

**LAW OF GEORGIA**  
**ON COMMERCIAL BANK ACTIVITIES**

**Chapter I – General Provisions**

**Article 1 – Definition of terms**

For the purposes of this Law, the terms have the following meanings:

- a) administrator – a member of the supervisory board, or directorate (board of directors) of a commercial bank, as well as a person authorised to enter into commitments singly or together with one or more persons on behalf of the bank;
- b) bank branch – a bank subdivision where all or part of banking activities are carried out;
- c) persons connected to a bank – bank administrators, shareholders, and their relatives who represent first and second legal heirs under the Civil Code of Georgia, or persons related to them by business interests;
- d) beneficial owner – a person receiving financial or other benefits under the law or an agreement, and who has no obligation to transfer these benefits to another person; and if a beneficial owner is an entity established to achieve best objectives, or if an owner is a legal person that has no person who owns a significant interest, a beneficial owner is a member of the management body;
- e) developed countries – countries on the list of developed countries compiled by the National Bank of Georgia;
- f) group of jointly acting partners (shareholders) – a group of closely related partners, (shareholders) or partners (shareholders) connected to each other by commercial interests in addition to the bank interests;
- g) commercial bank – a legal person licensed by the National Bank of Georgia ('the National Bank') that accepts deposits and uses them to conduct banking activities on its behalf under the legislation of Georgia;
- h) credit – any commitment to disburse monetary funds in consideration of their repayment, value, security and definite terms;
- i) option – the right to choose means, form and volume of fulfilling commitments that are granted under an agreement (contract) to one of the parties, or the right to refuse to fulfil commitments due to circumstances provided for in the agreement (contract);
- j) banking licence – a permit issued by the National Bank to carry out banking activities;
- j<sup>1</sup>) (deleted);
- j<sup>2</sup>) (deleted);
- k) banking activities – types of activities determined by Article 20 of this Law;
- k<sup>1</sup>) operational day – a certain period of a banking day defined by a commercial bank, after which all orders received by the bank from its customers shall be considered to be received on the following banking day;
- k<sup>2</sup>) banking day – a calendar day when transfer transactions are performed through the National Bank payment system;
- l) blank credit – a credit granted without collateral;
- m) debt instrument – a negotiable instrument of any debt and any other instrument equivalent to it; also any negotiable document enabling one to acquire another debt instrument by subscription or exchange; a negotiable debt instrument may be in certificate or book entry form;
- n) trust – a fiduciary function;
- o) foreign trust bank – a bank of a developed country that is assigned a rating at a certain level or higher by a competent international rating organisation; the National Bank compiles a list of competent international rating organisations and defines the rating levels for each rating organisation;
- p) factoring – a trade commission transaction which is adjusted to crediting of a customer's working capital, that includes collection of a customer's accounts receivables, crediting and guarantees for credit and foreign exchange risks;
- q) fiduciary transaction – trust transactions performed by a bank or a trust company on its behalf but by order and for the account of a customer (usually to manage investments); the customer shall be liable for all risks, while the bank shall receive commission charges;
- r) financial institutions – entities defined under the Law of Georgia on Securities Market;
- s) forfeiting – crediting exports in foreign trade agreements by acquiring non-negotiable commercial bills of exchange or other debt liabilities by the supplier; a bank of an importing country shall be the guarantor bank during such transactions;



t) futures transactions – rapid trading agreements in raw materials, gold, financial and credit instruments for a price fixed on stock exchanges at the time of trading, on the condition of performing transactions at a certain later time. A certain sum of money shall be paid as a guarantee before performing the transaction;

u) subsidiary (subsidiary organisation) – a legal person or an organisational establishment without a legal status controlled by a parent company (head organisation); or a legal person with 50 per cent or more of the shares (voting stock, shares) owned by the parent company;

u<sup>1</sup>) parent company (head organisation) – a legal person with one or more subsidiaries (subsidiary organisations);

v) regulatory capital – a type of capital created for conducting banking activities, for reserving against expected or unexpected financial loss/damages and protecting from different risks;

w) share capital – a commercial bank's shareholder capital determined as the difference between total assets and total liabilities of the bank;

x) authorised capital – a capital agreed upon by the company shareholders and provided for by the charter;

y) paid-in capital – the actually paid-in portion of the authorised capital;

z) insolvent bank – a bank with total liabilities (regardless their terms) and the sum of conditional liabilities exceeding total assets, regardless their maturity;

z<sup>1</sup>) control – authority to administer financial and economic policy of the company (organisation) in order to receive economic benefit from such activity;

z<sup>2</sup>) controlling person – a person who exercises control;

z<sup>3</sup>) affiliate – a subsidiary and/or a company under control of a legal person, as well as its controlling persons, and their subsidiaries and companies under their control;

z<sup>4</sup>) person – a natural or a legal person, as well as an organisational establishment under the legislation of Georgia which is not a legal person;

z<sup>5</sup>) significant share – more than 10 per cent of the authorised or paid-in capital of a person or jointly acting partners (shareholders) and/or of the voting shares, also the possibility to make a significant influence on the commercial bank by a person or jointly acting partners (shareholders), irrespective of the amount in equity capital and/or voting rights;

z<sup>1</sup>) significant influence – the right to participate in the decisions relating to the financial and operational policy of the enterprise, which is not a control of this policy or a joint control;

z<sup>6</sup>) indirect participation (ownership) – shares in the capital of a legal person held through a third person.

*Law of Georgia No 1115 of 23 October 2001- LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 1617 of 4 July 2002 – LHG I, No 23, 24.7.2002, Art. 108*

*Law of Georgia No 1938 of 28 December 2002 – LHG I, No 3, 17.1.2003, Art. 19*

*Law of Georgia No 4519 of 27 March 2007- LHG I, No 9, 31.3.2007, Art. 84*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 1924 of 3 November 2009 – LHG I, No 35, 19.11.2009, Art. 234*

*Law of Georgia No 5002 of 1 July 2011 – website, 15.7.2011*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

## **Article 2 – Scope of the Law**

1. A commercial bank may be established as a joint stock company. Commercial banking activities shall be regulated by this Law, the Organic Law of Georgia on the National Bank of Georgia, the Law of Georgia on Entrepreneurs, and other normative acts.

2. No one shall have the right to solicit deposits and use them for granting credit on its behalf without a licence issued by the National Bank.

3. No one shall have the right to use the term 'bank', or other word-combination with this term without a banking licence issued under this Law, unless used as determined or recognised by law or an international agreement, or when the context in which the term 'bank' is used shows that no banking activity is carried out under this Law and the Law on the National Bank of Georgia.



4. (Deleted – 1.7.2011, No 5002).

4<sup>1</sup>. (Deleted – 1.7.2011, No 5002).

4<sup>2</sup>. (Deleted – 1.7.2011, No 5002).

4<sup>3</sup>. (Deleted – 1.7.2011, No 5002).

5. Provisions of this Law shall apply in case of conflict between this Law and other laws with respect to relations with commercial banks.

*Law of Georgia No 1636 of 13 October 1998 – LHG I, No 2, 26.10.1998, Art. 27*

*Law of Georgia No 1742 of 24 December 1998 – LHG I, No 7, 31.12.1998, Art. 60*

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 4519 of 27 March 2007- LHG I, No 9, 31.3.2007, Art. 84*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 5002 of 1 July 2011 – website, 15.7.2011*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

## **Chapter II – Licensing**

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

### **Article 3 – Banking licence applications**

1. Banking licence applications shall be submitted to the National Bank in writing by a person authorised by a supervisory board of banking licence seekers or by shareholders.

2. To the banking licence written applications shall be attached the following documents and information:

a) original constituent documents, or their notarially certified or apostille certified, and/or legalised copies;

b) a statement of a commercial bank on its authorised capital and its paid-in portion; also information about the ownership and origin of the authorised and regulatory capital of the commercial bank. A branch of a foreign bank shall submit information regarding the amount of resources allocated to it by its parent bank;

c) capital inflow report on the determination of the minimum amount of the capital for commercial banks in accordance with the order of the president of the National Bank.

d) information on appropriateness of the banking licence seeker's administrators with compliance criteria as defined by this Law;

e) a statement of paying licence fee in accordance with the Law of Georgia on Licence and Permission Fees;

f) the conformity declaration under Article 8<sup>1</sup> of this Law on direct ownership and beneficial ownership of significant shares;

g) information on the structure of the banking licence seeker structure/group structure in accordance with the paragraph 3 of this article;

h) information on the supervisory board and the directorate of the banking licence seeker in accordance with the paragraph 4 of this article;

i) documentation approved by the supervisory board of the banking licence seeker in accordance with the paragraph 5 of this article;

j) the business plan of the banking licence seeker in accordance with the paragraph 6 of this article;

k) in the case of licensing a foreign bank or a subsidiary bank – additional information in accordance with paragraph 7 of this article;

l) documentation evidencing the right of use or ownership of the real property where a commercial bank or its branch shall be located in the future;

m) additional information reasonably required by the National Bank in each individual case;

3. A structure of the banking licence seekers/commercial bank owners/group shall be transparent and shall not pose a threat to the effective supervision by the National Bank, also to the stability of the commercial bank and/or financial sector. The information about the structure of the ownership shall include data about the ownership on every level, direct shareholders, intermediate owners and significant share beneficial owners. In particular, the mentioned information shall include:



a) in the case of a natural person:

a.a) a copy of an identity document; in the case of a foreign citizen – a duly certified copy of an identity document (when the legislation of a respective country provides for a possibility of certifying an identity document);

a.b) information about the citizenship or residence;

a.c) detailed CV;

a.d) information about the shares and other business interests in the commercial banks operating now or those which have operated in the past on the territory of Georgia;

a.e) a certificate on previous conviction;

a.f) data about the financial condition, income and its origin;

a.g) income tax return;

b) in the case of a legal person:

b.a) registration documentation;

b.b) recently audited financial statement (for the last quarter);

b.g) a certificate on previous conviction.

4. The information about the supervisory board of the banking licence seeker, auditing committee and directorate shall include:

a) information about the education, qualification and experience of the relevant persons;

b) a certificate on previous conviction;

c) information about the solvency or insolvency if the legislation of the relevant country provides for the possibility of issuing such information;

d) information about the financial liability to the commercial banks (including due loans);

e) information about the relationship with a shareholder or a potential administrator;

f) information about the financial liability to the state (including tax liabilities/due loans and/or restructured tax liabilities/due loans).

5. The documentation approved by the supervisory board of the banking licence seeker shall include:

a) corporate governance regulations;

b) organisational charts and the description of the management work;

c) a framework for credit, market, operational and other relevant risks;

d) an internal assessment model of capital adequacy;

e) calculation of the capital adequacy in accordance with the requirements of the National Bank, based on the budget represented in the business plan;

f) accounting policy.

6. The business plan of the banking licence seeker shall comply with the planned activities of the mentioned legal person and shall include at least the following information:

a) business strategy;

b) information on the potential influence of the macroeconomic situation of the country on the business strategy of a commercial bank;

c) the description of the targeted market and the assessment of own competitiveness;

d) budget plan and prognosis of the financial indicators;

e) the minimum of the initial information technologies to be introduced at the first stage and an their introduction plan in the following operational period.

7. In the case of licensing foreign bank branch or a subsidiary bank an additional information shall include:

a) the financial statement of the parent bank for the last 3 years and profit-loss statement;

b) the decision of the supervisory board of the parent bank on submission of the banking licence application to the National Bank;

c) the confirmation of the parent bank on establishing a branch/subsidiary bank in Georgia.



8. The structure of the banking licence seeker group, ownership structure, management structure and operational activity/environment shall ensure the possibility of the effective implementation of individual and consolidated supervision and shall not pose a threat to the stability of a bank and/or financial sector and its healthy operation.

9. Licensed commercial bank, its shareholders, intermediate owners and the beneficial owners of the significant share are responsible, if necessary, to submit updated information to the National Bank.

10. Commercial bank is responsible to agree any changes in the founding structure with the National Bank in accordance with the rule established by the National Bank.

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

#### **Article 4 – Decision on licensing**

1. The decision of issuing a banking licence is solely made by the National Bank.

2. A banking licence is valid for an indefinite period. Transfer to another person is prohibited.

3. In order to make a decision on issuing banking licence the National Bank shall scrutinise if the submitted documents comply with the requirements established by the legislation of Georgia and evaluates the adequacy of the business plan of the banking licence seeker and the possibility of its implementation, its potential position in the banking sector and the possibility of its sustainable operation.

4. During the period of reviewing the documentation and information for receiving banking licence the National Bank has the right to require any other information in its scope of authority, which is necessary in an individual case for making a reasonable decision.

5. Not later than three months after an application for a banking licence is submitted, the National Bank shall make a well-reasoned decision, notice of which shall be provided to the applicant in writing. The National Bank is authorised to hold relevant consultation with the banking licence seeker before receiving the application on banking licence.

6. If the documentation and information submitted by the interested legal person does not comply with the requirements established by the legislation of Georgia or the National Bank, the National Bank sets a deadline to eliminate the flaw, during which the period provided for by paragraph 5 of this article is stopped. If a time limit for elimination of the flaw is exceeded this is the basis for refusal to issue a banking license for the interested legal entity.

7. The National Bank shall be entitled to issue banking licences in accordance with the interests of financial stability or banking sector without the presentation of the documents and information provided for in Article 3 of this Law and, if necessary, determine the date and time limit for the presentation of the documentation and information. The National Bank shall be entitled to set restrictions for a commercial bank for a certain or indefinite period of time on certain types of banking transactions.

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

#### **Article 5 – Compliance criteria for holders of significant shares and administrators of commercial banks**

1. A person may not be a holder of significant shares of a commercial bank if he/she has criminal records for a serious or particularly serious crime, or for financing terrorism, and/or legalising illicit income, or for other economic crimes.

2. A person may be a commercial bank administrator if he/she:

a) has not been recognised as a beneficial of support by the court or unless otherwise determined under court decision;

b) has no criminal records for a serious or particularly serious crime, or for financing terrorism, and/or legalising illicit income, or other economic crimes;

c) has appropriate education and/or experience;

d) is not an administrator of another commercial bank at the same time, except when holding the position of an administrator in a bank under control of this bank, or in a bank that controls this commercial bank;

3. The National Bank shall be authorised to issue a normative act to define additional compliance criteria for holders of significant shares and administrators of a commercial bank.

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

#### **Article 6 – Special conditions for simplification of licensing procedures**

1. Granting a banking licence to a foreign bank branch or subsidiary company may be carried out in a simplified manner if a banking licence seeker is an exclusively reliable bank, in particular, if it has a high level of popularity, good reputation, high credit rating, long-term experience in financial sector, sustainable financial indicators and high level of transparency.

2. In order to facilitate the credibility of entering of the foreign trust bank into the Georgian market, the National Bank shall individually define the list of documents and information that the branch or subsidiary of the foreign bank provided for in paragraph 1 of this article shall submit to obtain a



banking licence.

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

#### **Article 7 – Revocation of banking licences**

1. A banking licence may be revoked only by the decision of the National Bank:

- a) upon the request of a commercial bank on revocation of a banking licence;
- b) due to violation of Article 21 of this Law;
- c) if a licence is issued on the basis of false statements or other inaccuracies in the application for a banking licence;
- d) if a commercial bank has not used the licence within six months after its effective date;
- e) if there was a significant deviation from the business plan and business strategy submitted by the commercial bank to obtain banking licenses without prior agreement with the National Bank;
- f) if a commercial bank has been merged with, acquired by, or separated from other bank;
- g) if a commercial bank no longer has a minimum cash amount of equity capital or regulatory capital determined by the National Bank; or a bank is no longer reliable for creditors due to failure to fulfil its obligations towards them; or a bank is no longer able to ensure security of assets entrusted to it;
- h) if shareholders of a commercial bank decide to liquidate the bank or the bank ceases to exist as a legal person;
- i) if a commercial bank follows or has followed a harmful or unsound banking practice for its financial condition, which may significantly damage its depositors;
- j) if one or more grounds provided for by Article 30(3)(h) exist;
- k) if a commercial bank is insolvent;
- l) the complexity and/or intransparency of a commercial bank group structure, which interrupts the effective supervision;
- m) a change of the structure of the owner of the commercial bank which poses a threat on financial stability and healthy operation of the commercial bank and/or a financial sector;
- n) court decision on the revocation of the banking right of a commercial bank;
- o) the incompliance of an administrator, a significant share holder or beneficial owner with the appropriateness criterion/criteria provided for by law;
- p) revocation of a banking licence of a foreign bank branch and/or subsidiary bank parent institution in the country of its residence;
- q) other cases defined by the legislation of Georgia.

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

#### **Article 8 – Publication and effect of the decision on revocation of banking licences**

1. The decision on revocation of a banking licence shall be published by the Legislative Herald of Georgia. The decision shall be effective from the date it was made, or from any other date determined by the decision.
2. After revocation of the banking licence, a commercial bank may not conduct any activities granted under this licence and the bank must be liquidated as provided for in Article 37 of this Law.
3. After the banking licence is revoked, the commercial bank must, within the shortest period of time, discharge all liabilities related to its activities. During termination of its activities until all liabilities are discharged, a commercial bank shall follow the provisions of this Law as a licensed bank.
4. Only the National Bank shall make decisions on insolvency and bankruptcy of a commercial bank.

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

### **Chapter II<sup>1</sup> – Acquisition of Significant Shares of Commercial Banks**

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*



## Article 8<sup>1</sup> – Declaration of conformity

1. A person or jointly acting group of partners/shareholders ('the declarant'), who intend to acquire a share in a commercial bank so that their own or his/her/its beneficial owner's (owners) participation exceeds 10, 25 or 50 per cent in the bank capital, shall be obliged to submit a conformity declaration and information on significant share and beneficial owner provided for by Article 3 of this Law to the National Bank ('the Declaration').

1<sup>1</sup>. In order to make decision on the significant share the National Bank shall scrutinise the compliance of the submitted documentation and information with the requirements by the legislation of Georgia, take into account the reputation and the financial situation of the declarant, the potential influence of the change of the commercial bank ownership structure/group structure after acquiring significant share on the effective supervision and the transparency of the ownership structure/group structure, also in relation with the mentioned transactions, the risks of illicit income legalisation and terrorist financing.

2. The declarant shall indicate the following in the declaration:

a) his/her/its identification data;

b) information that he/she has no criminal records for a serious or particularly serious crime; of financing terrorism, and/or of legalising illicit income or other economic offences;

c) identification data of the beneficial owner (owners) under the first paragraph of this article, or a statement that, based on the information available to him/her, no beneficial owner (owners) shall exist as a result of this operation;

d) information that a beneficial owner under the first paragraph of this article, has no criminal records for a serious or particularly serious crime; of financing terrorism, and/or of legalising illicit income, or other economic offences;

e) the amount of his/her/its own shares if the acquisition is completed;

e<sup>1</sup>) the information on the origin of the amount needed to acquire significant share;

f) based on information available to him/her/it, the amount of shares owned by the beneficial owner whose share exceeds 10, 25 or 50 per cent, if the acquisition is completed;

g) a declaration of the beneficial owner (if submitted) to certify that the information in the declaration is accurate.

2<sup>1</sup>. If possible, the declarant shall attach the declaration (declarations) of the beneficial owner (owners) under the first paragraph of this article to his/her/its own declaration.

3. If, based on information available to the declarant, the beneficial owner under the first paragraph of this article does not exist, the declarant shall indicate such in the declaration, and shall not fill in the beneficial owner's section of the declaration.

4. If the National Bank considers that an additional information is needed to make a decision, it is authorised within the scope of its competence to require any information, including the information provided for by Article 3 of this Law (including confidential information).

5. A direct or an indirect owner of a commercial bank who intends to sell directly or indirectly the amount of shares so that his or the beneficial owner's share falls under 10, 25 or 50 per cent, he/she is obliged to give a prior notice to the National Bank. The notice should include all the detailed information about the mentioned transaction.

6. A commercial bank is obliged to immediately inform the National Bank on any change of the appropriateness criteria of the owner of the significant share.

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 5528 of 20 December 2011 – website, 28.12.2011*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

## Article 8<sup>2</sup> – Review of declarations

1. The National Bank shall review the declaration within one month after it is submitted and shall give consent or a substantiated refusal to the declarant to acquire the share.

2. If the National Bank considers the information submitted on the beneficial owner to be insufficient or inaccurate, it shall be entitled to verify or clarify that information directly with the beneficial owner. In this case, the deadline for response shall be extended to three months, and the declarant must be notified of it.

3. The National Bank's failure to respond within one month after a declaration is submitted shall automatically be considered as consent to acquire the share.



4. An agreement to acquire a significant share shall be void if the declarant fails to submit a declaration to the National Bank, or if the declarant received a substantiated refusal of the National Bank, but still acquired a significant share of a commercial bank.

5. While discussing the issue of giving consent on acquiring a significant share the National Bank is guided by paragraphs 1 and 2 of this article and Article 4 of this Law and other principles provided for by the legislation of Georgia.

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29.*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

### **Article 8<sup>3</sup> – Information to be submitted to the National Bank**

1. On the basis of available information, a commercial bank shall provide the National Bank, together with annual reports, with information on the direct owner and the beneficial owner of more than 10 per cent of bank shares and shall indicate whether it confirms the accuracy of the information provided.

2. A beneficial owner, who directly or indirectly holds more than 10 per cent of a commercial bank shares, shall be obliged to submit to the National Bank in April of every year a declaration as of December of the previous year.

3. If a direct owner and a beneficial owner of significant shares of a commercial bank fail to submit the required information to the National Bank, they shall be held liable for the failure under the legislation of Georgia.

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

### **Article 8<sup>4</sup> – Sanction and appeal**

1. In case of reasonable doubt, the National Bank may require that a commercial bank submit a declaration on the direct and beneficial owners of its significant shares.

2. If so provided for in the first paragraph of this article, the National Bank shall be authorised to:

- a) suspend the voting rights of such person for a certain period, and require him/her/it to reduce his/her/its shares to 10 per cent within 60 days;
- b) suspend the voting right of such person for unlimited period.

3. The person shall have the right to appeal the decision of the National Bank on refusal to acquire shares in a commercial bank, suspension of the voting right and/or requirement to reduce his/her shares to 10 per cent to a court.

4. If there is a court decision suspending voting rights, the person shall have the right to exercise his/her voting rights proportionate to only 10 per cent of the shares.

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

## **Chapter III – Ownership and Administration**

### **Article 9 – Requirements towards commercial bank capital and reserves**

1. The National Bank shall periodically determine the minimum amount of reserves, paid-in capital and regulatory capital of a commercial bank, and regulations for their formation. A commercial bank may not pay in (form) the equity capital in a nonmonetary form.



2. A commercial bank may not reduce its equity capital by redeeming shares, or reduce its regulatory capital by using reserves without the prior written consent of the National Bank, and without an appropriate amendment regarding a change in the equity capital defined in its charter.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

## **Article 10 – Restriction of ownership rights, assets, ownership structure and group structure of commercial banks**

1. A commercial bank may:

a) in accordance with paragraph 1<sup>1</sup> of this article, without the permission of the National Bank, directly or indirectly own a maximum of 20 per cent shares in the equity capital of a legal person unless the bank's share exceeds 15 per cent of its equity capital;

b) (deleted);

c) in accordance with paragraph 1<sup>1</sup>, establish and/or acquire subsidiaries that are engaged in other businesses in which its share exceeds 20 per cent under written permit of the National Bank; the permit shall specify the type of business each subsidiary may conduct; in this case, activities of subsidiaries shall be restricted to the businesses specified in the permit; without a written permit of the National Bank this share shall not exceed 15 per cent of the equity capital;

d) receive a share from a subsidiary to repay the amount of credit granted. A commercial bank shall notify the National Bank about it and shall inform about the activities of the subsidiary. If the activity of the subsidiary is not the one provided for by paragraph 1<sup>1</sup> of this article, the commercial bank shall take measures to sell the share within 6 months. After receiving a consent form the National Bank, a commercial bank has the right to sell the share in no later than 1 year. In a special case, the National Bank may extend this time, which shall not exceed 2 years, despite the number of extensions. If its shares provide the commercial bank with the control and management right over the subsidiary, in the period from acquiring to alienation no new additional activity shall be allowed without the prior consent of the National Bank;

e) establish or acquire a subsidiary – a brokerage company which is engaged only in brokerage activity as determined by the Law of Georgia on Securities Market; the commercial bank may hold an unlimited amount of shares in the brokerage company unless the shares exceed 15 per cent of the bank's equity capital without permission of the National Bank.

1<sup>1</sup>. A commercial bank is prohibited to hold share directly or indirectly in the capital of a legal entity which is not a financial institution or whose activity is not related with banking activities or social projects of a commercial bank. This restriction does not apply to securities intended to carry out dealing operations in accordance with the procedure established by the National Bank.

1<sup>2</sup>. In the case of investing in a foreign country outside Georgia, a commercial bank shall justify that the legislation of the relevant country does not restrict the possibility of an effective supervision by the National Bank, including the exchange of information between the supervisory bodies.

2. The total cost of shares referred to in paragraph 1(a-e) of this article may not exceed 50 per cent of the equity capital of a commercial bank.

2<sup>1</sup>. For a guidance while making investment decisions by a commercial bank, the National Bank is entitled to define criteria by a normative act.

3. A commercial bank shall be obliged to have complete information about the identity of each beneficial owner of the bank who directly or indirectly owns more than 10 per cent of shares (indicating the amount of shares); to provide the National Bank with that information, as well as with information of any significant changes regarding a beneficial owner, and to publish this information in the bank's annual reports. The National Bank shall define the method of providing and publishing this information on the basis of International Financial Reporting Standards and best international practices.

4. The obligation under the third paragraph of this article shall not apply to beneficial owners of a commercial bank who cannot be identified by the bank because the nominal ownership in their favour is held by a clearing organisations located and exercising their authority in developed countries, or by international depositaries.

5. For the purposes of this Law, the requirements that apply to the partners (shareholders) of a commercial bank shall also apply to beneficial owners who directly or indirectly hold shares in the commercial bank.

6. The National Bank is entitled to request changing, simplifying or separating ownership structure and/or group structure from a commercial bank if the difficulty of the ownership structure/group structure interrupts carrying out the effective supervision and/or poses a threat or may pose a threat on the stability of a commercial bank and/or financial sector and its healthy operation.

*Law of Georgia No 1751 of 24 December 1998 – LHG I, No 1(8), 14.1.1999, Art. 4*

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 1617 of 4 July 2002 – LHG I, No 23, 24.7.2002, Art. 108*

*Law of Georgia No 1938 of 28 December 2002 – LHG I, No 3, 17.1.2003, Art. 19*



*Law of Georgia No 2787 of 17 March 2006 – LHG I, No 8, 24.3.2006, Art. 59*

*Law of Georgia No 4519 of 27 March 2007- LHG I, No 9, 31.3.2007, Art. 84*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 2830 of 23 March 2010 – LHG I, No 19, 13.4.2010, Art. 104*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.03.2017*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.01.2018*

## **Article 10<sup>1</sup> – Requirements for commercial bank subsidiaries that conduct activities outside Georgia under the legislation of Georgia for persons who carry out monitoring under the Law of Georgia on Facilitating the Prevention of Illicit Income Legalisation**

1. To conduct activities outside Georgia under the legislation of Georgia for persons who carry out monitoring under the Law of Georgia on Facilitating the Prevention of Illicit Income Legalisation, a commercial bank must submit to the National Bank within 14 days after establishing or acquiring a subsidiary the bank's decision that upon commencing operations, the subsidiary has developed a program to combat legalisation of illicit income and financing of terrorism for fulfilling recommendations for Combating Legalisation of Illicit Income and Financing of Terrorism, and of the Financial Action Task Force (FATF).

2. If fulfilment of the FATF recommendations by a subsidiary is not provided for in the laws and subordinate normative acts of a foreign country of the subsidiary's residence, or if this country fails to combat legalisation of illicit income and financing of terrorism and the FATF recommendations are not followed, or followed insufficiently, then:

a) a bank must undertake a written obligation that it shall ensure implementation of measures for combating legalisation of illicit income and financing of terrorism by its subsidiary under the requirements established in Georgia towards the bank and the FATF recommendations;

b) a bank shall ensure that the National Bank is informed if its subsidiary fails to carry out measures under the legislation of Georgia for combating legalisation of illicit income and financing of terrorism because these measures are prohibited or restricted by the legislation of a foreign country of a subsidiary's residence.

*Law of Georgia No 2830 of 23 March 2010 – LHG I, No 19, 13.4.2010, Art. 104*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

## **Article 11 – Merger, acquisition or separation of commercial banks**

Commercial banks may be merged, acquired or separated only upon a written consent of the National Bank. No merger, acquisition or separation of commercial banks that fails to comply with provisions of Article 10 of this Law shall be implemented.

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

## **Article 12 – Charter of commercial banks**

1. A commercial bank has its charter which complies with the legislation of Georgia. The National Bank shall be immediately informed in writing if any amendments are made to the charter.

2. A commercial bank shall be administered according to its by-laws to determine the following under its charter:

a) organisational and administration structure of banks and their administrative and operational subdivisions, their constituent units and functions, administrative positions and accountability;

b) duties of each department director, and of each division under his/her subordination and control;

c) audit committee functions;

d) authority of administrators and other employees of a bank to conduct bank transactions on behalf of and for the account of the bank.



3. A commercial bank shall submit to the National Bank its charter, by-laws and lists of officials that have the bank's representative authority. The lists shall include the specimen signatures of the officials. The scope of their authority shall be indicated in the lists.

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

### **Article 13 – Management bodies of commercial banks**

Commercial bank management bodies shall be formed and operate under the Law of Georgia on Entrepreneurs. The highest management body of a commercial bank is a General Meeting of Shareholders which acts in compliance with the legislation of Georgia and the company Charter. The Meeting shall appoint the supervisory board. The National Bank shall be informed of the date and agenda of the General Meeting for its possible participation in the Meeting, within the time frame determined for shareholders under the legislation of Georgia.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

### **Article 14 – Supervisory Board**

1. A Supervisory Board shall supervise commercial bank activities. The Board shall consist of at least 3 and a maximum of 21 members. The National Bank is entitled to define procedure for establishing the Supervisory Board of a commercial bank with a legal act.

1<sup>1</sup>. A member of the Supervisory Board of a commercial bank shall not perform executive functions.

2. The General Meeting of Shareholders shall appoint each member of the Board for a term of four years. Their re-appointment shall be unlimited.

3. The General Meeting of Shareholders shall determine remuneration for Board members. No type of incentives shall be offered to Board members from a commercial bank expenses.

4. A person may not be appointed as a Supervisory Board member and must be withdrawn from the Board by decision of the General Meeting of Shareholders if this person:

a) is a member of a supervisory board or a board of directors in more than seven companies registered in Georgia;

b) is an administrator of another commercial bank registered in Georgia, except when holding a position of an administrator in a bank under control of this bank, or in a bank that controls this commercial bank;

c) is not authorised to be in a Supervisory Board under the law;

d) is declared bankrupt.

5. In addition to the requirements under the Law of Georgia on Entrepreneurs, the following may be performed only with the consent of the Supervisory Board:

a) to start a new or terminate an existing banking activity;

b) to define and approve internal policy and procedures for administering credit, investments, currency, assets and liabilities; for evaluating and classifying assets, and creating adequate reserves against their possible loss;

c) to define and approve minimum and maximum interest rates to be applied by the bank to credit resources and deposits;

d) to redeem shares issued by a commercial bank in cases defined under law.

6. Supervisory Board members must administer commercial bank activities with good faith, care for the bank as a faithful and sensible person cares in similar conditions; they must act out of interest in the bank's stability. If they fail to fulfil these duties they shall be jointly and severally liable to the bank for damages caused. The Supervisory Board members must prove that they acted in good faith and in the interests of the bank. The bank's rejection or compromise to pay regressive compensation shall be void if the compensation is necessary to satisfy bank creditors. This rule shall not apply if the person liable to pay compensation is solvent or makes an agreement with its creditors to avoid bankruptcy and/or terminate banking activities. If the compensation is necessary to satisfy bank creditors, the bank administrators shall continue to be liable even when they act to execute shareholders' decisions.

7. The decision by each Supervisory Board member must comply with commercial bank interests. The members must act reasonably and independently.



They must ensure that qualified directors are appointed and retained, a commercial bank business strategy is defined, and the banking policy is developed in writing.

8. A commercial bank Supervisory Board or its members may not delegate their rights to others without the consent of the General Meeting of Shareholders.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

#### **Article 15 – Board of Directors**

1. Commercial bank directors shall administer and represent the company. They are responsible for managing banking activities and performing its functions. The Board of Directors consists of at least 3 directors to be appointed by the Supervisory Board for a maximum of four years. Their re-appointment shall be unlimited.

2. A person may not be appointed as a member of commercial bank Board of Directors or must be dismissed from the Board Directors membership by decision of the Supervisory Board if this person:

a) fails to meet the compliance criteria for a bank director;

b) (deleted);

c) is not entitled by law to be in the Board of Directors;

d) is declared bankrupt;

e) (deleted);

f) is a spouse, child or close relative of the bank Board of Directors member.

3. In certain cases, a commercial bank Board of Directors shall have the right to delegate his/her authority to others, partially or completely, on the basis of a prior written consent of the bank Supervisory Board.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

#### **Article 16 – Audit committee**

1. By decision of the Supervisory Board, the members of the Supervisory Board form an audit committee. The majority of the audit committee shall consist of the independent members of the Supervisory Board.

2. A member of the Supervisory Board shall be considered to be independent if he/she is not influenced by a commercial bank or other external factors which may impede in making objective and independent decisions while carrying out their activities.

3. The National Bank is entitled to establish additional criteria for determining the independent member of the Supervisory Board of a commercial bank.

2. The audit committee shall periodically submit reports on its activities to the Supervisory Board.

3. The basic function of the audit committee is to facilitate the operation of internal audit and external auditors of the bank.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 5002 of 1 July 2011 – website, 15.7.2011*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

#### **Article 17 – Bank secrecy**

1. No one shall have the right to give anyone access to confidential information, to disclose or disseminate this information, or to use it for personal purposes. Confidential information may be communicated only to the National Bank within its authority.



2. Information on any agreement (including in the case of an attempt to conclude an agreement), payment operation, account, transaction conducted from this account and account balance may be granted to a party to a respective agreement, in the case of payment operation – to the person carrying out a payment and/or receiving person, a respective account holder and their representatives, and in the cases provided for by the legislation of Georgia – to the Financial Monitoring Service of Georgia, and to persons that are authorised to execute the enforcement subordinate acts defined under the Law of Georgia on Enforcement Proceedings during the course of their enforcement; to a tax authority, based on a judicial decision under the Code of Administrative Procedure of Georgia, and the Agreement between the Government of the United States of America and the Government of Georgia to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act (FATCA); also, to the Legal Entity under Public Law called Deposits Insurance Agency, in the cases provided for by the Law of Georgia on Deposits Insurance System. This information may also be issued on the basis of the relevant court decision.

[2. Information on any agreement (including in the case of an attempt to conclude an agreement), payment operation, account, transaction conducted from this account and account balance may be granted to a party to a respective agreement, in the case of payment operation – to the person carrying out a payment and/or receiving person, a respective account holder and their representatives, and in the cases provided for by the legislation of Georgia – to the Financial Monitoring Service of Georgia, and to persons that are authorised to execute the enforcement subordinate acts defined under the Law of Georgia on Enforcement Proceedings during the course of their enforcement; during the inspection provided for by the Law of Georgia on the State Inspector Service – to the State Inspector Service; to a tax authority, based on a judicial decision under the Code of Administrative Procedure of Georgia, and the Agreement between the Government of the United States of America and the Government of Georgia to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act (FATCA); also, to the Legal Entity under Public Law called Deposits Insurance Agency, in the cases provided for by the Law of Georgia on Deposits Insurance System. This information may also be issued on the basis of the relevant court decision. (Shall become effective from 1 July 2019)]

3. A tax authority may transfer the information provided for in paragraph 2 of this article without delivery of the judgement by court to a competent body of the United States of America defined under the Agreement between the Government of the United States of America and the Government of Georgia to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act (FATCA).

4. The restriction provided for by paragraph 2 of this article does not apply to the exchange of information for the purposes set out in the legislation on the control of illegal income legalisation inside commercial bank group and between commercial banks.

*Law of Georgia No 163 of 21 March 1996 – newspaper 'The Republic of Georgia', 3.4.1996*

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 2474 of 20 June 2003 – LHG I, No 20, 11.7.2003, Art. 140*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 213 of 15 July 2008 – LHG I, No 17, 28.7.2008, Art. 129*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 5528 of 20 December 2011 – website, 28.12.2011*

*Law of Georgia No 2948 of 12 December 2014 – website, 24.12.2014*

*Law of Georgia No 4459 of 28 October 2015 – website, 11.11.2015*

*Law of Georgia No 853 of 17 May 2017 – website, 2.6.2017*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

*Law of Georgia No 3294 of 21 July 2018 – website, 9.8.2018*

*Law of Georgia No 4246 of 27 December 2018 – website, 29.12.2018*

## **Article 17<sup>1</sup> – Right to verify information**

1. The bank shall be entitled to obtain personal information of a person from the Legal Entity under Public Law called Public Service Development Agency based on a written consent of the person in accordance with the Law of Georgian on Personal Data Protection.

2. The bank is obliged to prevent disclosure of information obtained from the Public Service Development Agency to a third person, except as provided for by law.

*Law of Georgia No 5978 of 21 March 2008 – LHG I, No 9, 4.4.2008, Art. 65*

*Law of Georgia No 6317 of 25 May 2012 – website, 19.6.2012*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

## **Article 18 – Branches of commercial banks**

Branches, representative offices and other similar subdivisions of a commercial bank shall be established by decision of the Supervisory Board under the terms and conditions defined by the National Bank.



## **Chapter IV – Operational Requirements**

### **Article 19 – General principles of banking activities**

1. A commercial bank shall be managed and its operational activities shall be performed according to administrative and accounting procedures, conditions and restrictions attached to the banking licence that are substantiated by the legislation of Georgia, as well as under the resolutions, procedures and guidelines of the National Bank. The National Bank procedures, standards and guidelines applying to more than one commercial bank shall be subject to mandatory publication and shall become effective from the date of publication or the date indicated in the procedures, standards and guidelines. If the National Bank has not determined procedures for a certain banking activity, a commercial bank shall act according to international banking standards and practices.

2. A commercial bank shall maintain an appropriate level of capital and liquid resources, and shall diversify its assets considering the risk of loss, as required by the National Bank.

3. The relationship for banking services between a bank and its customers shall be regulated by agreement. If the time frames under a money transfer agreement are violated, the bank shall be obliged to pay the customer not less than 0.5 per cent of the delayed amount for each overdue banking day.

4. A commercial bank shall be entitled to develop a security policy for using electronic signatures in providing certain banking services and shall submit the policy to the National Bank for approval. On the basis of the security policy approved by the National Bank for using electronic signatures in providing certain banking services, an electronic signature used when providing certain banking services by a commercial bank shall have equal legal effect as personal signatures on a hardcopy document. An electronic document certified by this electronic signature may be used in all cases where the legislation of Georgia requests the material document.

5. It is not mandatory to submit the electronic signature security policy provided for in paragraph 4 of this article to the National Bank only in the case if a commercial bank while carrying out banking services uses a signature carried out via an electronic ID issued by the administrative body authorised by the legislation of Georgia or a signature a certificate of which is issued in accordance with the requirements of the Law of Georgia on Electronic Document and Electronic Trust Service.

6. Paragraphs 4 and 5 of this article do not restrict the right of commercial bank to use electronic signature in accordance with paragraph 8 of Article 3 of the Law of Georgia on Electronic Document and Electronic Trust Services while performing banking service. In this case, the National Bank shall be entitled to require a commercial bank in accordance with this paragraph to agree the electronic signature security policy with the National Bank. If the National Bank after assessing electronic signature security policy submitted by a commercial bank refuses to agree with the electronic signature security policy in accordance with this paragraph, a commercial bank is obliged to stop using such electronic signature.

### **Article 20 – Banking activities**

1. Commercial banks may only be engaged in:

a) soliciting interest-bearing and interest-free deposits (call deposits, term deposits and others) and other refundable means of payment;

b) grant loans including consumer loans, mortgage loans, unsecured and other credits; factoring operations with or without right of recourse; financing commercial deals, issuing guarantees, letters of credit and acceptances, including forfeitures;

c) sales, with its own and customers means, of monetary instruments (including cheques, bills of exchange and depositary certificates), securities, debt instruments or interest rates of futures and options, currency and interest rate instruments, debt documents, foreign currency, precious metals and gems;

d) performing monetary and non-monetary payment transactions and cash-collection services;



e) issuing means of payment and organising their circulation (including payment cards, cheques and bank bills);

e<sup>1</sup>) providing interest-free banking services;

f) rendering intermediary services in financial markets;

g) performing fiduciary (trust) transactions, soliciting and placing funds by order of customers;

h) storing and registering valuables, including securities;

i) providing credit reference services;

i<sup>1</sup>) central depository activities under the Law of Georgia on Securities Markets;

i<sup>2</sup>) leasing property;

i<sup>3</sup>) providing payment services, operating payment system, performing the functions of a paying agent;

i<sup>4</sup>) leasing property;

j) providing services related to all of the above activities.

2. Exercising rights with respect to securities transactions under the first paragraph of this article shall be regulated by the Law of Georgia on Securities Markets.

3. Before providing a banking service under paragraph 1(e<sup>1</sup>) of this article, a commercial bank is obliged to submit the description of the respective bank product to the National Bank for approval.

4. In accordance with subparagraph i<sup>2</sup> of paragraph 1 of this article leasing property by a commercial bank is allowed only for the purpose of the management of property to fulfil an existing liability against a commercial bank and/or provided that the property will be used only for banking activities, related activities or the social projects of a commercial bank during the entire lease period.

5. In addition to the cases provided for by paragraph 4 of this article, a commercial bank shall be prohibited to buy or possess property for the purpose of letting it on lease.

6. The National Bank of Georgia shall be authorised to define additional/different criteria for the activity provided for in subparagraphs i<sup>2</sup> and i<sup>4</sup> of paragraph 1 and by paragraph 4 of this article.

*Law of Georgia No 1751 of 24 December 1998 – LHG I, No 1(8), 14.1.1999, Art. 4*

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 5002 of 1 July 2011 – website, 15.7.2011*

*Law of Georgia No 6019 of 10 April 2012 – website, 30.4.2012*

*Law of Georgia No 6306 of 25 May 2012 – website, 12.6.2012*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

## **Article 21 – Economic limits and standards**

1. Commercial banks are obliged to observe the following economic limits determined by the National Bank:

a) a minimum amount of equity and regulatory capital;

b) a ratio between various capital accounts of a bank and its classified assets under the procedures of the National Bank;

c) a marginal ratio between solicited deposits of the bank and its regulatory capital;

d) a ratio between the total sum of credits and other liabilities issued by a bank to one borrower (an insider or outsider) and the regulatory capital of the bank;

e) a ratio between the total sum of credits and other liabilities issued by a bank to all insiders (persons connected to the bank and to each other) and the regulatory capital of the bank;

f) (deleted)

2. Commercial banks are obliged to observe the following economic standards determined by the National Bank:



a) a ratio of the minimum total sum of liquid funds or certain types of such funds to the value of assets (including acquired guarantees and pledges) or a change in their values. The ratio may be set generally for assets or liabilities (including off-balance sheet liabilities) or for specific types. Banks have the right to place appropriate funds with the National Bank of Georgia to comply with liquidity requirements;

b) a standard for a maximum total sum of credits and investments or of special types;

c) classification of assets and off-balance sheet liabilities, and formation and use of reserves against probable losses; also terms and conditions under which accounts receivable based on assets will not be entered into revenue except when received in cash;

d) standards for prohibitions, restrictions and conditions in relation to:

d.a) types and forms of credits granted and funds invested;

d.b) conformity of maturity periods and interests based on assets and liabilities (off-balance sheet and other liabilities);

d.c) open positions in foreign currencies, precious metals and gems formed as a result of exceeding set limits.

3. Based on the risk-based supervision principles, the National Bank is authorised to set for each commercial bank individual indices and requirements for economic limits and standards.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

## **Article 21<sup>1</sup> – Business relations with the customers**

1. A commercial bank shall open an account according to the Law of Georgia on Facilitating the Prevention of Illicit Income Legislation and the Agreement between the Government of the United States of America and the Government of Georgia to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act (FATCA).

2. In business relations with its service consumer and when verifying a transaction carried out by the consumer, a commercial bank must be aware of the identity and activity of its service consumer, and the level of risk of the activity with regard to legalisation of illicit income and financing of terrorism. A commercial bank shall, based on the requirements established under the Agreement between the Government of the United States of America and the Government of Georgia to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act (FATCA), also define tax residency of the client and obtain the information on the appropriate status of the person.

3. Commercial banks operating in Georgia shall have the right to decide and require other additional information.

4. Commercial banks operating in Georgia shall have the right to refuse without any justification to open an account or provide service.

5. A commercial bank may refuse to open an account for a person, or close his/her existing account if the person refuses to provide the commercial bank with the information based on the requirements established under the Agreement between the Government of the United States of America and the Government of Georgia to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act (FATCA).

*Law of Georgia No 4519 of 27 March 2007 – LHG I, No 9, 31.3.2007, Art. 84*

*Law of Georgia No 4459 of 28 October 2015 – website, 11.11.2015*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

## **Article 22 – Prohibited agreements and methods of working**

1. Commercial banks may not perform any activities or make any transactions that will put them, alone or together with other persons, in a dominating position on monetary, financial or credit markets; also any manipulation giving an undeserved advantage to the bank or third persons, or creating the possibility or risk of limiting competition for banking activities, of fixing interest rates and commission fees. Under the legislation of Georgia, a competition policy in banking activities shall be implemented by the National Bank which defines allowable parameters, evaluation criteria and measures of influence for banking activities in this field.

2. Commercial banks may not conclude any agreement with their customers that will require acquisition or use of a non-banking service of this bank or any of its affiliates in exchange for granting a loan or providing any banking service, unless the customer is given an opportunity to receive this non-banking service from other providers.

3. A controlling person/administrator of a commercial bank is prohibited to carry out an action as a result of which the information received from a commercial bank will put him independently or together with other persons in a dominant position, and/or will result the competition restriction in the non-banking sector.



4. A controlling person and an administrator of a commercial bank are obliged to avoid conflict of interests, and to prevent putting their own interests over those of a commercial bank or abusing of official powers. A controlling person/administrator of a commercial bank who has access to a non-public information which may have a significant influence on the value of certain investment, is prohibited to use this information independently or with other persons.

5. In order to meet the requirements of this article, a commercial bank is obliged to ensure the implementation and monitoring of adequate policies, procedures and technical systems related with the management of non-public information. This should ensure the limitation of the improper outflow of information to the parties related to the commercial banks, its controlling persons and administrators.

6. In the case of non-fulfillment or improper fulfillment of the requirements of this article, the National Bank shall be entitled to apply sanctions provided for by Article 30 of this Law.

7. In order to meet the requirements of this article, the National Bank shall with a relevant legal act determine procedures regarding prohibited transactions and working methods with them, as well as the relevant sanctions for shareholders of a commercial bank, controlling persons and administrators.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 5002 of 1 July 2011 – website, 15.7.2011*

*Law of Georgia No 6150 of 8 May 2012 – website, 25.5.2012*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

#### **Article 23 – Registration of transactions and liabilities**

1. Commercial banks are obliged to keep all documents related to each of their transactions for the time frames determined by the National Bank, in particular:

- a) requests and all contractual documents related to transactions (including agreements on credits, guarantees and pledges);
- b) those financial records and other documented certificates of the bank partners (including borrowers and guarantors) that form the basis for the bank to approve a transaction;
- c) a signed record of the bank's decision to approve a transaction;
- d) other documents as provided for by the National Bank standards.

2. Commercial banks shall be obliged to store information on their customers and any transactions on their accounts in an electronic form for not less than 15 years.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 2830 of 23 March 2010 – LHG I, No 19, 13.4.2010, Art. 104*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

#### **Article 24 – (Deleted)**

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

#### **Article 25 – Transactions with interested persons**

Commercial banks may not grant any banking product or render any banking service within their banking activities under preferential conditions to



any administrator, controlling person, affiliate or connected persons despite the type of loan, interest rate, maturity period, collateral, value or any other conditions.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

#### **Chapter IV<sup>1</sup> – (Deleted)**

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 4519 of 27 March 2007- LHG I, No 9, 31.3.2007, Art. 84*

#### **Article 25<sup>1</sup> – (Deleted)**

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 4220 of 29 December 2006 – LHG I, No 2, 4.1.2007, Art. 27*

*Law of Georgia No 4519 of 27 March 2007- LHG I, No 9, 31.3.2007, Art. 84*

#### **Chapter V – Reports, Audit, Accounting and Inspection**

##### **Article 26 – Reports and financial statements**

1. Banks and their subsidiaries shall regularly prepare reports, records and annual financial statements that precisely include their operations and financial conditions under International Accounting Standards. In addition, banks and their subsidiaries shall follow an appropriate form of regulations, level of details and accounting standards determined by the National Bank.

2. Bank reports, records and financial statements shall reflect operations and the financial condition of its subsidiaries on a consolidated basis.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

##### **Article 27 – External audit**

1. Each commercial bank and its subsidiary shall be obliged to invite external auditors and conduct an external audit inspection every year as determined by the National Bank.

2. Upon completion of an external audit, each commercial bank shall be obliged to provide the National Bank with a complete inspection report and publish the financial accounting and external audit opinion as defined under the procedures of the National Bank.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

##### **Article 28 – Branches of foreign banks**

Articles 26, 27 and 29 of this Law shall apply to branches of foreign banks and their subsidiaries that operate in Georgia under licences issued by the National Bank. Under the law, financial and accounting documentation of a bank branch may be submitted as simplified financial statements, which implies that an audit committee of the foreign bank or other respective body may be considered to be the audit committee for the bank branch.

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*



## **Article 29 – Reporting and inspections**

1. Commercial banks shall prepare reports and submit them to the National Bank. The reports shall include organisational-administrative and operational activities (of commercial banks and their subsidiaries), their liquidity, solvency and profitability in order to evaluate the financial condition of commercial banks and their subsidiaries jointly and individually. For the purposes of legislation on the prevention of illicit income legalisation, a commercial bank shall submit relevant reports to the National Bank. The form, degree and terms for submitting reports shall be determined by the legal acts of the National Bank.

2. A commercial bank and its subsidiary shall be subject to inspection to be performed by inspectors of the National Bank, or auditors appointed by the National Bank. If a branch or a subsidiary of a foreign bank is inspected, the employees of financial or regulatory bodies of respective foreign countries may be the auditors.

3. When inspecting commercial banks and their subsidiaries, the National Bank and its auditors shall have the right to:

a) check accounts, funds, account books, documents and other necessary records of a commercial bank and its subsidiary;

b) require administrators and employees of a commercial bank and its affiliates to provide information regarding the bank's shareholders, controlling persons and administrators, and any information on banking operations and transactions. If these requirements are not complied with or fully complied with, or if a commercial bank/administrator fails to submit the information within the time limit determined by the legislation of Georgia or the National Bank sanctions under Article 30 of this Law shall apply.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

## **Chapter VI – Violations and Sanctions**

### **Article 30 – Violations and sanctions**

1. The National Bank shall impose sanctions in each individual case for violations referred to in this article. The party against whom the sanction is imposed shall have the right to appeal it to court.

2. The National Bank may impose the following sanctions against a commercial bank, its administrators or controlling persons, if the bank or any of its administrators, or controlling persons has violated:

a) any provision of this Law, or any standard, instruction, provision, regulation, resolution, requirement or written guideline of the National Bank;

b) any condition or restriction included in a banking licence or a respective provision of the National Bank;

c) the deadlines for submitting reports, or has submitted wrong reports or other inaccurate information;

d) the requirements of the Law of Georgia on Facilitating the Prevention of Illicit Income Legalisation;

e) the requirements of the Law of Georgia on Payment System and Payment Services.

f) the supervision process by non-fulfilment and/or improper fulfilment of the requirements determined by the legislation of Georgia and/or the National Bank.

3. If violations under the second paragraph of this article are identified, the National Bank may consistently apply, and, based on the severity of the violation and the current or potential risk to commercial bank assets, may inconsistently apply the following sanctions:

a) send a written warning notice to a commercial bank;

b) determine special measures, suspend or restrict the certain types of the operations of a commercial bank, or issue an instruction (guideline) requiring that a commercial bank terminate and prevent any violation in the future and that it take necessary measures to correct a violation within the time frame specified by the National Bank;

c) impose a financial penalty on a commercial bank in the manner and amount determined by the National Bank, but not more than the bank's own funds;



- d) enforce payment of a financial penalty from a commercial bank in the manner and amount determined by the National Bank, if an administrator's actions have inflicted financial damage on the bank, or resulted in violating the banking regulations and requirements determined by the National Bank;
- e) suspend the administrator's right of signature and demand a commercial bank's Supervisory Board to temporarily remove or dismiss him/her from office;
- f) demand that a commercial bank's Supervisory Board and Board of Directors convene an extraordinary General Meeting of Shareholders to discuss violations and to take necessary measures for their correction;
- g) suspend or restrict a commercial bank from increasing assets, distributing profits, paying dividends and bonuses, increasing salaries and soliciting deposits;
- h) impose provisional administration on a commercial bank which has or may face significant financial difficulties (that may be expressed by the weak indicator of profitability, the violation of supervisory ratio), or which is insolvent, or the weak management model of the risks and exercising unhealthy activities (that may be expressed by violation of the requirements established by the legislation of Georgia, inadequacy of the internal control systems, inactivity of management to eliminate violations, other hazardous actions) may pose a threat on a commercial bank or the stable functioning of the banking sector, also depositors or other creditors of a commercial bank;
- i) demand that controlling persons of a commercial bank cancel or restrict control if the bank fails to provide the National Bank with financial or other information, or any violation is detected; the conditions and time frames that the National Bank finds necessary under existing circumstances must accompany the cancellation or restriction;
- j) revoke the banking licence of a commercial bank.

4. Sanctions must correspond with the severity of a violation, and/or damage inflicted on, and/or possible risks to, the commercial bank's assets.

5. The amount of a financial penalty imposed under this article shall be paid into the State Budget.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 2474 of 20 June 2003 – LHG I, No 20, 11.7.2003, Art. 140*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 6306 of 25 May 2012 – website, 12.6.2012*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

## **Chapter VII – Provisional Administration and Liquidation**

### **Article 31 – (Deleted)**

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

### **Article 32 – Procedure for appointment of provisional administration**

The decision on appointment of a provisional administration shall contain:

- a) the grounds for the appointment of provisional administration;
- b) full name of the provisional administrator (administrators);
- c) the period of provisional administration;
- d) the warning with regard to possible freezing of deposits and other funds of bank customers;
- e) measures that are applied towards bank administrators.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

### **Article 33 – Provisional administration**



1. Provisional administration shall start performing its duties from the date specified in the decision to appoint a provisional administration. The decision shall be published in the printed media.

1<sup>1</sup>. A provisional administrator shall be obliged, immediately but not later than the date of the provisional administration appointment, to notify of the introduction of provisional administration to the payment system operator, in which the commercial bank administered by the provisional administration is involved.

2. After the individual administrative-legal act on appointment of the provisional administration is issued, any action on behalf and for the account of a commercial bank shall be performed with written consent of the provisional administration, except as provided for by the Law of Georgia on Payment System and Payment Services.

3. Complete authority of all bodies (including General Meeting of Shareholders and administrators) of a commercial bank shall be transferred to provisional administrator.

4. A provisional administrator shall, as soon as possible, make a request for necessary amendments to be made to the list of officials submitted to the National Bank.

5. (Deleted – 1.7.2011, No 5002).

6. The National Bank shall be entitled to specify by a separate normative act the procedures for the introduction and function of provisional administration.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 5002 of 1 July 2011 – website, 15.7.2011*

*Law of Georgia No 6306 of 25 May 2012 – website, 12.6.2012*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

#### **Article 34 – Authority of provisional administrations**

1. A provisional administrator appointed by the National Bank may take necessary measures to improve the financial condition of a commercial bank, including selling or closing its branches, representations or other subdivisions, dismissing bank employees, and paying funds or suspending payment. The provisional administrator shall also be entitled to merge the commercial bank with another commercial bank, to renew its capital or to alienate its assets and liabilities, or part of them, to other commercial banks. The provisional administrator's decision to pay or suspend payment of funds must not contradict the Law of Georgia on Payment System and Payment Services.

2. To improve the financial condition of a commercial bank, the provisional administrator of the bank shall have the right, at any time, to block any financial funds of natural and legal persons in the bank, partially or completely, for as long as the term of office of the provisional administration, provided that the administrator shall take necessary measures to maintain stability of the funds unless it contradicts the Law of Georgia on Payment System and Payment Services.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 6306 of 25 May 2012 – website, 12.6.2012*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

#### **Article 35 – Termination of provisional administration**

Provisional administration shall be terminated:

- a) after its term expires, as published in printed media;
- b) by a reasoned decision of the National Bank;
- c) if the banking licence of a bank is revoked.



*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

#### **Article 36 – (Deleted)**

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

#### **Article 37 – Liquidation of a commercial bank**

1. A commercial bank shall be liquidated when a banking licence is revoked. A person appointed by the National Bank shall act as a liquidator of a commercial bank as determined by the National Bank. A person connected to the commercial bank may not be appointed as a liquidator. Compulsory enforcement shall be terminated as soon as the liquidation process starts.

2. If a liquidated commercial bank was a payment system operator and/or a settlement agent, the liquidator shall be obliged, upon appointment, to ensure that transfer orders accepted by the payment system before the liquidator began his/her functions are performed, the settlement positions are defined and/or settlements are performed under the Law of Georgia on Payment System and Payment Services.

3. The liquidator of a commercial bank shall be obliged, within three months after appointment, to prepare a list of assets and liabilities and submit a copy to the National Bank. The commercial bank liquidator shall be accountable to the National Bank in accordance with the procedure established by the National Bank.

4. A commercial bank liquidator shall be authorised to sell bank assets at a public auction, or choose another form of their realisation with the approval of the National bank, or to transfer the right of demand for assets to creditors according to their priority, or transfer the right of demand of loans or other financial assets to other commercial banks and arrange for the transfer of liabilities to these banks.

5. When transferring assets and liabilities provided for by paragraph 4 of this article, the relevant creditor and/or debtor within the time limit set by a commercial bank liquidator does not express a consent or refusal to transfer assets or liabilities to another commercial bank, the consent will be considered to be automatically granted. The consent of a creditor and/or debtor is not required if during the transfer of the assets and liabilities to the commercial bank under the liquidation process the existing terms for assets and liabilities remain unchanged.

6. The commercial bank liquidator may terminate:

a) a deal for recruiting a bank employee;

b) contracts for services in the provision of which the bank was taking part;

c) any liability of the bank as a real property lessee, unless a lessor (who must be notified 60 days in advance that the bank intends to cancel the lease agreement) has any claims on the lease payment, except for the amount that has accrued until the lease cancellation date and unless the lessor requires compensation for damages incurred due to cancelling the lease.

d) Bank guarantees issued by a commercial bank and transfer them with the same terms to another commercial bank. For transferring no consent of the bank guarantee beneficiary or principal is needed. The liquidator is obliged to inform the beneficiary and the principal about transferring bank guarantees to another commercial bank.

7. A provisional administrator and a liquidator of a commercial bank shall be authorised to bring an action in court to challenge any act or transaction performed by the commercial bank administrator one year before the provisional administrator or the liquidator were appointed and to require that the act or transaction be declared void if as a result, persons connected to the commercial bank enjoyed any material benefits or advantages, privileges or preferences for the account of this commercial bank, and which inflicted damage to the bank or its creditors.

8. The commercial bank liquidator must:

a) take all necessary measures to terminate all functions of a fiduciary person that were performed by the institution, return all assets and property held by the company as a fiduciary person to their owners and settle all accounts of the fiduciary;

b) send statements of requirement types and amounts according to the bank's accounting documents to all depositors, the rest of its creditors, customers who store valuables in the bank's safes; also to the depositors of the property administered by the company. The statement shall indicate that claims may be submitted to the liquidator within one month after receiving the letter and that the customers can receive their valuables back.

c) require from the borrowers and debtors of a commercial bank to cover all existing liabilities against a commercial bank within the time limit set by a liquidator; for the purpose of maximal seizure of assets, with the agreement of the National Bank, achieve the restructuring of the debts of those borrowers and other debtors (including the forgiveness of penalties and fines) who do not have sufficient funds and material means to pay off the debts completely and within the time limit required by liquidator.

9. Any property that is stored on a commercial bank premises and which is not claimed within the time frame indicated in the statement, any unclaimed financial resources and property remaining on the bank's balance sheet under an agreement, shall be considered as unclaimed resources and shall become the property of the National Bank in order for it to identify the owners. Unclaimed financial resources are kept on the account of unclaimed



funds.

10. When liquidating a commercial bank, a pledger of a financial pledge shall have a preferential right that its claim secured by the financial pledge be satisfied. When liquidating a commercial bank, claims shall be satisfied in the following order:

- a) the National Bank, other creditors to which a commercial bank became liable after having its banking licence revoked, except for the loans issued by other commercial banks during liquidation period. Tax liabilities arising after the termination of banking licence shall be satisfied in the order stipulated by subparagraph k);
- b) Legal Entity under Public Law called Deposits Insurance Agency;
- c) amounts of not more than GEL 10 000 on the accounts of natural persons and funds corresponding to the deposit certificates or its equivalent in the foreign currency;
- d) amounts of not more than GEL 10 000 on the accounts of legal persons and funds corresponding to the deposit certificates or its equivalent in the foreign currency;
- e) amounts of not more than GEL 100 000 on the accounts of natural persons and funds corresponding to the deposit certificates or its equivalent in the foreign currency ;
- f) amounts in national currency on the accounts of natural persons and funds corresponding to the deposit certificates which have not been paid in accordance with subparagraphs c) and e) of this paragraph;
- g) amounts in foreign currency on the accounts of natural persons and funds corresponding to the deposit certificates which have not been paid in accordance with subparagraphs c), e) and f) of this paragraph;
- h) amounts in national currency on the accounts of legal persons and funds corresponding to the deposit certificates which have not been paid in accordance with subparagraph d) of this paragraph;
- i) amounts in foreign currency on the accounts of legal persons and funds corresponding to the deposit certificates which have not been paid in accordance with subparagraphs d) and h) of this paragraph;
- j) loans issued by other commercial banks during the liquidation period;
- k) budgetary liabilities and debts, including claims secured with tax lien;
- l) other requirements against a commercial bank, except for the cases provided for by subparagraphs m)-p);
- m) loan liability of a commercial bank to its direct and indirect owners, except for the cases provided for by subparagraphs n) and o);
- n) subordinated term debt of a commercial bank;
- o) subordinated indefinite debt of a commercial bank;
- p) other liabilities of a commercial bank to its direct and indirect owners.

11. If the existing money is not sufficient to completely satisfy claims under paragraph 10 of this article, all respective claims shall be paid in proportion to the claim amount of each creditor in the order listed.

12. The claim of each following order shall be satisfied after the claims of a preceding order are satisfied.

13. In the case of failing to submit a request for the withdrawal of own funds by a depositor of a commercial bank within the time limit set by the liquidator of a commercial bank, such funds shall be transferred to an account opened at the National Bank for unclaimed funds for the purpose of revealing the owner.

14. For the purpose of the timely completion of the liquidation process of a commercial bank a liquidator, in agreement with the National Bank, is authorised to transfer accounts existing in the commercial bank, to which the legal restrictions and/or provisional measures provided for by the legislation of Georgia apply, unchanged to another commercial bank and/or the National Bank, without breaching the existing order of the legal restrictions and/or provisional measures of a commercial bank under the liquidation process.

15. After seizing an asset which was a commercial bank asset before an administrative-legal act on completion of a liquidation process was issued, it shall automatically be considered as the liquidated commercial bank's asset, the right of the management of which shall be granted to the National Bank. If the seized asset of the liquidated commercial bank is monetary funds, they must be transferred to an account opened at the National Bank for the liquidated bank's unclaimed funds. The monetary funds must be distributed according to the final and verified order of liabilities submitted by the liquidator in accordance with the procedure established by the National Bank. If a non-monetary material asset is seized, in order to manage it, the National Bank shall issue an individual administrative-legal act to determine the procedure for management of the seized asset to satisfy the liquidated bank's liabilities.

*Law of Georgia No 1115 of 23 October 2001 – LHG I, No 32, 7.11.2001, Art. 125*

*Law of Georgia No 2787 of 17 March 2006 – LHG I, No 8, 24.3.2006, Art. 59*

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

*Law of Georgia No 2830 of 23 March 2010 – LHG I, No 19, 13.4.2010, Art. 104*



*Law of Georgia No 5002 of 1 July 2011 – website, 15.7.2011*

*Law of Georgia No 6306 of 25 May 2012 – website, 12.6.2012*

*Law of Georgia No 4189 of 3 September 2015 – website, 10.9.2015*

*Law of Georgia No 439 of 10 March 2017 – website, 22.3.2017*

*Law of Georgia No 853 of 17 May 2017 – website, 02.6.2017*

*Law of Georgia No 1895 of 23 December 2017 – website, 11.1.2018*

## **Chapter VIII – Transitional Provisions**

### **Article 38 – (Deleted)**

*Law of Georgia No 5909 of 14 March 2008 – LHG I, No 7, 26.3.2008, Art. 29*

*Law of Georgia No 1677 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 160*

### **Article 38<sup>1</sup> – Legal regulation during transition period in relation to persons declared as legally incompetent by court before 1 April 2015**

A person may be a commercial bank administrator if he/she:

- a) is not a person declared as legally incompetent by the court before 1 April 2015;
- b) has no criminal records for a serious or particularly serious crime, or for financing terrorism, and/or legalising illicit income, or other economic crimes;
- c) has appropriate education and/or experience;
- d) at the same time is not an administrator of another commercial bank, except when holding the position of an administrator in a bank under control of this bank, or in a bank that controls this commercial bank;

*Law of Georgia No 3392 of 20 March 2015 – website, 31.3.2015*

### **Article 39 – Requirements towards subsidiaries established or acquired by commercial banks**

A commercial bank, which established or acquired, before Article 10<sup>1</sup> of this Law was effected, a subsidiary that conducts activities outside Georgia as provided for by the legislation of Georgia for persons carrying out monitoring under the Law of Georgia on Facilitating the Prevention of Illicit Income Legalisation, shall submit documents under Article 10<sup>1</sup> of this Law to the National Bank within six months after this Law takes effect.

*Law of Georgia No 2830 of 23 March 2010 – LHG I, No 19, 13.4.2010, Art. 104*

**President of Georgia**

**Eduard Shevardnadze**

**Tbilisi**

**23 February 1996**

**No 121-III**

