

## **L A W**

### **on the National Bank of Moldova**

The Parliament of the Republic of Moldova has adopted the following Law:

#### **CHAPTER I**

#### **GENERAL PROVISIONS**

##### **Article 1. Legal Status of the National Bank of Moldova.**

(1) The National Bank of Moldova (herein-after the “National Bank”) is an autonomous public legal entity and is responsible to the Parliament.

(2) The National Bank may establish branches and representative offices at places or in countries where it deems necessary.

##### **Article 2. Definitions used.**

The following definitions shall be used in this Law:

“Bank” means a financial institution engaged in the business of accepting from natural or legal persons deposits or the functional equivalents, that are transferable by different payment means and using such funds in whole or in part to make loans or investments for the account of and at the risk of the person carrying on the business.

“Claim” means a claim for assets or for any other values, submitted by a person to another person and presenting the commitment to make the payment for reimbursement of the debt or of any other forms of payment of liabilities.

“Debt security” means any negotiable instrument of indebtedness and any other instrument equivalent to such instrument of indebtedness, and any negotiable instrument giving the right to acquire another negotiable debt security by subscription or exchange. Negotiable debt securities may be in form of certificates or in a book-entry form.

“Financial institution” means a juridical person engaged in the business of accepting deposits or the functional equivalent, that are not transferable by different payment means, from natural and legal persons and using such funds in whole or in part to make loans or investments for the account of and at the risk of the person carrying on the business.

“Order” means an obligatory directive issued by the National Bank in implementation of the current Law to one or more financial institutions that constitute less than a class of financial institutions.

“Basic rate” means the annual rate at which the National Bank make loans in a natural manner and that is periodically published by the National Bank.

“Recommendation” means an instruction submitted by the National Bank without obligatory power.

“Regulation” means a general obligatory directive issued by the National bank in implementation of this Law to one or more classes of financial institutions and to other natural or legal persons.

##### **Article 3. Capacity of the National Bank.**

The National Bank shall have the capacity to:

- a. enter into contracts and issue obligations;
- b. for the purpose of its business, acquire and dispose of property, whether movable or immovable;

c. institute legal proceedings and be subject to such proceedings.

**Article 4. Main Objective.**

The main objective of the National Bank is to achieve and maintain the stability of the national currency. In order to achieve this objective the National Bank establishes and maintains monetary, credit and exchange market conditions conducive to the orderly, balanced and sustained economic development of the Republic and especially of the market-based financial and foreign exchange system.

**Article 5. General Functions.**

The National Bank shall have the following general functions:

- a. to formulate and to promote the state monetary and foreign exchange policy;
- b. to act as banker and fiscal agent of the Republic;
- c. to conduct economic and monetary analysis and submit proposals to the Government on the basis of such analysis, and publish the results of such analysis;
- d. to license, supervise and regulate the activity of financial institutions;
- e. to provide credit facilities to banks and state.
- f. to supervise the system of payments of the Republic and to facilitate efficient functioning of inter-bank system of payments.
- g. to act as the sole issuer of domestic currency in the Republic;
- h. to hold and manage foreign exchange reserves of the Republic;
- i. to undertake, in the name of the Republic, responsibilities and perform transactions resulting from the participation of the Republic of Moldova in the activity of international public institutions in the banking, credit and monetary spheres pursuant to conditions of international agreements;
- j) to settle the balance of payments of the Republic.

**Article 6. Cooperation with Governmental Bodies.**

(1) The National Bank seeks to cooperate with the Government in pursuing its objectives and shall, in accordance with Law, take such actions as it deems necessary to promote such a cooperation. In formulating monetary and foreign exchange policy, the National Bank shall consult with governmental financial and economic entities.

(2) The National Bank shall provide information as requested by economic and financial entities of the Government with respect to monetary and financial matters.

Such entities shall provide information to the National Bank as the National Bank may request concerning macroeconomic, monetary and financial matters.

**Article 7. Cooperation with International Bodies.**

(1) The National Bank shall represent the Republic of Moldova in all intergovernmental meetings, councils and organizations concerning monetary policy, bank licensing and supervision, and the other matters that are within its fields of competence.

(2) The National Bank may provide banking services for the benefit of foreign governmental, financial and banking institutions and for the benefit of public international organizations in which it or the Republic participates.

(3) The National Bank may participate in international organizations that pursue

financial and economic stability through international cooperation.

(4) The National Bank, as agent of the Republic of Moldova may, within its powers, undertake responsibilities and perform transactions concerning the Republic's participation in international organizations.

**Article 8. Communication with the Public, Government and Parliament.**

(1) The National Bank shall inform the public on a regular and timely basis of its analysis on macroeconomic and financial market developments and on statistical information, including with respect to monetary supply, credit expansion, balance of payments and foreign exchange market.

(2) The National Bank shall communicate with the Government on financial and budgetary matters:

(a) The Governor of the National Bank:

- may attend and may address meetings of the Government, his speech being recorded in the minutes of meetings;

- may issue a written opinion on matters which were before the meeting.

(b) The ministers responsible for economic and financial matters may attend meetings of the Council of Administration of the National Bank.

(3) The Governor of the National Bank or members of the Council of Administration shall appear before the Parliament or standing committees thereof to explain the policies of the National Bank or to comment on proposed legislation, at the request of the Parliament..4

**Article 9. Head Office.**

The head office of the National Bank shall be in Chisinau.

**Article 10. Accounts.**

The National Bank may open accounts in its books only on behalf of the state and its agencies and instrumentalities to banks licensed by the National Bank, foreign central banks and international public financial institutions. The National Bank may not open accounts for local public administration or for enterprises, including those owned by the Republic.

**Article 11. Normative Acts.**

In order to implement its authority, the National Bank shall have the right to issue decisions, regulations, instructions and directives. The National Bank's normative acts that are obligatory for financial institutions and other natural and legal persons shall be published in the Official Monitor of the Republic of Moldova and shall take effect on the date of their publication or on another date provided in the Act; the public shall be informed about this decision.

**CHAPTER II**

**MONETARY AND FOREIGN EXCHANGE POLICY**

**Article 12. Determination of Monetary and Foreign Exchange Policies.**

The National Bank in cooperation with the Government shall formulate and implement monetary and foreign exchange policy consistent with Article 4, taking into account the prevailing economic and financial conditions of the Republic.

**Article 13. Annual Statement.**

- (1) Annually, no later than February 1st, the National Bank shall deliver to the Parliament and to the Government and shall publish a statement that shall contain:
- a. an assessment of the economic and financial conditions of the Republic and a description and an explanation of the reasons therefor, the monetary and foreign exchange policies that the National Bank intends to follow during the next year and for such longer period of time as the National Bank may decide;
  - b. a review and assessment of the monetary and foreign exchange policies during the previous year;
- (2) The National Bank, in collaboration with the Government, shall submit to the Parliament the forecast of executing the state balance of payments for the current and the following years.

**Article 14. Monetary Policy Instruments.**

In implementation of its monetary and foreign exchange policy responsibilities, the National Bank shall employ measures including those described in this Chapter.

**Article 15. Open Market Operations.**

The National Bank may deal in financial markets in debt securities issued by the Republic, debt securities issued by it or any other debt securities by purchasing, holding and selling outright (spot and forward).

**Article 16. Dealing in Foreign Exchange.**

The National Bank shall have the right to:

- a. buy, sell, and deal in gold coins or bullion or other precious metals;
- b. buy, sell and deal in foreign exchange, using for these purposes assets as described in Article 53 (1);
- c. purchase and sell treasury bills and other securities issued or guaranteed by foreign governments and international public financial institutions;
- d. determine the rate at which it will buy, sell or deal in foreign currencies.

**Article 17. Required Reserves of Banks.**

- (1) The National Bank shall prescribe to financial institutions, the maintenance of required reserves against deposit and other similar liabilities that may be specified for this purpose. Such reserves shall be maintained by way of cash holdings or by way of balances in current accounts by financial institutions with the National Bank.
- (2) The National Bank shall prescribe the same reserve ratios for similar liabilities and shall prescribe the method of their computation; provided that any such prescription of, or increase in required reserves shall be effective only after not less than ten days' notice has been communicated to affected financial institutions.
- (3) The National Bank shall remunerate the portion of required reserve balances that exceeds 5 per cent of the liabilities on which required reserves are based, or such greater amount as the National Bank may prescribe by regulation.
- (4) The National Bank may impose on any financial institution that fails to maintain required reserves a charge at a rate equal with the basic rate per day on the deficiency plus 0.2 per cent multiplied with the deficiency for the entire period the deficiency continues. The charge shall be paid to the state budget in deduction from the account of the financial institution with the National Bank.

### **Article 18. Credit to banks.**

- (1) The National Bank may grant to banks extensions of credit on such terms and conditions as it may from time to time determine, that are secured by:
- a. securities issued by the Government forming part of the public issue and maturing within one year from the date of their acquisition by the National Bank;
  - b. securities issued by the National Bank;
  - c. bills of exchange or promissory notes drawn and made for bona fide commercial, industrial, or agricultural purposes, bearing two or more signatures, at least one of which must be that of a bank, and maturing within nine months from the date of their acquisition by the National Bank;
  - d. documents of title issued in respect of staple commodities or other goods duly insured against risk or loss damages at the level set by the National Bank;
  - e. deposits and other accounts with the National Bank or with any other financial institution acceptable to the National Bank of any assets that the National Bank is permitted to buy, sell or deal in.
- (2) The extensions of credit described in paragraph (1) may take the form of advances, loans, or purchases, sales, discount or rediscount of negotiable instruments, either on a competitive or noncompetitive basis.
- (3) The National Bank may grant extensions of credit that are not secured, but only in exceptional cases, when such extension of credit is needed in order to protect the integrity of the banking system.
- (4) The National Bank shall fix and publicly announce from time to time:
- a) the minimum rates for extensions of credit to banks;
  - b) the objective criteria by which banks will be eligible to bid competitively for credit.
- (5) The National Bank may establish differential rates and ceilings for different classes of such transactions and maturities.

## **CHAPTER III**

### **FINANCIAL PROVISIONS**

#### **Article 19. Capital.**

(1) The paid-in capital of the National Bank is 200 million Lei and is formed of the National Bank's revenue. (Amended by Law no. 330-XV dated 24.07.2003) It may be increased by such amount as may be determined by the Council of Administration and approved by the Parliament. All the capital shall be subscribed and held exclusively by the Republic. The capital shall not be transferable or subject to encumbrance.

[Para 1 Art. 19 amended by Law no. 1338- XIV dated 27.10.2001]

[Para 1 Art. 19 amended by Law no. 165 – XIV dated 21.10.98]

(2) No reduction of capital shall be effected except by modification of this Law.

(3) Whenever on the balance sheet of the National Bank the value of its assets falls below the sum of its liabilities and paid-in capital, the Ministry of Finance shall transfer within 60 days of publication of such balance sheet to the National bank, as a capital contribution, negotiable government securities bearing interest at market-related rates, in such amounts as is necessary to remedy the deficiency.

**Article 20. Allocation of Income.**

(1) The net income of the National Bank for each financial year shall be determined after allowing for expenses of operation for that year and after providing:

- a) for bad and doubtful debts;
- b) for the redemption of securities held by the National Bank that were transferred pursuant to Article 19 (3);
- c) twenty per cent of the remaining net income for a General Reserve established for that purpose until the General Reserve is equal to two times the paid-in capital.

(2) Any balance of net income shall be transferred to the Republican budget revenues.

**Article 21. Annual Budget.**

(1) All expenditures of the National Bank shall be reported in the annual budget to be approved by the Council of Administration in accordance with a regulation coordinated with the Budget and Finance Committee of the Parliament.

(2) The annual budget shall be subject during the financial year to the audit by the Court of Accounts.

**CHAPTER IV**

**ORGANIZATION AND ADMINISTRATION**

**Article 22. Organization.**

The National Bank shall be formed of departments, divisions, services and other subdivisions and shall be managed by the Council of Administration.

**Article 23. The Governor of the National Bank and Members of the Council of Administration.**

(1) The Council of Administration shall be composed of five members:

- Governor of the National Bank - Chairman of the Council
- First Vice-Governor of the National Bank - Vice-Chairman of the Council
- three vice-governors of the National Bank.

(2) The Governor of the National Bank shall be nominated by the Parliament at the proposal of the Chairman of the Parliament. The Governor shall have the immunity status.

(3) The First Vice-Governor and the Vice-Governors of the National Bank shall be nominated by the Parliament at the proposal of the Governor of the National Bank.

(4) One candidate may be proposed to the Parliament for nomination, in case of rejection not more than two times.

(5) Candidates for membership on the Council of Administration must be citizens of the Republic of Moldova; they must be persons of recognized integrity and professional experience in monetary and financial matters, have ten years of, to whom no ground for removal under Article 27 applies.

(6) The term of each member of the Council of Administration shall be 7 years; provided, that the completion dates of the terms of individual members of the Council as far as practicable shall be spread evenly over each seven year period. Members of the Council of Administration shall be eligible for reappointment, unless a ground for removal under Article 27 applies.

(7) Upon being taken on the staff and each consequent year, the members of the Council of Administration shall be obliged to enter, within law provisions, the declaration on incomes and ownership. (Para (7) added by Law no. 136-XV dated 06.05.2004)

**Article 24. Responsibilities of the Governor.**

(1) The Governor shall be responsible for formulating monetary and foreign exchange policy initiatives for presentation to the Council of Administration and for execution of its decisions. The Governor shall represent the National Bank in its relations with external institutions.

(2) All powers that are not specifically reserved for the Council of Administrative shall be vested in the Governor. In the event that the Governor is absent or is otherwise unable to act, such powers shall be vested in the First Vice-Governor, or, in the event that the First Vice-Governor is absent, in one of the Vice-Governors. The Governor may delegate some of his powers to Department Chiefs of the National Bank.

**Article 25. Functions of the Council of Administration.**

(1) The Council of Administration shall establish the operation of the National Bank.

(2) In carrying out its functions, the Council of Administration shall examine statements on the monetary and economic condition of the Republic. To that end, the Vice-Chairman of the Council shall be responsible for ensuring that the departments, divisions and sections shall periodically submit statements on:

- a) the administration and operations of the National Bank;
- b) the realization and conduct of the monetary policy;
- c) the soundness of the financial system, including the banking system;
- d) the condition of the financial and foreign exchange market;
- e) any other statements, as the Council may deem necessary.

**Article 26. Powers of the Council of Administration.**

The Council of Administration shall have the following powers:

- a. to establish the monetary policy of the Republic, including the limits of open market operations by the National Bank, the interest rates for deposits with and extensions of credit by the National Bank, and the types and levels of reserves that banks are required to maintain with the National Bank;
- b. to establish the foreign exchange policy of the Republic, including the arrangements for determining the foreign exchange value of the domestic currency;
- c. to adopt all regulations of general application that are to be issued by the National Bank;
- d. to approve all reports and recommendations that the National Bank is to make to the Government and to the Parliament;
- e. to decide on the National Bank's participation in international organizations;
- f. to determine the face value and design of banknotes and coins, and the conditions of any currency issuance and recall;
- g. to approve each of the National Bank's loans to the Government within the limits of the monetary policy;
- h) to approve, with the consent of at least of two-thirds of the Council of

Administration members present, each of the National Bank's extensions of credit or the use of any other financial instruments, for the benefit of a bank or financial institution pursuant to Article 18 (3);

i) to propose increases in the capital of the National Bank;

j) to approve the annual reports and financial statements of the National Bank;

k) to determine whether and in what amount and maturities to issue the National Bank's debt securities;

l) to determine the debt securities that shall be suitable for investment by the National Bank;

m) to approve the by laws of the National Bank and to determine the policies applicable to the administration and operations of the National Bank;

n) to determine the structure of the National Bank;

o) to determine terms and conditions of employment of the National Bank employees;

p) to establish and dissolve branches, and representation offices of the National Bank;

r) to determine the annual budget of the National Bank.

#### **Article 27. Disqualification and Removal of Council Members**

(1) The Governor and other members of the Council shall be removed from office following the proposal of the Chairman of the Parliament if they:

a) become ineligible to serve on the Council of Administration pursuant to paragraph (2);

b) have been convicted of a criminal offense;

c) have become insolvent or have been declared bankrupt and their debts have not been discharged;

d) have, on grounds of personal misconduct, been disqualified or suspended by a competent authority from practicing a profession.

(2) Members of the Council of Administration shall be removed from office following the proposal of the Governor if they:

a) have been absent from three or more successive meetings of the Council without good cause;

b) are unable to perform the functions of such office because of an infirmity of body or mind;

c) have engaged in serious misconduct in the office, substantially prejudicing the interests of the National Bank.

(3) The Governor shall be removed from office by the Parliament with the vote of two thirds of the total number of deputies. The members of the Council of Administration shall be removed from office by the Parliament with the simple majority of votes cast (50% +1) of the total number of deputies.

#### **Article 28. Resignation of Council members.**

The members of the Council of Administration may resign from office on giving not less than three months' notice to the Parliament.

#### **Article 29. Subsequent Service**

The members of the Council of Administration shall not serve another financial institution during a period of one year immediately following their departure from

the National Bank.

**Article 30. Vacancies on the Council of Administration**

Any vacancy on the Council of Administration shall be filled by the appointment of new members pursuant to Article 23.

**Article 31. Meetings of the Council of Administration**

- (1) The Governor, or in his absence, the First Vice Governor shall chair the meetings of the Council of Administration.
- (2) The meetings of the Council of Administration shall be convened by the Governor not less frequently than once each calendar month. Meetings may also be convened at the written request of any three members of the Council.
- (3) The meetings of the Council of Administration shall be convened by effectively communicating the time, venue and agenda of the meeting to all members of the Council of Administration at least five working days before the date set for the meeting, except that, in the event of an emergency, meetings of the Council of Administration may be so convened at shorter notice.
- (4) Each member of the Council of Administration shall have one vote. A quorum at any meeting of the Council of Administration shall consist of the presence of more than half of the members of the Council of Administration then serving, including the presence of the Governor or the First Vice Governor.
- (5) The proceedings of the meetings of the Council shall be confidential. The Council of Administration may decide to make the outcome of all or part of its deliberations public in accordance with the Law on Commercial Secret.
- (6) Except as otherwise provided by this Law or the National Bank's By-laws, decisions of the Council of Administration shall be adopted by a simple majority of the votes cast by the members of the Council who are present at the meeting. Only members of the Council who are present in person shall have the right to vote. In the event of a tie, the chairman of the meeting shall have the deciding vote.
- (7) Decisions of the Council shall be issued over the signature of the Chairman of the Meeting.
- (8) No decision of the Council shall be invalidated merely by reason of the existence of a vacancy or vacancies on the Council.
- (9) The decisions of the Council of Administration shall remain valid notwithstanding that some defect in the Council member's appointment, eligibility, or qualification be afterwards discovered.
- (10). There shall be minutes of each Council meeting signed by the chairman of the meeting and by the Secretary of the Council.

**Article 32. Personal interests of the Council members**

- (1) Upon joining the Council of Administration and annually thereafter, members of the Council of Administration shall disclose to the Council in full their significant pecuniary interests that they or members of their household may have, directly or indirectly; such disclosures shall comply with guidelines adopted by the Council.
- (2) Whenever any matter related to such interests comes up for discussion by the Council, the member concerned shall disclose his or her interest at the beginning

of the discussion and shall not participate in the discussion and decision on such matter; however, their presence shall be counted for the purpose of constituting a quorum.

### **Article 33. Internal Audit**

(1) The National Bank shall have an internal Audit Department, composed of persons trained and qualified in accounting and financial management and that shall be head by the Comptroller General.

(2) The Comptroller General of the National Bank shall be appointed for a term of five years by the Council of Administration. The candidate shall be a citizen of the Republic of Moldova to whom none of the disabilities described in Article 27 applies. He shall be eligible for reappointment.

(3) The Comptroller General shall be removed from office only by a decision of the Council of Administration that is supported by one or more of the disabilities described in Article 27. The Comptroller General may resign from office on giving not less than three months' notice to the Governor of the National Bank.

(4) The Comptroller General and the auditors of the Audit Department shall have the duty:

a) to establish rules of internal audit;

b) to establish internal controls over the National Bank's operations in order to ensure strict observance of the legislation;

c) to audit, and to submit to the Council of Administration reports and recommendations on, the accounts and records as well as the budgetary and accounting procedures and controls of the National Bank;

d) to audit the financial statements and related documents of the National Bank and to issue certifications to that effect.

### **Article 34. Staff of the National Bank**

(1) The Council of Administration shall adopt the Regulation on the staff of the National Bank.

(2) The Governor shall appoint and terminate the appointment of the staff of the National Bank in accordance with the general terms and conditions of employment prescribed by the Council of Administration.

(3) The Council of Administration shall decide upon the remuneration of the staff of the National Bank in accordance with the legislation.

(4). No member of the staff of the National Bank shall simultaneously have other employment and shall not accept any remuneration from natural or legal persons (except honours for publications and payments for lecturing at educational institutions).

(5) Any credit, other than from the National Bank, received by National Bank staff shall be reported by the staff member to the Audit Department, which shall maintain a record thereof. The Council of Administration may place limits on credit received from financial institutions by National Bank staff.

### **Article 35. Conflicts of interest**

No member of the Council of Administration or staff of the National Bank shall act as a delegate of any commercial, financial or other business interest, or otherwise put himself in a position where his personal interest conflicts with his

duties to the National Bank.

**Article 36. Secrecy**

(1) No person who serves or has served as a member of the Council of Administration or staff, shall, in a manner unauthorized by Law:

- a) permit access to, disclose, or publicize non-public material information which he or she obtained in the performance of his or her National Bank duties;
- b) use such information, or allow such information to be used, for personal gain.

(2) Persons described in paragraph (1) may disclose non-public material information outside the National Bank but only if:

- a) in accordance with the express or implied consent of the person about whom the information relates;
- b) in performance of a duty to the public to make disclosure, including on the order of a court or other person of competent authority if provided by the Law;
- c) to the external auditors;
- d) to the demand of the Court of Accounts;
- e) to foreign financial institution supervisory authorities;
- f) where the interest of the National Bank itself in legal proceedings requires disclosure.

**CHAPTER V**

**FINANCIAL RELATIONS WITH GOVERNMENTAL BODIES**

**Article 37. Banker and Fiscal Agent**

(1) The National Bank shall act as banker and fiscal agent of the Republic and its agencies and instrumentalities. No transaction carried out by the National Bank shall serve to extend financial assistance to or for the benefit of the Republic or its agencies and instrumentalities, except as authorized by Article 41.

(2) The National Bank shall have the duty to render advice to the Government on all significant monetary and financial matters that are within its fields of competence and the Government shall have the duty to render advice to the National Bank on matters that are within its fields of competence.

(3) Each year, the National Bank shall be consulted by the Government on the occasion of the preparation of the state budget and shall submit a written report on financial and economic matters pertinent thereto. An understanding must be reached on the total amount of loans that may be extended to the Republic by the National Bank during the budget year concerned, in accordance with conditions of the National Bank extensions of credit to the Republic set forth in this Law.

**Article 38. Consultation and Reporting on Public Sector Borrowing**

Each year, the Government shall consult the National Bank on its objectives for domestic and external public sector borrowing during the next financial year, including the amounts to be contracted and the terms and conditions of such borrowings. All borrowing transactions by the Republic and its agencies and instrumentalities shall be reported to the National Bank in such detail as the National Bank may reasonably request by regulation. All such borrowing shall be subject to the legislation.

### **Article 39. Depository and Cashier**

(1) The National Bank shall accept deposits from the Treasury and other agencies and instrumentalities of the Republic on the basis of an approach of the Government.

As depository, the National Bank shall receive and disburse moneys and keep account thereof and provide other financial services related thereto. The National Bank shall pay to the limits of the deposited amounts against orders to pay from such accounts.

(2) The National Bank may authorize banks to receive such deposits in compliance with conditions that may be mutually agreed.

(3) Fees, taxes and other compulsory payments by tax payers to state budget accounts and special accounts of serving banks shall be transferred to the sole account of the state Treasury with the National Bank of Moldova or the relevant accounts of the administrative-territorial units' budgets not later than the end of the day following the day when amounts were paid. Banks shall pay a fine of 5% of delayed transferred amounts for each day of delay. (Amended by Law no. 154-XVI dated 21.07.2005)

### **Article 40. Fiscal Agency Function**

The National Bank shall, on such terms and conditions as it shall agree upon with the Government, act as fiscal agent of the Republic in servicing dematerialized state securities in the following matters:

- a) marketing of debt securities issued by the Republic and its instrumentalities;
- b) payment of principal of, and interest and other charges on, such securities;
- c) such other matters as shall be consistent with the objectives and the basic responsibilities of the National Bank.

### **Article 41. Credit to the Republic**

(1) The National Bank may extend credit to the Republic and its instrumentalities as authorized by this Law.

(2) Loans to the Republic shall be disbursed in Moldovan Lei only. All such loans shall be certified by negotiable debt securities that bear interest at market-related rates, that have maturities corresponding to the maturities of the loans that they certificate, and that are issued and delivered by the Republic to the National Bank. For each loan there must be a written loan agreement executed between the Government represented by the Ministry of Finance and the National Bank. The agreement shall clearly state the principal amount of the loan, its maturity, and the applicable rates of interest and other charges.

### **Article 42. Purchases of Government Securities**

Nothing in this Chapter shall prohibit the National Bank from purchasing and selling debt securities issued by the Republic:

- a) with the condition that the National Bank shall purchase only securities maturing within one hundred and eighty days that have previously been publicly

issued, in open market operations;  
c) in connection with extensions of credit to banks.

**Article 43. Information to be Provided to the National Bank**

The National Bank shall receive from the Republic and its instrumentalities all such economic and financial information and documents as the National Bank shall reasonably request for the carrying out of its functions.

**CHAPTER VI**

**RELATIONS WITH FINANCIAL INSTITUTIONS**

**Article 44. Supervision and Regulation of Financial Institutions activity**

The National Bank is exclusively responsible for the licensing, supervision, and regulation of financial institutions' activity. To that end, the National Bank shall be empowered:

a) to issue necessary regulations and to take actions in order to execute its powers and duties under this Law, through proper licensing and supervision standards and to establish the procedure of application of regulations and actions mentioned above;

b) to cause an inspection to be made, at its discretion, by any of its officers or by any other qualified person appointed to that effect, of any financial institution and to examine its books, documents and accounts, the conditions of its affairs and whether it is in compliance with the Law and regulations;

c) to require any officer or employee of the financial institution to furnish to the National Bank such information as requested for the purpose of enabling the National Bank to supervise and regulate financial institutions;

d) to cause any financial institution to take remedial actions or to enforce penalties provided in the Law on Financial Institutions if the financial institution or its employees:

- have violated the provision of the Law on Financial Institutions or a regulation of the National Bank;
- have violated a fiduciary duty;
- have begun the unsafe or unsound operations of the financial institution or any of its subsidiaries.

**Article 45. Depository Services.**

The National Bank may open accounts for and accept deposits from banks doing business in the Republic under such conditions, including the payment of interest and the establishment of charges as it may from time to time determine.

**Article 46. Prudential Regulations**

Each financial institution shall comply with the requirement of the regulations of the National Bank, concerning:

a) balance sheet accounts, off - balance - sheet commitments, and income and expense statement items with respect to ratios among accounts;

b) restrictions or conditions concerning specific types or forms of credit or investments that exceed an established amount; forms of commitments of a riskbearing nature; matching as to maturity of assets and liabilities and off-balance – sheet items; open foreign currency, swap, option or similar positions; or access to the payments system.

**Article 47. Submission of Information**

(1) Financial Institutions are obliged to furnish to the National Bank any information and data as the National Bank may require for the discharge of its functions and responsibilities.

(2) The National Bank may publish such information and data in whole or in part in aggregate form for classes of financial institutions determined in accordance with the nature of their business.

**Article 48. Clearing and Interbank Settlements**

The National Bank may assist banks in organizing facilities for the clearing and settlement of interbank payments, including payments by check and other payment instruments, and may establish such procedures and issue such regulations relating thereto as it shall deem appropriate.

**Article 49. Information Network for Banks**

The National Bank may establish and maintain an information network for necessities of the banking system.

**CHAPTER VII**

**FOREIGN EXCHANGE REGULATION AND OPERATIONS**

**Article 50. Foreign Exchange Controls.**

The National Bank acts as a state agent in the application of legislation on foreign exchange controls. Reports, information on control, and other information required by the provisions of any such law may be transmitted through the National Bank.

**Article 51. Foreign Exchange Regulation**

The National Bank shall have the power (pursuant to foreign exchange regulation), to:

- a) issue rules and regulations on foreign exchange transactions of individuals and legal entities, including financial institutions and Government agencies;
- b) license, revoke the licenses of, supervise and regulate foreign exchange dealers, including banks;
- c) set limits on foreign exchange positions of foreign exchange dealers, including banks;
- d) establish the method for determining the value of Moldovan Leu in relation to other currencies.

**Article 52. Reporting of Foreign Exchange Transactions**

Licensed foreign exchange dealers, including banks, are obliged to report periodically to the National Bank on their operations, including their open foreign exchange positions, on a currency-by-currency basis; the National Bank shall prescribe the reporting forms and supporting documents that must be submitted.

**Article 53. International Reserve**

(1) The National Bank holds on its balance sheet the international reserves of the state, which consist of the following assets:

- a) gold;
- b) foreign exchange in the form of notes and coins or bank balances held abroad in foreign currencies;
- c) any other internationally recognized reserve assets;
- d) bills of exchange payable in foreign currencies;
- e) promissory notes issued and/or guaranteed by, as well as forward purchase

agreements concluded with or guaranteed by, foreign states, their central banks or public international financial organizations, expressed and payable in foreign, currencies.

(2) The primary objectives in selecting reserve assets shall be safety of principal and liquidity.

(3) The National Bank shall use its best endeavors to maintain the international reserve at the level which, in the National Bank's opinion, shall be adequate for the execution of the monetary and foreign exchange policies of the state.

(4) If the international reserve has declined or, in the opinion of the National Bank, is in danger of declining to such an extent as to jeopardize the execution of the monetary or foreign exchange policies or achievement of the international transactions in time, the National Bank shall submit to the Parliament and Government a report on the international reserve position and the causes which have led or may lead to such a decline. The report shall contain recommendations to remedy the situation.

(5) The National Bank shall make further such reports and recommendations, until, in its opinion, the situation has been rectified.

**Article 54. Foreign Exchange Gains and Losses (Unrealized)**

Unrealized gains or losses arising for the National Bank, recorded on the annual balance sheet of assets or liabilities in, or denominated in, gold, special drawing rights, or foreign currencies and resulting from any change in the values or exchange rates of assets and liabilities in terms of lei, shall be treated as follows:

a) the net unrealized foreign exchange gains and losses shall be balanced by a corresponding amount in a special account on the balance sheet of the National Bank (Valuation Reserve Account);

b) the amount recorded in the Valuation Reserve Account which corresponds to net foreign exchange losses, shall be guaranteed by negotiable debt securities, bearing interest at market related rates, issued by the government to the National Bank and held by the bank in a separate account (Valuation Reserve Securities Account); within four months after each financial year, the aggregate principal amount of such securities held by the National Bank shall be increased or decreased as required to restore the equivalency between that amount and the amount recorded in the Valuation Reserve Account as net foreign exchange losses as of the end of that financial year;

c) neither net gains nor net losses referred to in this Article shall be included in the computation of annual income of the National Bank.

**Article 55. International Clearing and Payments Agreements**

The National Bank may, either for its own account or for the account and by order of the State, enter into clearing and payments agreements or any other contracts for the same purpose with public and private central clearing institutions domiciled abroad.

**CHAPTER VIII**

**CURRENCY**

**Article 56. Monetary Unit**

(1) The monetary unit of the Republic shall be the leu, consisting of one hundred

bani.

(2) The leu shall be the only legal tender within the territory of the Republic of Moldova.

**Article 57. Authority to issue banknotes and coins**

The National Bank shall have the exclusive right to issue banknotes and coins as legal tender within the territory of the Republic.

**Article 58. Legal tender**

Banknotes and coins issued as legal tender by the National Bank and not withdrawn from circulation shall be accepted, at their face value, in payment of all public and private debts within the territory of the Republic of Moldova.

**Article 59. Currency features**

The National Bank shall determine by regulation the face value, measures, weights, designs, and other features of the banknotes and coins that are legal tender in the Republic of Moldova.

**Article 60. Currency production and safekeeping**

The National Bank shall organize the printing of banknotes and the minting of coins and shall take measures for the safekeeping of unissued banknotes and coins, for the withdrawal and destruction of the retired banknotes and coins.

**Article 61. Currency exchange**

(1) The National Bank may exchange the national currency that is legal tender in the Republic of Moldova.

(2) Unfit banknotes and coins shall be withdrawn, destroyed, and replaced with banknotes and coins by the National Bank.

(3) The National Bank may decline to exchange banknotes and coins, if their designs do not correspond to the set standards.

**Article 62. Currency provision**

The National Bank shall ensure the regular supply of banknotes and coins, in order to meet the currency requirements of the national economy.

**Article 63. Accounting of currency issued**

The aggregate amount of circulating banknotes and coins shall be noted in the accounts of the National Bank as a liability of the National Bank and such liability shall not include banknotes and coins in the currency reserve inventory.

**Article 64. Currency withdrawal from circulation**

(1) On the decision of the Council of Administration, the National Bank may withdraw from circulation any banknotes or coins that issued by, and issue in exchange therefor other banknotes and coins in equivalent amounts.

(2) At the end of the exchange period referred to in paragraph 1, banknotes and coins called in for exchange shall cease to be legal tender.

**CHAPTER IX**

**FINANCIAL STATEMENTS, AUDIT, AND REPORTS**

**Article 65. Financial year**

The financial year of the National Bank shall begin with the first of January and end on the 31 of December.

**Article 66. Accounting Procedures**

The National Bank shall maintain at all times accounts and records adequate to reflect, in accordance with sound internationally accepted accounting practices, its operations and financial condition.

**Article 67. Annual financial statement**

The National Bank shall prepare financial statements at the end of each financial year which shall include a balance sheet, a profit and loss statement, and related statements.

**Article 68. External audit of accounts**

The statements, accounts and records of the National Bank may be audited by authorized auditors appointed by the National Bank and by officials of Court of Accounts.

**Article 69. Transmittal and publication of statements and reports**

(1) The National Bank shall, within four months after the close of each of its financial years, submit to the Parliament:

- a) a copy of its financial statements certified by its auditors;
- b) a report of its operations and affairs during that year;
- c) a report on the situation of the state economy.

(2) The National Bank shall submit to the Parliament and the Government, a summary financial statement for the previous month, by the 25th day of each following month.

(3) The National Bank shall publish the financial statements and reports referred to in paragraphs (1) and (2), as well as any other financial and economic reports and studies.

**Article 70. Preferential right**

(1) The National Bank shall have the preferential and unconditional right to satisfy each of its claims that becomes due and payable from any banking accounts or from other assets that it holds:

- a) on its own balance;
- b) on the balance of the debtor concerned;
- c) as collateral to secure its claims;
- d) otherwise.

(2) The National Bank shall exercise the right mentioned above by withdrawing the debts from bank accounts and selling other assets against a reasonable price, covering the claims from the net revenue received from sale. Exercising this right in conformity with the present article shall not require any justice action. No competition between claims, including between the claims based on the property right, shall not impede to exercise this preferential right, except cases when there are certain proofs that the staff of the National Bank knew or should have known that at the time when these assets, except for the monetary assets, came into possession of the National Bank the assets did not belong to the debtor concerned.

**CHAPTER X**

**MISCELLANEOUS PROVISIONS**

**Article 71. Prohibited Activities**

(1) Except for the cases provided by this Law, the National Bank shall not:

a) grant any financial assistance, whether in the form of a direct or indirect loan, or by purchasing a loan, a loan participation or utilization of any instrument of indebtedness, assumption of a debt or in any other form;

b) engage in commerce, purchase the shares of commercial companies including the shares of financial institutions, or acquisition of an ownership interest in any financial, commercial, agricultural, industrial undertaking.

(2) Notwithstanding the provisions of paragraph (1), the National Bank may:

a) invest not more than 20 per cent from its capital and reserve in the institutions engaged to offer only to the National Bank and to other financial institutions services on: appraising collateral administration and storage, printing of the financial instruments, clearing operations, courier services and property sale;

b) invest its financial resources in liquid debt securities issued by reliable institutions;

c) acquire, in the course of debts due to it, any rights referred to in paragraph (1) (b) above; provided that all such rights so acquired shall be disposed of at the earliest suitable opportunity;

e) grant credit to any of its employees on the basis of the regulation approved by Administrative Council.

#### **Article 72. Collection of statistical information**

(1) The National Bank shall collect the primary statistical information that is required for the achievement of its objectives and carrying out of its tasks, from the competent authorities of the state, financial institutions and from other legal entities and individuals.

(2) The National Bank shall contribute to the harmonization of the rules and practices governing the collection, compilation and distribution of statistics within its fields of competence.

(3) Notwithstanding Article 5 (1) (2) of the Law on Commercial Secrets, the National Bank shall define by regulation the types of primary statistical information so required and the form in which such information is to be provided, the persons that are to provide such information to the National Bank, and the confidentiality regime that shall apply to statistical information provided to the National Bank.

(4) In fulfilling its responsibilities under Article 8 (1), the National Bank may publish information and data that it collects, in whole or in part, in aggregate form.

(5) Provisions of this article shall also refer to the working out and publishing of state balance of payments.

#### **Article 73. Immunity from taxation**

The National Bank, its operations and transactions, shall be exempt from all taxes and duties.

#### **Article 74. Standards of good administration**

1. The National Bank shall use the powers given it under this Law equitably and uniformly and in accordance with sound administrative practices. The Bank shall not use its powers to serve an objective for which the powers was not given.

(2) The decisions of the National Bank taken pursuant to this Law shall be impartial and shall be motivated only by objective and rational considerations;

they shall be executed with fairness and restraint.

#### **Article 75. Sanctions**

The National Bank, in case of exposure of violation of Law or of its normative acts, shall take the following measures:

- a) shall make a written notice;
- b) shall conclude an arrangement with the institution violating the legislation, providing for measures on elimination of violations;
- c) shall incontestably impose and charge penalties three times the amount of the received income or caused prejudice, but it should be not lower than the amount of the average monthly salary multiplied by the number of the days when the violation continued, plus the cost of expenses incurred by the National Bank in the process of examination of the violations, relevant for the benefit of third person;
- d) shall temporarily suspend the activity, partially or totally;
- f) shall withdraw the license.
- g)

#### **Article 76. Dispute Settlement**

The disputes, arising between the National Bank and other subjects, are examined by a competent court .

[Art. 76 amended by Law no. 1009 – XIII dated 22.10.96]

### **CHAPTER XI**

#### **FINAL PROVISIONS**

(1) The hereby law shall enter into force from the date of publication.

(2) As on the date of coming into force of the hereby law the following are abrogated:

- The law No 599-XII dated June 11, 1991 on State National Bank of Moldova (the National Bank of Moldova);
- Parliament decree No 600-XII dated June 11, 1991 on the implementation of the Republic of Moldova Law on the State National Bank of Moldova;
- Parliament decree No 667-XII dated July 24, 1991 on approval of the Statute of the National Bank of Moldova;
- Law No 884-XII dated January 23, 1992 on the introduction of a modification in the Law on the State National Bank of Moldova;
- Parliament Decree No 976-XII dated March 19, 1992, on the assignment of Mr. Leonid Talmaci in the position of the Governor of the State National Bank of Moldova;.24
- Article 4 (1) from the Parliament decree No 1201-XII dated November 19, 1992 on the solution of the socio-economic problems exposed in the Prime-minister's report;
- Law No 1202-XII dated November 19, 1992 on modification of the Law on the State National Bank of Moldova (the National Bank of Moldova);
- Law No 1234-XII from December 18, 1992 for the modification and completion of the Law on the State National Bank of Moldova;
- Parliament decree No 1235-XII dated December 15, 1992, on modification of the Article 19 from the State National Bank of Moldova Statute;
- Law No 125-XIII dated May 27, 1994 for the modification and completion of the

Law on the State National Bank of Moldova (the National Bank of Moldova);  
- Parliament decree No 125a-XIII dated May 27, 1994 on implementation of the Law for the modification and completion of the Law on the State National Bank of Moldova (the National Bank of Moldova);  
- Parliament decree No 128a-XIII dated May 27, 1994 for the modification of the paragraph 5 from the Parliament decree on implementation of the Law on the State National Bank of Moldova;  
- Parliament decree No 281-XIII dated November 11, 1994 on modification and completion of the State National Bank of Moldova Statute (the National Bank of Moldova).

(3) It is suggested to the President of the Republic of Moldova to abrogate the Decree dated June 4, 1991 on the National Bank of Moldova.

[Para 4 Art. 77 abrogated following law. 378 XIV dated 30.04.99]

[The Article 77 Para (4) is declared non-constitutional following the Decision of the Constitutional Court no. 9 dated 18.02.99]

*Chairman of the Parliament*

*Petru LUCINSCHI*

*Chisinau, July 21, 1995*

*No 548-XIII*

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***Note:***

*This English language version of the Regulations is for guidance only and while every care has been taken in its preparation, the National Bank of Moldova, its officers and agents accept no responsibility or liability for losses arising from errors in translation. The Romanian language version is the legal version of this Regulation.*