undertaken as part of restructuring;

57-11.15.4. restrictions apply to the bank's activity.

57-11.16. If the bank under restructuring is a part of any holding company, the bank's restructuring plan should indicate factors affecting affiliates of the bank holding company during restructuring.

57-11.17. Voluntary restructuring of bank liabilities shall be terminated when:

57-11.17.1. a court takes a decision on termination of voluntary restructuring of bank liabilities as per Article 57-12 herein;

57-11.17.2. the FMSA takes a decision on revocation of the license and forced liquidation of the bank whose liabilities are restructured;

57-11.17.3. the bank's Supervisory Board takes a decision to terminate voluntary restructuring of bank liabilities.

57-11.18. When voluntary restructuring of bank liabilities is terminated due to the implementation of the restructuring plan, the bank's liabilities included to the restructuring plan shall be deemed duly executed.

57-11.19. The bank shall send a notice on completion of voluntary restructuring of bank liabilities within 3 calendar days or a copy of the court decision on termination of voluntary restructuring of bank liabilities within 10 calendar days after the decision takes effect to the FMSA and creditors whose claims are included to the restructuring plan in the order and within the timeframe specified in the restructuring plan.

57-11.20. The FMSA shall control the implementation of the restructuring plan by the bank.

57-11.21. Except for the cases specified in the restructuring plan the bank may not take a decision on bank's participation in other legal entities or on increase of the participation share when its liabilities are under restructuring.

Article 57-12. Termination of voluntary restructuring of bank liabilities

57-12.1. A court shall take a decision on termination of voluntary restructuring of bank liabilities based upon the appeal by the FMSA when:

57-12.1.1. the restructuring period implied in the court decision on voluntary restructuring of bank liabilities expires;

57-12.1.2. actions implied in the restructuring plan are fully executed;

57-12.1.3. bank's voluntary restructuring is prematurely suspended by FMSA's decision when:

57-12.1.3.1. there are sufficient grounds that voluntary restructuring of bank liabilities shall not result in bank's financial soundness and improved activities;

57-12.1.3.2. there is no agreement of creditors as per Article 57-11.11 herein;

57-12.1.3.3. actions implied in the restructuring plan are not implemented in compliance with the plan;

57-12.1.3.4. orders or other written instructions of the FMSA over the period of voluntary restructuring of bank's liabilities are not implemented.

57-12.2. Based upon the restructuring plan when implementing all actions proceedings started on any relevant execution document before the court decision on voluntary restructuring of bank liabilities takes effect shall be terminated.

Chapter IX. Liquidation of Banks

Article 58. Voluntary liquidation

58.1. If the FMSA revokes the bank license on the basis of a decision of the general meeting of shareholders in accordance with Article 17 herein, bank's shareholders shall voluntarily liquidate the bank.

58.2. Voluntary liquidation of the bank shall be implemented in accordance with the procedures, stipulated in the Civil Code of the Republic of Azerbaijan. In this case the bank shall submit documents and data requested by the FMSA and in order to clarify arisen issues, upon the written request of the FMSA, create conditions for access to premises for its authorized representatives and for work with accounting books and records of the bank with respect to its liquidation.

58.3. If the FMSA identifies that the liquidation committee does not ensure bank's liquidation in the order specified in the legislation and that the bank does not follow Article 58.2 herein, appropriate measures may be taken on forced liquidation of the bank in accordance with the procedures herein.

Article 59. Forced liquidation

59.1. The FMSA shall apply to a court with an application on forced liquidation of the bank, the license of which is liquidated for other reasons, stipulated in Article 16 herein and appointment of a liquidator(s) with the exception of voluntarily liquidated banks or those announced insolvent.

~~The nominee of liquidator(s) shall be proposed to the court by the FMSA. Related parties, as well creditors and debtors of the bank (with the exception of the FMSA) may not be appointed as liquidators.~~

59.2. The court shall review the application of the FMSA on forced liquidation of the bank and appointment of the liquidator no later than 7 calendar days and take an

appropriate decision. Non-participation of the bank in the court shall not prevent the review of the application.

The court shall appoint the Fund as a liquidator at its decision on bank's forced liquidation. The court decision on bank's forced liquidation shall be sent to the FMSA and the Fund at the latest on the day following the day it was taken. The Fund may assign liquidator functions to legal entities or individuals on a contractual basis. The Fund shall be kept directly responsible for the liquidation of the bank with less expenses in view of rights and legal interests of all creditors and its assigning the liquidator functions to other persons shall not release it from responsibility. The amount of service fees or salaries of legal entities and individuals to be attracted by the Fund as liquidators shall be established in coordination with the FMSA. Cost estimates related to the liquidation of the bank shall be approved by the FMSA at the Fund's report every three months.

The liquidator attracted by the Fund on a contractual basis, shall be in compliance with the requirements on civil impeccability provided for herein. Related parties, shareholders, creditors and debtors of the bank under forced liquidation shall not be attracted to the bank's liquidation process. If any of such instances are revealed upon involvement of the liquidator, their activities shall be terminated at the Fund's decision and a new liquidator shall be appointed to the bank.

59.3. Judgement of the court on forced liquidation of the bank and appointment of liquidators shall be sent to immediate execution from the date of adoption *and filing a complaint against the judgement shall not suspend its execution under the Administrative Procedure Code*. The liquidator shall immediately publish information on initiation of the liquidation process of the bank and appointment of the liquidator in mass media, and an appropriate notification shall be sent by him/her to the Supervisory and Management Boards.

59.4. The court decision on forced liquidation of the bank and appointment of the liquidator may be appealed in the court by the bank's shareholders or Supervisory Board in accordance with the procedures of the Administrative Procedural Code of the Republic of Azerbaijan. A copy of the claim shall be sent to the FMSA.

The court decision on forced liquidation shall remain in force until all protection measures are used and does not interrupt liquidator's authorities to carry on liquidation activities.

59.5. From the moment of the court decision on forced liquidation of the bank and appointment of the liquidator:

59.5.1. all authorities on bank's management, including the authorities of the general meeting of shareholders shall be transferred to the liquidator *(if a temporary administrator is appointed to the bank, his/her authorities shall be terminated by the FMSA from the moment a court decision on bank's forced liquidation is taken)*;

59.5.2. actions of administrators or shareholders of the bank, taken on behalf of the bank, shall not have any legal force;

58.5.3. all seizures on assets for the purpose of safeguarding bank assets and execution of court decisions shall lose their legal force;

59.5.4. with the exception of bank's liabilities, discharged within the amount of collateral (mortgage), remaining assets shall be protected from arrest or disposal.

59.6. *From the date a liquidator is appointed to the bank (if a temporary administrator is appointed, the temporary administrator) bank's managerial bodies shall hand over bank's seals, stamps, all property, accounting books, and other documents through an acceptance act. Similar handover shall be maintained in the cases when the liquidator appointed to the bank is replaced by another one. The acceptance act shall be approved by the decision of the court that issued a judgement on liquidation of the bank. Liquidator's orders and instructions shall be mandatory for the staff of the bank under liquidation.*

59.7. All costs associated with bank's liquidation shall be compensated at the expense of bank assets. Liquidator(s)' salary shall be determined by the court at FMSA's proposal. These costs shall be compensated out-of-turn.

59.8. Bank's forced liquidation shall be implemented under the Civil Code of the Republic of Azerbaijan. Interim liquidation balance, a report on the status of liquidation activities and liabilities, as well as the liquidation balance of forced liquidated bank shall be approved by the court. The term for submission of relevant reports shall be determined by the court.

59.9. The liquidator may implement one or several operations, stipulated in Article 74 herein at the court decision.

59.10. Within the period of bank's forced liquidation, the liquidator shall report on his/her activities to the FMSA in accordance with the format and within the term determined by the FMSA, as well as submit documentation and data requested by it.

~~In the event a fact on improper implementation of his/her functions by the liquidator is revealed, the court may substitute the liquidator with another one by the request of the FMSA.~~

59.11. When carrying out activities on forced liquidation if the liquidator detects existence of the basis, indicated in Article 61 herein, he/she shall apply to the FMSA with a substantiated request to launch bankruptcy procedures against the bank.

Chapter X. Bankruptcy of banks

Article 60. Regulation of procedures on insolvency and bankruptcy of banks

60.1. The Law of the Republic of Azerbaijan on Insolvency and Bankruptcy and any other laws, that completely or partially change and replace that law, shall not apply to banks.

60.2. Banks may be announced insolvent only in accordance with the procedure, established herein at the decision of the court. A bank may not be announced insolvent through the out of court procedure.

Article 61. Basis to start bankruptcy procedures

61.1. Banks' bankruptcy procedures may start when:

61.1.1. the FMSA determines that bank's aggregate capital falls behind 25 percent threshold, or 3 percent of the adequacy ratio of aggregate capital established for banks;

61.1.2. if the bank is incapable to meet its financial liabilities on due date (*except for the period the restructuring period is maintained from the moment a written agreement is commenced between the bank and the FMSA on voluntary restructuring of bank liabilities under Article 57-11 herein*);

61.1.3. if the bank is not capable to cover matured financial liabilities upon the submission of creditors' claims (*except for the period the restructuring period is maintained from the moment a written agreement is commenced between the bank and the FMSA on voluntary restructuring of bank liabilities under Article 57-11 herein*).

Article 62. Application to initiate a bankruptcy procedure

62.1. The court shall review an application on initiation of the bankruptcy procedure with respect to the bank if:

62.1.1. the FMSA submits an application along with the decision on revoking the banking license and financial report, verifying existence of the basis specified in Article 61 herein;

62.1.2. creditors submit an application along with other documents, verifying the request of creditors in accordance with Article 62.2 herein.

62.2. If, in accordance with Article 61.1.3 herein, the bank fails to meet its liabilities, one or several creditors can apply to the FMSA. It shall review the petition within 5 calendar days from the day of receiving, and if the FMSA determines the fact of non-execution of its duties by the bank, it shall take a decision on taking the matter on the banking license and initiation of bankruptcy procedures to court. The FMSA shall submit the application to the court within 3 calendar days from the date of taking a decision to that end. If a fact of non-execution of liabilities by the bank is not detected, the FMSA shall send substantiated rejection to creditors. Rejection by the FMSA of the creditors' application shall not prevent them from submission of relevant applications to the court.

62.3. The moratorium shall take effect immediately upon submission of the application by the FMSA. In view of the moratorium, no creditor may take measures, requiring compensation of his/her debts or transfer of bank's property in return to the debt or to

withhold any collateral (mortgage), or to continue or start the procedure, related to raising claims against the bank without the permit of court.

Article 63. Appointment of temporary administrator

63.1. Upon submission by bank creditors a petition to the FMSA on initiation of the bankruptcy procedure on the bank, under Article 61.1.3 herein it shall appoint a temporary administrator to the bank under Article 52 herein. The temporary administrator shall immediately assume bank management under Article 53 herein.

63.2. ~~In the event stipulated in Article 63.1 herein, the appointment of the temporary administrator shall not be subject to provisions of Article 52.6 herein.~~

Article 64. Court proceeding

64.1. The court, upon acceptance of the application on initiation of bankruptcy procedures, shall invite the FMSA, all other applicants and the bank itself, and if the application is submitted by the FMSA, also the temporary administrator of the bank to participate in the closed session on application review. Court proceedings shall start within 48 hours from the moment of submission of the application.

64.2. Court proceedings shall be completed within 7 calendar days from the date of the application delivery. The court shall reject or satisfy the application on the basis of court review proceedings.

Article 65. The basis for rejection of application

65.1. The application on initiation of the bankruptcy procedure shall be rejected by court if:

65.1.1. the application is not submitted in line with the requirements of Article 62.1 herein;

65.1.2. the FMSA protests against the application in accordance with Article 65.2 herein;

65.1.3. any document submitted to the court for substantiation of the application or other evidence is false or inaccurate and if this application fails to comply with the provisions of this Law without these or other documents;

65.1.4. the application submitted by creditors is groundless;

65.1.5. satisfactory proofs are presented to the court and the FMSA on recovery of capital in the amount, sufficient to eliminate grounds specified in Article 61.1 herein.

65.2. If an application on announcing the bank insolvent is submitted by bank's creditors, the FMSA may protest against the application if:

65.2.1. the FMSA determines no grounds to initiate bank's bankruptcy, the court may require from the FMSA to demonstrate proofs verifying its judgement, including the financial statements of the bank, approved by the FMSA;

65.2.2. in accordance with Article 57-9.7 herein, the decision of the relevant executive authority on financial remediation is submitted to the court.

Article 66. Rejection of ungrounded application submitted by bank's creditors

66.1. If bank's creditors submit a groundless application on initiation of a bankruptcy procedure against the bank, the court may, at any time, reject this application, on the basis, specified in Article 65.1.4 herein, in writing with or without proceedings. If the application is rejected, the court shall require the applicants to compensate for costs and losses, incurred by the bank and/or the FMSA as a result of the application submission.

66.2. The person, who was found guilty in submission of a groundless application to initiate bankruptcy procedure, shall bear responsibility in accordance with the administrative legislation of the Republic of Azerbaijan.

Article 67. Forced liquidation of the bank not announced insolvent

If the application on initiating a bankruptcy procedure on the bank, submitted by the FMSA, is rejected for the reasons other than those indicated in Articles 65.1.3—65.1.5 herein, the forced liquidation of the bank shall be performed in accordance with Article 59 herein.

Article 68. Decision on announcing the bank insolvent

The bank shall be announced insolvent in accordance with the court decision on allowing the claim on initiation of a bankruptcy procedure and a liquidator(s) shall be appointed to the bank. The court decision on announcing the bank insolvent shall be sent to immediate execution and the bank's bankruptcy procedure shall start thereafter.

Article 69. Submission and publication of the decision on announcing the bank insolvent

The liquidator shall, immediately upon announcing the bank insolvent, submit this decision to the bank and publish the decision in the mass media three times with frequency of a 7 calendar day intervals.

Article 70. Appeal

70.1. Bank's shareholders or the Supervisory Board, as well as the FMSA may appeal the court decision on announcing the bank insolvent under the Administrative Procedural Code of the Republic of Azerbaijan. The court decision announcing the bank insolvent shall remain in force until all protective measures are applied.

70.2. Appeal of court decision by the bank shall not stop the actions of the liquidator to discharge his/her duties within the bank's bankruptcy procedure implementation.

70.3. Appeal of the court order by the FMSA shall stop actions of the liquidator on sale and transfer of bank assets until the resolution of the dispute in the court.

Article 71. Liquidator

71.1. *Court shall appoint the Fund as a liquidator at its decision on announcing the bank bankrupt. The Fund may assign liquidator functions to legal entities or individuals on a contractual basis. The Fund shall be kept directly responsible for the liquidation of the bank with less expenses in view of rights and legal interests of all creditors and its assigning the liquidator functions to other persons shall not release it from responsibility. The amount of service fees or salaries of legal entities and individuals to be attracted by the Fund as liquidators shall be established in coordination with the FMSA. Cost estimates related to bank's liquidation shall be approved by the FMSA at the Fund's report. The liquidator attracted by the Fund on a contractual basis, shall be in compliance with the requirements on civil impeccability provided for herein. Related parties, shareholders, creditors and debtors of the bank under forced liquidation shall not be attracted to the bank's liquidation process. If any of such instances are revealed upon involvement of the liquidator, their activities shall be terminated at the Fund's decision and a new liquidator shall be appointed to the bank.*

71.2. The liquidator's salary (*service fee*) and incurred costs related to the bank liquidation process shall be compensated at the expense of bank assets, while the shortfall shall be compensated by *the Fund (with the right of recourse)*.

71.3. The liquidator appointed to the bank shall be the sole legal representative of the bank and authorities of the general meeting of shareholders, as well as other management bodies of the bank shall be taken over by the liquidator. All claims raised against the bank shall be submitted to the liquidator.

71.4. The act on handover of documentation and property of the liquidated bank from bank administrators to the liquidator shall be approved by the court.

The liquidator, in the cases required by the provisions of this Law, may, at any time, apply to court to receive instructions.

The liquidator shall act under the control of court in close cooperation with the FMSA.

71.5. The liquidator, if necessary, may engage independent lawyers, accountants and other experts under conditions approved by court in hired labor with the bank, announced insolvent.

71.6. *According to Article 61.12 of the Civil Code of the Republic of Azerbaijan the liquidator shall send banking statistics reports to the FMSA and the Central Bank until a record on liquidation of the bank under the liquidation is entered to the state register of legal entities.*

71.7. *According to Articles 59.2 and 71.1 herein from the date of appointment the liquidator shall:*

71.7.1. exercise all authorities on bank management, including authorities of the general meeting of shareholders;

71.7.2. take actions to safeguard bank's property and documents, develop an interim balance sheet and manage bank's assets;

71.7.3. develop a registry of bank's liabilities before its depositors and take legal actions on payment of compensations;

71.7.4. record creditors' claims and take actions on their payment;

71.7.5. take actions on payment of debts due to the bank;

71.7.6. terminate labor agreements between the bank and its employees at any time;

71.7.7. take actions on termination of contracts signed by the bank as per Article 79 herein;

71.7.8. if provided for in the actions plan, sell or transfer bank's assets and liabilities;

71.7.9. restructure loans issued by the bank (loans' prolongation, decrease or annulment of interest rates, write off of loss loans);

71.7.10. investigate the cases which led to bank's forced liquidation, appeal to related authorities to bring to justice those suspected of the occurrence of such circumstances and solicit in court on behalf of the bank.

71.8. ~~The person, replacing the liquidator, in all cases of replacement of the liquidator by another person, shall accept authorities of the liquidator, receive accounting books and reporting documentation and bank assets at liquidator's disposal, as well as documentation of accounting and reporting of the liquidator, developed on the bank in the process of the bank's liquidation on the basis of an acceptance act. The acceptance act shall be approved by the court.~~

Article 71-1. Control over the liquidator's activities by the FMSA

71-1.1. The FMSA shall exercise control over the liquidator over the entire period of his/her activity.

71-1.2. The FMSA shall be entitled to:

71-1.2.1. request information on liquidator's activities;

71-1.2.2. receive a report from the liquidator;

71-1.2.3. issue recommendations and binding written instructions on discharge of liquidator's current activities;

71-1.2.4. review liquidator's activities;

71-1.2.5. consider complaints by concerned parties on decisions taken by the liquidator under this Law with respect to the management of the bank.

71-1.3. The liquidator shall report to the FMSA on his/her activities in the form and timeframe established by the latter and deliver documents and information requested by the FMSA during the bank's bankruptcy.

Article 72. Results of announcing a bank insolvent

72.1. From the moment of enforcement of the resolution on announcing the bank insolvent:

72.1.1. only actions of the liquidator or his/her authorized representative shall have the legal force on behalf of the bank;

72.1.2. all claim proceedings to the bank shall be terminated by court decisions;

72.1.3. no other claims shall be proceeded by court against the bank and all claims against the bank shall be raised only within the bankruptcy procedures, stipulated herein;

72.1.4. all seizures on assets shall lose legal force in the cases stipulated in the legislation;

72.1.5. execution of documents transferred to bank assets shall be terminated, with the exception of execution of debts on secured assets within debt amount, in accordance with Article 81 herein;

72.1.6. accrual of interests and other payments on bank liabilities shall be suspended. Whilst accrual of interests and other fees on bank assets shall be continued.

72.2. Upon the enforcement of the decision on announcing the bank insolvent, transfer of bank shares by the liquidator to other persons may be implemented only by the court decision in accordance with Article 74 herein.

Article 73. Finality of settlements in payment systems

73.1. Irrespective the provisions of Article 72.1 herein:

73.1.1. payment orders on payments included in the payment systems and recognized as irrevocable under the rules of these systems, including payments on securities, in the event of decision on announcing the bank insolvent shall remain in legal force and be binding for the third party, provided that payment orders are irrevocable until the enforcement of this decision;

73.1.2. transfers, specified in Article 73.1.1 herein, shall not have any legal force and not be binding for the third party, provided that the liquidator shall be able to prove that the system operator was informed on decision taking on announcing the bank insolvent before these payment orders were made irrevocable in accordance with the rules of the applied system.

73.2. No legislative act or instruction, cancelling or postponing the agreement and transaction, made before the enforcement of the decision on announcing the bank insolvent, may cancel results of the clearing, executed from funds of payment systems.

Article 74. Transfer and sale of bank shares, assets and liabilities

74.1. In order to raise interests of the banking system and banking value for creditors, under the appeal of the FMSA, court may take a decision for the bank liquidator to conduct one or several operations under the provisions recommended by the the *FMSA* and approved by the court, to provide the following:

74.1.1. complete or partial transfer of charter capital of the bank and/or;

74.1.2. complete or partial sales or transfer of bank assets and liabilities together.

74.2. The bank, upon announcement on its insolvency, and prior to its liquidation may apply at any time and receive permit to conduct operations in accordance with Article 74.1 herein. The application to that end, submitted to the court, shall be reviewed within one week and an appropriate decision shall be taken.

74.3. To conduct the operation, for which permit was received in accordance with Article 74.1 herein, consent of bank shareholders or any of its management authorities shall not be required. Transfer of liabilities shall enter into force for all stakeholders from the day following the date of publication of relevant information in mass media.

74.4. No court decision shall be required for sales of bank assets in a regular order within the bank's bankruptcy procedures.

Article 75. Report on property status

75.1. The bank liquidator, within 30 calendar days from the date of the court decision on announcement of the bank insolvent, shall submit to the court a report on property status. The report shall include:

75.1.1. bank assets, including bank claims on unpaid bank shares, issued loans, including liabilities on guarantees and securitization, non-executed sales and purchase contracts, as well as the balance value and appraised sale (market) value of assets;

75.1.2. contracts, that allow other persons to own the property of the bank, including rent, leasing and collateral (mortgage) contracts;

75.1.3. contracts on supply of services to the bank;

75.1.4. transactions conducted by the bank within 90 calendar days prior to the decision made on announcing the bank insolvent, and with related parties within 1 year.

75.1.5. information on revealed facts on deliberate set up of conditions for bank's insolvency by bank's administrators, hiding, destruction of the property or property liabilities, as well as information on them and other illegal actions.

75.2. The report shall be developed on a quarterly basis. General information shall be submitted for bank creditors' information, the requirements on which are included to the list of verified requirements, developed in accordance with Article 77 herein.

Article 76. Registration of claims

76.1. Claims against the insolvent bank, with the exception of the cases stipulated in Articles 77.1 and 77.2 herein, shall be registered in writing by the liquidator within 60 calendar days from the date of the first publication of the information on court decision on announcing the bank insolvent in the mass media. Court may extend this term for all creditors only once for the period of 30 calendar days. Creditors shall be provided with a receipt on registration of claims on creditor inquiries.

76.2. In order to have claims registered, creditors shall submit documents, that verify the legal basis of their claims, as well as the following data:

76.2.1. creditor's name and address;

76.2.2. amounts of interests and other payments, included to the principal amount of the claim;

76.2.3. data on collateral (mortgage) or guarantee on claims.

76.3. Court decision on announcing the bank insolvent shall stop the flow of claim period on deposits reflected in accounting and reporting documentation. Statute of limitation on all remaining claims shall be terminated upon registration of these claims. Statute of limitation on all claims shall restart on the date of inclusion of these claims to the distribution schedule in accordance with Article 87 herein.

Article 77. Acceptance of claims

77.1. With the exception of claims with respect to deposits, reflected in bank's accounting and reporting documentation, only claims received under Article 76 herein shall be registered. Claims with respect to deposits shall be accepted to the extent of amounts reflected in the accounting documentation.

77.2. With the exception of the claims raised for the amount less than that reflected by the bank, claims reflected in bank's accounting and reporting documentation, shall be accepted in the amount reflected in documentation. Claims raised in lower amount shall be accepted to the submitted amount.

77.3. Bank creditors, whose claims are secured by collateral (mortgage) of bank assets, may register their claims at the amount of the difference between the required amount and potential sales price of assets on public auctions. Any claim, registered in such a form, shall not be executed until the end of sales or sales of assets in other form in accordance with Article 81 herein.

77.4. Claims, the amount of which is not established, may be accepted by the liquidator's estimated value.

77.5. Upon analysis of registered claims the liquidator shall include accepted claims to the list of accepted claims, and rejected claims to the list of rejected claims with the indication of grounds for rejection. Claims registered with partial rejection, shall be included to both lists of accepted and rejected claims. Both lists shall contain the name and address of the claimant, amount of claims and evidences on securitization of raised claims. Claims included to the lists, shall be categorized and prioritized for payment.

77.6. Both lists shall be developed within 30 days from the date of completion of the registration due date of claims and submitted to court for approval. The liquidator shall, on a quarterly basis, deliver updated lists to court for approval thereafter. Before the approval

of these lists, the court at the approval of the liquidator may transfer claims from one list to another. The court may determine which proofs are required for approval of rejected claims.

77.7. Court, no later than 60 calendar days from the date of submission of the list of rejected claims, shall fix the date of hearings for clarification purposes. Creditors, whose claims are rejected, may submit evidences verifying their claims to liquidator and to court during these hearings. The date for each hearing shall be sent to creditors by a postal notification and information published by the liquidator in mass media. No creditor shall be notified on launch of hearings with respect to the same claim more than once. Upon completion of hearings the court shall take a decision on approval or rejection of claims. If the creditor fails to participate in the hearing he/she has been notified under the Civil Practice Act of the Republic of Azerbaijan for non-valid excuse, his/her claims shall be rejected. The creditors, whose claims are rejected, shall be notified thereon by the liquidator.

77.8. The claims, approved by the court shall be binding. This claim shall be removed from the list of accepted or rejected claims and included to the list of approved claims. This list shall be retained by the court and the liquidator. The creditors, whose claims are approved by court, shall be notified in writing by the liquidator.

77.9. The liquidator shall not make any payments on claims rejected by court. The creditor, whose requirement was rejected by court, may submit an appeal on the decision of court within two weeks from the date of receiving a notification on this decision. Such appeals shall be reviewed no later than 7 days from the date of submission of appeal to court, and a relevant decision shall be taken. Submission of appeal shall not cancel the validity of court decision on rejection of the claim.

77.10. For the purposes of maintaining banking secrecy the specified lists shall not be provided for the information of creditors.

Article 78. Balance offsetting and deduction

78.1. Offsetting of liabilities may be performed between the insolvent bank and its creditors provided that the requirements of Article 82 herein shall be complied with.

78.2. If the liquidator has identified bank's debts, obtained illegally prior to the court decision on initiation of bankruptcy procedures, offsetting of debts and claims, received by the bank upon decisiontaking and arisen liabilities shall not be allowed.

Article 79. Termination of existing contracts

79.1. The liquidator at any time may unilaterally terminate all existing contracts of insolvent bank on deliveries of goods and services, including sales, rent, lease and forward sale and purchase agreements. At this the bank's creditor may file a suit on compensation for losses due to violation of the agreement to the court that took a decision on bank's insolvency.

79.2. The liquidator may, at any time in accordance with the procedures of the Labor Code of the Republic of Azerbaijan, terminate labor agreements, made by and between the bank and bank employees.

Article 80. Resolution of disputes via negotiations

The bank's liquidator, upon obtaining a prior consent of the court, in order to regulate claims, may start negotiations with any creditor or debtor of the bank. Results of such a regulation may not be appealed or protested.

Article 81. Secured claims

81.1. All assets, that are securitization for approved claims of creditors to the bank and securitization on own claims of the bank, shall be sold by the liquidator on an open auction, with the exception of the following instances:

81.1.1. purchase by the liquidator of tradable securities, foreign currencies and other assets, within the shortest term on the market where trading of such assets is allowed;

81.1.2. purchase of tradable securities, foreign currencies and other assets that are the securitization of bank's debts within the shortest term on the market where trading of such assets is allowed by creditors, who dispose of these assets;

81.1-1. Assets, specified in Article 81.1 herein, shall be disposed of through an open auction no later than 30 days upon the effective date of the court decision on announcing the bank bankrupt.

81.2. If the liquidator determines that he/she cannot sell assets, stipulated in Article 81.1 herein, on open trades at a profitable price, the court may permit him/her to sell such assets through other means at the price established by the court.

81.3. Assets not specified in Article 81.2 herein, upon the inquiry of the liquidator, shall be transferred by the creditor for disposal by the liquidator immediately.

81.4. claims of creditors with securitization shall be compensated from the funds received from the sale of securitization in the order of priority. If the securitization does not compensate for the creditors' claim in full, the unpaid amount shall be compensated in the order, specified in Article 82 herein as unsecured claim of the creditor.

Article 82. Order of payments

82.1. Assets of the bank, announced insolvent, shall be distributed between its creditors in the following order:

82.1.1. deleted;

82.1.2. claims of the Deposits Insurance Fund on the right of regress;

82.1.3. all costs and expenditures, incurred by the temporary administrator and the liquidator with respect to implementation of bankruptcy procedures, including their salaries, court expenses and obligations of the liquidator assumed with respect to implementation of liquidation measures;

82.1.4. claims of bank employees related to injuries and mortalities occurred during business hours;

82.1.5. claims of current and former bank employees on payment of allowances, and salaries to be paid for not more than six months period prior to the date of the court decision on announcing the bank insolvent;

82.1.6. bank liabilities in connection with procedures of the temporary administrator on management and financial remediation;

82.1.7. taxes on mandatory payments to the budget for the period of no more than one year prior to the date of the court decision on announcing the bank insolvent and the amount payable for the mandatory state social insurance;

82.1.8. claims of unsecured creditors;

82.2. Residual assets shall be paid to bank shareholders pro-rata to their participation in accordance with the procedures of the legislation.

Article 83. Liquidation plan

83.1. The liquidator shall, no later than 120 calendar days from the date of the court decision on announcing the bank insolvent, apply to court for approval of the developed detailed plan on bank's liquidation:

83.1.1. current financial statements, indicating bank assets and liabilities at their possible liquidation value, forecasted financial statements of the bank for three months following the current date. The liabilities column of the balance sheet shall contain claims from creditors, including rejected claims;

83.1.2. quarterly reports on past and forecast profit and loss of the bank;

83.1.3. report on executed work on sales of fixed assets and other assets of the bank as well as sale plans;

83.1.4. report on court and out-of-court actions, directed at coverage of bank claims, including the actions on cancellation of illegal contracts and transfers, as well as the rights, arisen as a result of such contracts and transfers;

83.1.5. report on illegal actions of bank administrators and actions directed at receiving compensation to the favor of the bank;

83.1.6. report on extension of validity or partial termination of existing contracts, such as insurance contracts, employment and service agreements, including the detailed analysis of the financial provision of bank employees;

83.1.7. report on liabilities of the bank and a schedule of implied payments to bank's creditors within the following quarter;

83.1.8. report on incurred and future costs and expenditures for liquidation.

83.2. The liquidation plan shall be updated on a quarterly basis. The liquidation plan, upon approval by court, shall be submitted for information, with the exception of data containing bank secrecy, to creditors of the bank, included to the list of approved claims, developed in accordance with Article 77 herein.

Article 84. Financial remediation of insolvent banks

The insolvent bank may not be completely or partially subject to financial remediation procedures, other than the cases stipulated in Article 57-9 herein.

Article 85. Inadmissibility of amicable agreements with creditors

No amicable agreements or other contracts by and between the bank and creditors, directed at reinstatement of the banking activity shall be allowed.

Article 86. General meeting and committee of creditors

86.1. A general meeting of creditors with respect to liquidation of the insolvent bank may be held only if a court, by the enquiry of the liquidator, supported by the *FMSA*, shall take a decision on the necessity for convening such a meeting for efficient liquidation of the bank.

86.2. A Creditors' Committee on issues related to liquidation of the insolvent bank may be established only in the event, if court, by the enquiry of liquidator, supported by the *FMSA*, shall take a decision on the necessity for establishment of such a committee for representation and protection of significant interests of creditor groups.

86.3. Court decisions, allowing convening of the general meeting of creditors or establishment of the committee of creditors, shall identify the scope of responsibilities and authorities of the meeting or the committee.

Article 87. Claims settlement

87.1. In accordance with Article 82 herein, approved claims shall be categorized and included to the distribution schedule, classified in accordance with the order of payment. Claims per category shall be settled only upon complete settlement of claims of the previous group. If there are no sufficient funds to settle the claims within the group, payments shall be distributed in percentages, pro-rata to claims.

87.2. The schedule of payments to bank creditors, whose claims are approved and included to the distribution schedule, shall be submitted to court by the liquidator for approval.

87.3. The schedule of payments, approved by court, shall be final and not subject to appeal.

87.4. Upon approval of the payment schedule by court, the liquidator shall immediately execute payments, included therein. Unpaid amounts for payment to creditors, payment amounts of which are included to the schedules of payments, in the event of impossibility to contact with such creditors, shall be deposited to a special account with the Central Bank. The liquidator, upon publishing information in mass media, shall offer these creditors to apply for obtaining these funds. Funds deposited under these procedures may be received by specified creditors on these claims or their heirs prior to the expiry of the claim term under these claims. Upon the expiry of the claim term, unpaid amounts shall be transferred to the state budget.

Article 88. Bankruptcy procedure on a local branch of a foreign bank

88.1. The bankruptcy procedure on the local branch of the foreign bank may be started if:

88.1.1. any of the conditions specified in Article 61 herein is identified;

88.1.2. bankruptcy procedures against the foreign bank are initiated in its home country. At that the procedure shall be initiated by the application of the FMSA.

88.2. For the purposes of provisions of this chapter, any branch of a foreign bank, including its assets and liabilities, generated as a result of its activities in the Republic of Azerbaijan, or somehow related to it, shall be considered a subsidiary bank of the foreign bank, provided that irrespective of this, the foreign bank shall be completely responsible for liabilities of the local branch.

88.3. From the moment of presentation of the court decision on initiation of bankruptcy procedures against the local branch of the foreign bank, all operations, conducted by the local branch of the foreign bank in the Republic of Azerbaijan shall be terminated. At this, with a preliminary written consent of the liquidator appointed to the branch, specified activity types shall be excluded.

88.4. A local branch of the foreign bank announced insolvent shall be subject to Article 78 herein only in the event of offsetting or deduction of liabilities resulting from the foreign bank's operations in the Republic of Azerbaijan, or somehow related to it.

88.5. In the event of initiation of bankruptcy procedures on the foreign bank, the assets of its local branch shall be, in the first place, used for payment of liabilities of the branch generated from banking activities in the Republic of Azerbaijan.

88.6. The insolvency procedure initiated on the local branch of the foreign bank in the Republic of Azerbaijan shall not constrain the right of branch creditors to direct the claims at bank's assets abroad for compensation of branch creditor claims.

Article 89. Insolvency of transnational bank

89.1. In order to ensure equal use by local and foreign creditors of assets of the insolvent bank, acting via the network of branches in more than one country:

89.1.1. if a local insolvent bank has branches and representative offices in another country, the FMSA shall cooperate to the possible extent with banking regulatory and supervisory authorities of this country;

89.1.2. if a creditor of the local insolvent bank partially is paid for his/her claims to the bank branch in another country, the outstanding balance on creditor claims may be presented to the bank announced insolvent;

89.1.3. the court determines to which extent the decision on announcing the bank insolvent taken abroad and measures taken in a foreign country on protection of bank's assets and financial remediation relates to their branches in the Republic of Azerbaijan;

89.1.4. if a foreign bank is in a liquidation process in its home country, and the FMSA deems transfer or pass of assets acceptable from the point of view of interests of creditors of local branches of the foreign bank located in the Republic of Azerbaijan, the FMSA shall apply to the court to take a decision on transfer or pass of such assets to the liquidator in a foreign country.

Article 90. Participation of the FMSA in court proceedings related to insolvency

The first instance court, when reviewing the case on announcing the bank insolvent or in connection with the bank announced insolvent, shall receive the opinion of the FMSA on this issue in accordance with the Civil Procedures Code of the Republic of Azerbaijan.

Article 91. Completion of bankruptcy procedures

91.1. Upon completion of bank liquidation and submission to court of the relevant report, the liquidator by the court decision shall be released from his/her duties. The same court decision shall issue an instruction on transfer of accounting and other documentation of the bank to the State Archive in accordance with the procedures of the legislation.

91.2. In the event of payment to bank creditors or depositing with the Central Bank, in accordance with the procedures of Article 87.4 herein, of the funds generated from sale of bank assets, the bankruptcy procedure of the bank shall be deemed completed by the court decision.

91.3. The court decision on completion of the bank's bankruptcy procedure shall be sent by court to the the FMSA and state registration authorities, as well as be published in

the mass media. The liquidated bank shall be removed from the state registry of legal entities.

Chapter XI. Transitional and final provisions

Article 92. Protection from court claims

The Central Bank, members of the Management Board and other executives of the Central Bank, the FMSA and members of its Board of Directors and other executives, as well as temporary administrators and liquidators, appointed under this Law, during implementation of regulatory, supervisory and liquidatory functions stipulated herein, shall not be liable for any losses incurred as a result of any actions or lack of actions, provided there are no evidences that such actions or lack of actions resulted from illegal actions or negligence.

Article 93. Transitional provisions

93.1. Banks operating for a year from the moment of enforcement of this Law shall provide the fulfillment of the following requirements:

93.1.1. banks operating as limited liability companies shall be reorganized into the joint-stock companies in accordance with the provisions of Article 19 herein;

93.1.2. participation of banks in other legal entities engaged in activities prohibited by the provisions of Article 33 herein shall be liquidated.

93.2. Local representative offices of foreign banks, registered prior to the enforcement of this Law, shall be registered with the central registry maintained by the FMSA, and shall submit reporting documentation to the FMSA in accordance with Chapter V herein.

Article 94. Final provisions

94.1. Along with the cases directly indicated in this Law, Chapters IV, VI, VIII, VIII-I, IX, X of this Law shall also be applicable to local branches of foreign banks.

94.2. This Law shall take effect from the date of publishing.

94.3. Due to enforcement of this Law, the Law of the Republic of Azerbaijan on Banks and Banking Activity of June 14, 1996 and Order of the Milli Mejlis of the Republic of Azerbaijan on Approval of Regulations on Maintaining Banking Secrecy of January 19, 1995 shall lose force.

President of the Republic of Azerbaijan

Ilham ALIYEV

City of Baku, January 16, 2004